

Confidential

**Discrimination Data Collection Form
Plan Year Beginning 2006**

INSTRUCTIONS: Per IRS Regulations, a Section 125 Cafeteria Plan may not discriminate in favor of highly compensated or key employees. To help ensure your Cafeteria Plan is nondiscriminatory, the following data is required for testing. Please complete this form in its entirety. The completed form should be returned to your Client Service Specialist after your employees have made their elections but prior to beginning of the Plan Year. Please note although discrimination does not automatically result in disqualification of the Plan, participants who are highly compensated or key employees may lose some or all of the tax advantage produced under the Plan.

Company Name - (include information for all division/locations)

[Redacted]

A. Total number of employees

[Redacted]

B. Total number of eligible employees *

[Redacted]

C. Total Number of excludable employees **

[Redacted]

D. Total annual cost of insurance benefits elected under the plan. Include employer contributions toward premiums. (see examples below) ***

Do not include FSA contributions (i.e. Health FSA or Dependent Care)

[Redacted]

E. Sole-proprietors, Partners in a Partnership, more-than-2% shareholders in an S-Corp, and members of an LLC are prohibited from participating in a cafeteria plan. Did any such individuals participate during the plan year to be tested?

- Yes No

Person Completing Form: [Redacted]

Phone Number: [Redacted]

Non-Discrimination Testing Definitions

Key Employee

- (1) An officer of a company earning more than \$135,000 (in the current plan year); or
- (2) A more than 5% owner; or
- (3) A more than 1% owner and earns more than \$150,000 (in the current plan year).

This also includes the spouse or lineal ascendant or descendant of a key employee.

More-than-5% Shareholder

A more-than-5% shareholder is defined as someone owning more than 5% of the voting power or value of all classes of stock of the employer.

Highly Compensated Under Dependent Care Assistance Plan

- (1) A more than 5% owner in the current or preceding year; or
- (2) In the preceding year earned more than \$95,000.

Salary Under 25K

If a DCAP fails the discrimination test, employees earning less than \$25,000 may be excluded from testing to correct the plan.

PLEASE COMPLETE SPREADSHEET "B" IF EXCLUDING EMPLOYEES EARNING LESS THAN \$25,000.00.

* Employees who are eligible (whether participating or not)

** Excludable: Employees that do not meet age and/or service requirements or employees covered under a collective bargaining unit.

*** Examples:

COST SHARING - Employer pays 80% and the employee pays 20% of the cost of coverage; Employer pays 100% of all single coverage and employee pays for the additional coverage such as family coverage. Report the total cost for coverage

100% ER PAY-Employer pays 100% of all coverage cost including spouse / dependent coverage. Report zero dollar amount.

100% EE PAY -Employee pays 100% of all coverage under the plan. Report the total cost for coverage

Definition of COMPENSATION: Treas. Reg. § 1.415-2(d)(2) provides a detailed definition of IRC 415(c)(3) compensation which includes "wages, salaries, fees for professional services, and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a non-accountable plan (as described in Sec. 1.62-2(c))." Compensation also includes foreign earned income without regard to the exclusions under IRC 911, 931 and 933 and other amounts received that are includible in the employee's gross income (including overtime). Please note salary reductions under a cafeteria plan, compensation under a qualified transportation fringe benefit plan and employee deferrals under a 401(k) plan, salary reduction simplified employee pension plan or tax-sheltered annuity should be counted.

PLEASE NOTE: THIS IS A CONDENSED VERSION OF Treas. Reg. § 1.415-2(d)(2). FOR MORE INFORMATION, PLEASE CONTACT YOUR CSS.

