

Webinar Title Q&A – the following questions were asked during the two webinar sessions in (August, 2017)

Q: At what time during the plan year, should we do the nondiscrimination test?

A: The Section 125 Cafeteria Plan regulations require that nondiscrimination testing is to be done on the last day of the plan year. Doing this, however, would leave failing employers no choice but to make W-2 adjustments for affected employees. For this reason, Employee Benefits Corporation requests data earlier than the end of the plan year. This ensures that failing employers have time to make adjustments to payroll – thereby alleviating the need to adjust the W-2 or to make proactive changes to avoid failing.

Q: Do I list a Highly Compensated Individual (HCI) who joined mid-year 2017?

A: All employees who were employed for even one day during your plan year should be included on the Nondiscrimination Census Worksheet (“Worksheet”). Whether the individual is an HCI or a non-HCI will depend upon the compensation that is used for the testing. Therefore, for 2017 an individual hired during the plan year will only be considered an HCI for a calendar year plan if they are estimated to earn over \$120,000 between their hire date and the end of the plan year.

Q: Do you have to report employees if their income is under \$115,000?

A: The HCI threshold has been increased to \$120,000 for the 2017 plan years. And all employees who were employed for even one day during your plan year should be included on the Worksheet.

Q: Employee Benefits Corporation handles just our Health Care FSA and Dependent Care FSA. Do you also complete the testing for our medical plan?

A: Employee Benefits Corporation does not perform separate testing for medical plans. Self-funded medical plans do require testing and we currently do not provide this service. However, if the medical plan premium is paid on a pre-tax basis, then that premium is a required part of the Cafeteria Plan. Employee Benefits Corporation does perform Cafeteria Plan testing and therefore requires this data.

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Q: Employer pays 80% of all employees' health, dental and vision premiums for the full-time employees and 60% of the family for health, dental and vision. Part-time employees do not get any benefits. How do I proceed?

A: Unfortunately, without knowing the actual premium amounts, we cannot advise as to whether you would answer yes or no to the first question in Section 2. You would have to actually analyze the rates. For Section 2, only the health insurance premium is pertinent.

For Section 3, however, you would choose the second box and sum the total cost of all health, dental and vision premiums for one month for all participating employees. Keep in mind not to include COBRA premiums or premiums for retirees in this sum. This is presuming that the employee portion of your health, dental and vision premiums are deducted on a pre-tax basis.

Q: For a 2017 calendar year plan, if someone was hired during June of 2016, do you use the actual 2016 gross wages, or estimate a full year of wages?

A: For this individual, you would report actual 2016 gross wages from hire date through the end of the 2016 calendar year.

Q: What if the company considers a full-time employee to be a person who works 30 hours or more and employer pays 50% of the single premium. How do I answer Section 2 question 2 on the Worksheet? Question 1 asks "Does the Employer contribute (pay) 75% or more of the health plan premium for all participants?" and Question 2 asks " Does the Employer pro-rate its contribution of the health plan premium for part time employees?"

A: If part-time employees are not eligible and all full-time employees are responsible to pay the same percentage of the health premium, then you would answer No to the second question in Section 2.

Q: How do you figure the percentage the employer pays for health insurance when you offer multiple health plans with different monthly premiums amounts? Do you have to list them all or just the lowest cost plan since they could choose that?

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A: When completing the answer to the first question in Section 2 on the Worksheet, you would determine the employer percentage for each and every health insurance plan offering the company provides. If any one of these is less than 75%, you would answer No.

Q: When we talk about what premiums cost, we're talking about what the employee pays, correct?

A: When completing the total in Section 3 on the Worksheet and the monthly premiums column in Sections 6-9, you would include the entire cost of the premium (employee and employer share combined) but only if the employee pays a share or that entire premium on a pre-tax basis. If the employee pays no share of that premium on a pre-tax basis (employer pays 100% of the cost), that particular premium would not be included.

Q: If we are self-insured for health insurance and the employer pays entire premium. Does this get added to section 3?

A: No, if the employer is paying the entire premium for the health insurance, then that health insurance premium is not part of the Cafeteria Plan and should therefore not be included in the total in Section 3 or the monthly premiums column in Sections 6-9. However, if the employer is self-insuring the claims and there is a portion that the employee pays pre-tax towards their coverage, the value of the premium used in the calculation would be the COBRA rate minus any administrative fee charged to COBRA participants.

Q: In Section 8, should FSA and HSA premiums be included on the Monthly Premium as well as the HSA or FSA box?

A: The monthly premium column should not include any HSA or FSA dollars. The HSA contributions will be reported in the HSA contributions column and the FSA elections will either have their own column if you self-administer your FSA, or, if you utilize Employee Benefits Corporation to manage your FSA elections, the amounts will be downloaded from our system.

Q: My company is an LLC and we are owned by a Canadian company. Will we include Canadian employees on our Worksheet?

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A: Any individuals who are not paid in US Dollars should not be reported in Sections 8-10 on the Worksheet. If applicable, they should be reported in Section 6 or Section 7 if they are an owner or officer with a note indicating that they are not a US employee.

Q: Will we be using 2016 compensation information for the testing that we will be doing this year or are we to estimate compensation for 2017? We run a calendar year plan.

A: What you report for gross compensation for an individual depends on that individual's hire date. For a calendar year plan, if the individual was hired prior to January 1, 2017, January 1, 2016 to December 31, 2016 gross compensation should be reported. If the individual was hired on or after January 1, 2017 (or received no compensation in 2016), please report estimated gross compensation from hire date through December 31, 2017. If an individual was hired on or after January 1, 2017 (or received no compensation in 2016) and was subsequently terminated, please report actual 2017 year to date gross compensation from hire date through termination date.

