

Glossary – S

Sarbanes-Oxley Act – This Act sets new or enhanced standards for all U.S. public company boards, management and public accounting firms. It does not apply to privately held companies. The Act contains 11 titles, or sections, ranging from additional corporate board responsibilities to criminal penalties, and requires the implementation or rulings on requirements to comply with the new law. The bill was enacted as a reaction to a number of major corporate and accounting scandals including those affecting Enron, Tyco International, Adelphia, Peregrine Systems and WorldCom.

Self-Employed Individuals – In testing for discrimination, any participant who is not a common law employee (such as an independent contractor, sole proprietor, partner, Sub-S owner, or one leased under a PEO contract) is typically not treated as an employee for testing purposes. However, such self-employed individual may be a participant as a contractual right and not an employee right. If the Plan is found to be non-discriminatory, no monetary consequences for such individual occur for reasons of discrimination. However, while such self-employed individual gains due to *per se* discrimination, the tax advantages to the employee, provided by IRC Section 105(a), are denied. As a result, such individual must be provided an IRS Form 1099 for the economic (i.e., actuarial) value of the provided benefits.

Self-Funding Health Care – A type of health care plan where the employer pays for actual claims with its own funds. The employer assumes the direct risk for payment of claims for benefits. *Self-funding* and *self-insurance* mean the same thing.

Sherman Act – This Act is codified at 15 USC Sections 1-7, and (a) prohibits contracts or conspiracies in restraint of trade (which phrase has been since at least 1911, judicially interpreted as meaning unreasonable restraints of trade), (b) prohibits monopolization or attempted monopolization, and (c) prohibits mergers or acquisitions which may tend to lessen competition.

Sole Proprietor – Even though the sole proprietor is a self-employed person for tax purposes, such proprietor's spouse and dependents may be deemed the

dependents of a common law participant so long as they are not key players to the firm.

Special Purpose Audit – This term means any audit which specifically targets price and service discrimination as contemplated by applicable federal laws. Other plan-related audits (e.g. IRS/DOL Form 5500 audit, employer or TPA internal audit, stop-loss audit) audit regulatory method of competition, unfair/deceptive practices, or restraint of trade issues.