

401(k) Excesses: contributions in excess of the 402(g) limit are called excess deferrals; contributions which exceed the ADP test are called excess contributions; and contributions that exceed the ACP test are called excess aggregate contributions.

What	Action	Impact
Excess Deferrals	<u>Excess deferrals</u> and related earnings must be distributed to participants by April 15 of the year following the year of the excess.	Failure to distribute excess deferrals may result in plan disqualification.
Excess Contributions	<u>Excess contributions</u> and related earnings must be distributed by the last day of the plan year following the year of the excess.	Excess contributions corrected within 2 ½ months after the end of the plan year will generally be taxable to the participant in the year of contribution. Note: <i>effective for plan years beginning after 12/31/2007, excess contributions and earnings will be taxable in the year received.</i>
		Excess contributions corrected later than 2 ½ months after the end of the plan year will be taxable to the participant in the year of distribution and the plan sponsor will be subject to a 10% excise tax* on the excess.
Excess Aggregate Contributions	<u>Excess aggregate contributions</u> and related earnings must be distributed by the last day of the plan year following the year of the excess	Excess aggregate contributions corrected within 2 ½ months after the end of the plan year will generally be taxable to the participant in the year of contribution. Note: <i>effective for plan years beginning after 12/31/2007, excess aggregate contributions and earnings will be taxable in the year received.</i>
Note: the gap period income calculation was eliminated for plan years beginning after 12/31/2007 for all of the above.		Excess aggregate contributions corrected later than 2 ½ months after the end of the plan year will be taxable to the participant in the year of distribution and the plan sponsor will be subject to a 10% excise tax* on the excess. *Effective for plan years beginning after January 1, 2008, plans utilizing the Eligible Automatic Contribution Arrangement have 6 months after the end of the plan year to correct excesses.

Note: This material is for the sole purpose of providing general information and does not under any circumstances constitute legal advice. You should seek the advice of counsel when applying the requirements to your plans.