

Glossary – C

Cafeteria Plan – This term includes any employee benefit plan that permits an employee to elect the receipt of either (a) cash income (represented by a Form W-2) or (b) tax-advantaged health care benefits. Such plans are governed by IRC Section 125 which establishes rules for discrimination testing. Thus cafeteria plans are designed to permit employees to pay certain qualified expenses (such as health insurance premiums) on a pre-tax basis, thereby reducing their total taxable income and increasing their spendable/take-home income. Funds set aside in FSA accounts are not subject to Federal, State, or Social Security taxes.

There are five essential requirements of a Cafeteria Plan: (a) written, (b) limited to employees, (c) choice between two or more benefits, one of which must be cash and one must be qualified, (d) non-discriminatory, and (e) meets the Key Employee 25% concentration test.

Church Plan – The term *church plan* means a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501(c).

Code refers to the Internal Revenue Code.

Combined Group – A combined group is one that may be composed of an overlapping parent-subsidary controlled group and a brother-sister controlled group. This occurs if: (1) each corporation is a member of either a parent-subsidary controlled group or a brother-sister controlled group, and (2) at least one of the corporations is the common parent of the parent-subsidary controlled group and is also a member of a brother-sister control group.

Compensation – This term is defined in IRC Section 415(c) (3). The IRC specifically provides that in determining an employee's compensation for discrimination testing purposes, the following are counted (i.e., added back in): (a) salary reductions under a cafeteria plan, (b) compensation reductions under a qualified transportation fringe benefit plan, (c) elective deferrals under a 401(k) plan or a salary reduction simplified employee pension plan.

Cost of Living Adjustments – With respect to such COLA's, the IRS publishes annually an updated value of the compensation threshold for (a) Highly

Compensated (IRC Sections 414(a) and (b)), and (b) Key Employee (IRC Section 416(c)).

Clayton Act – This Federal Law requires that an employer must not discriminate in prices (Act applies only to commodities and not to services) unless (1) it can be justified economically, or (2) it can be shown convincingly that its goal or result was anti-competitive, or (3) it can be shown to be pre-competitive by the rule of reason test.

Control Group – A control group is an organization that may consist of (a) corporations, (b) employers under common control, or (c) those in an affiliated service group. Controlled corporations are those parent-subsidary or brother-sister corporations that meet the statutory percentage tests. The employers under common control are *look-alike corporations* but lack stock ownership; sole proprietorships or partnerships fit in this category. Employees in an affiliated service group are those that share commonality in one or more significant business-related functions.