

Transmittal Memorandum Discrimination Testing Common Database

Username _____
Password _____

Addressees

Addressee Number 1

Company Name _____ ID _____

Address _____

City _____ State _____ Zip _____

Tel. _____ Fax _____

Email _____ Contact _____

Addressee Number 2

Company Name _____ ID _____

Address _____

City _____ State _____ Zip _____

Tel. _____ Fax _____

Email _____ Contact _____

Addressee Number 3

Company Name _____ ID _____

Address _____

City _____ State _____ Zip _____

Tel. _____ Fax _____

Email _____ Contact _____

Plan and Employer Data

Participating Employer _____

Designation _____ EN _____

Type of Structure: Corporate (Chapter C) _____ Corporate (Sub-S) _____

Corporate (Limited Liability) _____ Church _____ Government Entity _____

Partnership _____ Non-Profit Organization _____ Sole Proprietorship _____

Plan Name _____

Plan Designation: _____ DOL Number _____

Plan Type for Testing Purposes _____

Benefits Test Data

Does the Plan on it face discriminate in favor of the prohibited group with respect to the following:

Eligibility (includes the probationary periods)? _____

Benefits (includes optional benefits)? _____

Contributions (Employer of Participant)? _____

Tenure or compensation? _____

Valuation Data

Test Year _____ Valuation Date _____

Statutory Limit for Compensation Applicable to Test Year for:

IRC Section 414(q) _____ IRC Section 415(1)(B) _____

Addressee: Number 1 _____ Number 2 _____ Number 3 _____

Should Highly Compensated Data be Suppressed in Output? _____

Number of Controlled/Affiliated Employers Participating? _____

Database

Participants of Controlled/Affiliated Employers

<u>Employer Name</u>	<u>EIN</u>	<u>Number of Participants</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Total _____

Employee Non-Participants

<u>Reason for Not Participating</u>	<u>Number</u>	<u>Annualized Compensation</u>
Statutory	_____	_____
Plan Provisions	_____	_____
Employee Opt-Out	_____	_____
Total	_____	_____

Non-Employee Participants

<u>Status Description</u>	<u>Number</u>	<u>Paid Qualified Benefit</u>	<u>Paid Participant Contributions</u>
Self-Employed	_____	_____	_____
Prior Participant	_____	_____	_____
Total	_____	_____	_____

Participant Employees – Prohibited Class

<u>Employee Designation</u>	<u>Shareholder Percent</u>	<u>Officer</u>	<u>Annualized Compensation</u>	<u>Paid Qualified Benefits</u>	<u>Paid Participant Contributions</u>
-----------------------------	----------------------------	----------------	--------------------------------	--------------------------------	---------------------------------------

80K – 100K	_____	_____	_____	_____	_____
100K -125K	_____	_____	_____	_____	_____
125K- 150K	_____	_____	_____	_____	_____
150K- 175K	_____	_____	_____	_____	_____
175K – 200K	_____	_____	_____	_____	_____
200K –250K	_____	_____	_____	_____	_____
250K – 300K	_____	_____	_____	_____	_____
300K – Over	_____	_____	_____	_____	_____
Total	_____	_____	_____	_____	_____

Recapitulation

<u>Employees</u>	<u>Number</u>
Non-Participants	_____
<u>Participants</u>	
Prohibited Class	_____
Non-Prohibited Class	_____
Total Employees	_____
Non-Employee Participants	_____
Total Participants – Unadjusted	_____
Participants from Controlled/Affiliated Employers	_____
Total Participants - Adjusted	_____

Commentary

In General

The Transmittal Memorandum is useful in (a) gathering the requisite data together in a convenient format and (b) allowing the data-entry to be a clerical function.

The goal of this Work-Product is to allow the database and the computer to accomplish all discrimination-type functions, regardless of variations with plan, employer, benefits, purpose, etc.

Questions relative the management of www.awpse.com, once the Username/Password has been entered are dealt with as a website matter. Also, see the online book titled *Discrimination Text* posted at the Discrimination subsite.

Addressees

Few issues with addressees are worthy of mention. However (a) the Addressee Number 1 is reserved for the Engager of the Risk Manager/Actuary, (b) the Addressee Number 2 is reserved for the one who actually is responsible for the data entering, (c) Addressee Number 3 is the *significant other* (usually the Plan Sponsor), (d) it is common that all three addressees are taken with vendors only and (e) the Work-Product is emailed to that address belonging to the addressee with the E-Code.

ID codes are five-place (R0003, e.g.) where (a) E is Eligible User, (b) R is risk manager, broker, consultant, etc., (c) T is TPA, (d) P is Plan Sponsor, (e) A is accountant and (f) I is insurer or HMO.

Plan and Employer Data

It is sufficient in the Plan Section to know that the Employer is one that participates in the subject Plan and identify it with either an informal designation (XYZ, e.g.) or a more formal designation (last four digits of the EIN, or the entire nine digits if preferred) or even both. That the Employer shares the Plan with

another participating Employer is shown in the Valuation Section. It is not need for discrimination purposes to know that the Employer is or is not the Plan Sponsor. The organizational structure of the Employer is useful information for advisory/consulting purposes.

The Plan Name and DOL Number is needed. The Plan Designation is helpful but is not required. Whether the discrimination is for a medical reimbursement, cafeteria plan, e.g., is needful.

The isolation of those instances where the plan permits *ad hoc* discrimination (by eligibility, benefits, contributions, tenure or compensation) is set forth in this Section.

Valuation Data

Test Year may be either Plan Year Calendar year but Plan Year will be typically the more convenient. For privacy reasons, the suppression of the Prohibited Employee data will often be suppressed. A most important parameter is whether the named Employer shares the Plan under discrimination testing with a controlled, affiliated employer.

The Concentration Tests of the Cafeteria Plan and also the DCAP each require a definition of highly compensated. The annualized compensation needed thereto is shown as a parameter adjusted for the appropriate inflation-indexing as provided by the Code.

Data Base

The Database is in four parts: (a) participants in the subject Plan who are employees of a controlled/affiliated employer of the subject Employer, (b) employees of the subject Employer who are not participants in the subject Plan, (c) participants in the subject Plan who are not employees of the subject Employer, (d) participant-employees who are in the prohibited class and (e) participant-employees who are in the non-prohibited class. Access to prohibited status is gained by being a shareholder or an officer.

The likelihood of a non-employee being a participant is common enough; the question is: what if such non-employee is also a more-than-10% shareholder? Because such situation is so rare, this work-product (a) makes note of it as a remote possibility and (b) recommends that it be handled as a manual adjustment thereto. A more-than-10% shareholder who is not a plan participant is treated as a *non-event*.

Examples of being an employee non-participant for a statutory reason are: age, newly-employed, seasonal, part-time, under a union contract or non-resident alien-worker. If the plan is limited to salaried employees, an hourly worker would be an employee non-participant because of plan provisions. Employee opt-out is an elective opt-out. A qualified benefit is one with the tax advantages of IRC Section 105(a).

If an employee is in the Database as a 6% Shareholder and his spouse (not an employee) owns in her name 5%, the shareholding attributable to the employee is 11%. This attribution question will not arise when the shares are jointly-owned.