

Simple Cafeteria Plans

Federal law allows certain small employers to establish so-called **simple cafeteria plans** that are automatically treated as satisfying the Internal Revenue Code's [nondiscrimination requirements](#) for cafeteria plans. To offer a simple cafeteria plan, an employer generally must satisfy **3 requirements**:

1. Employer size requirements
2. Employer contribution requirements
3. Employee participation requirements

Employer Size Requirements

Employers are generally eligible to establish a simple cafeteria plan if they employ an average of **100 or fewer employees** during either of the two preceding years. However, if the business was not in existence throughout the preceding year, employers are eligible to establish a simple cafeteria plan if they reasonably expect to employ an average of **100 or fewer employees** in the current year. In addition, if the employer establishes a simple cafeteria plan in a year that they employ an average of **100 or fewer employees**, they are considered an eligible employer for any subsequent year as long as they do not employ an average of **200 or more employees** in a subsequent year.

Employer Contribution Requirements

Employers must contribute toward the benefits of each plan-eligible employee in an amount equal to:

1. A uniform percentage—not less than 2%—of the employee's compensation for the plan year; **or**
2. An amount that is at least 6% of the employee's compensation for the plan year, **or** twice the amount the employee contributes toward his or her cafeteria plan benefits, **whichever is less**.

If the contribution requirements are met using option 2, the employer's rate of contribution to any highly compensated individual or key employee cannot be greater than its rate of contribution to any other individual or employee. [Click here](#) to read the definitions of "highly compensated individual" and "key employee."

Employee Participation Requirements

In general, employers must allow all employees who had **at least 1,000 hours of service** in the preceding plan year to participate in a simple cafeteria plan. However, employers may exclude from the plan employees who:

- Are **under age 21** before the close of a plan year; or
- Have **less than 1 year of service** with the employer as of any day during the plan year.

In addition, each eligible employee must be able to elect any benefit available under the plan unless he or she is subject to a limitation that is applicable to all plan participants.

Additional requirements and exceptions may apply. For more on simple cafeteria plans, read IRS [Publication 15-B](#).