Nondiscrimination Test Data Gathering Guidelines

In order to qualify for tax-favored status, Cafeteria, Flexible Spending and Health Reimbursement benefit plans must not discriminate in favor of highly compensated employees (HCEs) and key employees with respect to eligibility, contributions, or benefits. In order to evidence compliance, annual tests must be performed and the results documented for each benefit plan. The results are subject to audit by the IRS. The Federal government has established regulations that specify the testing requirements for each type of benefit plan governed by IRC Section 125, IRC Section 105, and IRC Section 129.

To perform the required tests, we need to gather information regarding employees' annual compensation and total benefits received under the Plan(s). Each data gathering workbook contains three tabs. Please complete the spreadsheet (tab 2) and questionnaire (tab 3) using the specifications and field descriptions provided (tab 1). Make sure you encrypt your email when submitting your data! Password protected Excel documents sent via unencrypted email are not secure.

For non-Discrimination Testing purposes, all employees, including any terminated, part-time and/or leased employees of the Plan Sponsor, any related entity or other business that is a member of a related group of corporations or businesses, must be included in the data submitted.

We will exclude certain employees as may be permissible and determine which employees meet the definitions of Highly Compensated and Key Employees for each test based upon the information provided. Once all of the requested data is received, we will place the information in queue for testing.

Please be sure to adhere to the following guidelines:

- **Use the appropriate template located on our website** [http://www.amben.com/employers-nondiscrimination.html](http://www.amben.com/employers-nondiscrimination.html) *Earlier templates are no longer supported.*
- **Include ALL employees who received any compensation at any time during the Plan Year.**
- **Complete all fields - No fields may be left blank.** For benefit fields, if there is no dollar amount, enter \"$0.00\". For Ownership and Voting percentage fields enter a numeric amount equivalent to the percentage i.e. 5 for 5%. For Eligibility, Officer, Collectively Bargained, Alien Employee or COBRA fields enter either \"Yes\" or \"No\". See \“Definition of Terms\” (tab 1).
- If you do not offer an HSA, please enter \"$0.00\" in all the fields in column \"W\" rather than \"No\".
- For \“Plan Start Date\” enter the first day of the Plan Year being tested.
- **Be sure to answer all the questions on the \“Subjective Questions\” page (tab 3).**
  Return completed workbook with all the tabs intact. **Do not add, delete or rearrange any columns.**
  Please indicate if you use the \“Top-Paid Group Election\” when testing your 401(k) plan.
  
  American Benefits Group  PO Box 1209  Northampton, MA 01061  800-499-3539  support@amben.com
If the data submission is incomplete or incorrectly formatted we will not be able to proceed with testing. We will ask you to correct the file and resubmit your data. You will lose your position in our queue and take up a new position based on the date we receive your corrected file.

If we do not receive data from you, we will assume that you do not want us to test your Plan(s). Since the results of the tests are solely dependent upon the data you provide, please take care when completing the “ND Test Template” and “Subjective Questions” input tabs of the workbook making sure that your answers and data are complete and accurate.

Please Note: Self Insured Medical Plan Testing services are available separately. Testing of any Life, Disability and AD&D Plans, or an Adoption Assistance Plan, if offered, is beyond the scope of our services. American Benefits Group cannot provide tax or legal advice and is not liable for any test results or resulting consequences if the data submitted to us is, in any way, incomplete or inaccurate.