Q: What about if you have multiple plans and one is calendar plan year and one is not?

A: Each plan requires its own test. If one organization sponsors more than one Cafeteria Plan, then two Worksheets must be completed. Both Worksheets will contain all employees of the organization, but the monthly premium, monthly HSA contributions and eligibility should reflect the particular plan year dates.

Example: One organization sponsors a plan for its union employees and a plan for its non-union employees. The organization would complete two Worksheets.

On the Union Plan Worksheet, both union and non-union employees would be included. The non-union employees would all have \$0 for monthly premiums, \$0 for monthly HSA contributions and No for eligibility. Section 3 premiums and Section 4 HSA would include the total for the union employees only.

On the non-Union Plan Worksheet, both union and non-union employees would be included. The union employees would all have \$0 for monthly premiums, \$0 for monthly HSA contributions and No for eligibility. Section 3 premiums and Section 4 HSA would include the total for the non-union employees only.

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Q: Where do you get the Worksheet once you login as the employer?

A: Once you have logged into www.ebcflex.com, please click on “Menu” in the upper left-hand corner of the screen and then click on “Forms and Materials” under the “Resources” header. Click on the BESTflex Plan icon and the testing materials are located under the “Employer Administration Documents” header. The “Nondiscrimination Census Excel Worksheet” is the form to complete and return and the “Nondiscrimination Testing Workbook” is the instructions on how to complete each and every section of the Worksheet.

Q: Should union employees be included individually if they are able to participate in any pre-tax benefits?

A: Yes, the only time union employees do not need to be included individually is when they are not eligible to participate in the Cafeteria Plan.

Q: I am an employee who is the spouse of an officer. However I am covered by my spouse's insurance. I assume I don't need to report me as I have no separate benefits?

A: All employees should be listed regardless of whether they are eligible or participating in the benefit. In the monthly premium column, no premium should be reported for this scenario because you are not the individual who is paying for the premium pre-tax. Family members of Owners, Officers and HCIs are reported on the Family Attribution tab on the Worksheet.

Q: How do you report Section 3 total premium amounts for one month when each employee covered under the health plan has a different monthly premium?

A: The Section 3 total monthly premium is the sum of all of the individuals’ premiums for those that have premiums under the cafeteria plan. To clarify, you would add up all of the different monthly premiums and provide the total for employees that pay all or a portion of their premiums pre-tax under the cafeteria plan.

Q: We make annual HSA contributions and we split the amounts 50% in January and 50% in July. Employees can also make contributions if they wish. Do we include 100% of our contributions or 50%?

A: When completing Section 4 and the subsequent monthly HSA contributions, please provide a monthly employer amount by taking the total provided in January and July and dividing by

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12. Then add this figure to the amount the employees contributed via salary deduction for one month.

Q: Should Section 3 Box 2 that asks for total premiums include FSA and HSA?

A: HSA contributions should not be included in Section 3 as they are included separately in Section 4. Total FSA elections are not requested on the Worksheet and should not be included in Section 3 either. If we administer the FSA, we will get the FSA amounts from our computer system. If you self-administer the FSA, you will be asked to report the FSAs in a separate column in a later tab.

Q: For controlled group employees, do you need all the same information (wages, contributions etc.)?

A: Yes, all of the same information is required for employees who are employed by other companies within the same controlled group as for employees of your company.

Q: Regarding Section 3 - our dental plan is self-funded; if an employee has employee only coverage, they pay no premium; if they have family coverage, then they pay the family premium less the cost of single coverage (since we would pay that if they chose single coverage). Would I only include those who have family coverage?

A: In the Section 3 premium total, please only include premiums where individuals pay a share or the entire premium on a pre-tax basis. In this specific example, the only dental premiums that should be included are family coverage premiums. Please sum the entire (employee and employer share) family premium for all those on family level coverage. For purposes of a self-funded plan this would be your COBRA rate less any 2% administrative fees.

Q: If the first plan year is 2017, how can I use prior plan year detail?

A: Unless the company was not in existence last year, individuals should have had gross compensation. Please report the compensation for those individuals for the time period that would have been associated with 12 months prior to the start of the plan year. If the company was not in existence please report everyone's compensation as if they were a new hire, which may be a projection of their actual 2017 income for the plan year.

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Q: We do not have owners, as we are county government. Do we use Board of Commissioners or County Council, or both?

A: If there are no owners please list an officer. An officer is any person who had day-to-day authority for the operations of the organization during the preceding plan year or gained this authority during the current plan year. This might be a County Clerk or Finance Officer for example.

Q: This is our first year we are self-funded and our vision is not a separate benefit but included in the premium?

A: If the employee is paying all or part of the costs of the premiums then it should be included as part of the calculation. For self-funded plans please use the premium equivalent or the premium that would be charged to a COBRA participant, less the 2% administrative fee.

Q: Our employees get paid bi-weekly, and you're asking for monthly. How do you suggest we accurately calculate the premiums?

A: For monthly premiums, the total cost of the premium should be reported as billed from the carrier. For self-funded plans please use the monthly premium equivalent or the monthly premium that would be charged to a COBRA participant, less the 2% administrative fee. For this reason, how often the premium is collected from the employees should not matter.

For HSA contributions, if the bi-weekly reference is a deduction every 2 weeks, then for employees who pay their premiums bi-weekly please multiply that amount by twenty six and divide by twelve to get the monthly amount.

Q: Are step brothers to be included in family?

A: No, step brothers should not be included in the family attribution tab. Only ascendants and descendants of the owner, officer or highly compensated employee should be listed.

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