

# NON-DISCRIMINATION TESTING REQUEST FORM



DATE: \_\_\_\_\_

GROUP NAME & NUMBER: \_\_\_\_\_

Dear Group Contact:

Horizon will assist you in performing Nondiscrimination Testing on your Flexible Spending Accounts (FSA) upon your request for the programs administered by Horizon. We can also test your entire cafeteria plan if you provide additional data. Please consult with your tax advisor to determine whether testing is appropriate for your group and if so which level of testing should be performed. The new federal regulations for non-discrimination testing that were originally intended to be effective January 2009 have still not been finalized. As written the new regulations will make non-discrimination testing mandatory to maintain a qualified cafeteria plan. Once the regulations are finalized, Horizon will advise you of the new regulations, pricing and the requirements for compliance.

We provide two options for Non-Discrimination Testing. The first option is Medical FSA and Dependent Care FSA testing. This testing will be based on the data in Horizon records only. The second option is the Health Premium, Medical FSA, Dependent Care FSA, and HSA testing. This testing will be based on the data in Horizon records and additional cafeteria plan data supplied by you. The following tests will be performed for both options:

- **Key Employee Concentration Test:** If the qualified benefits provided to Key Employees exceed 25% of the total of all such benefits provided for all employees under the plan, the plan will be non-compliant. A Key Employee is someone who is an officer with an annual compensation in excess of \$175,000; or more than 5% owner of the employer; or more than 1% owner of the employer with annual compensation greater than \$175,000.
- **Concentration Test:** This test is intended to determine whether no more than 25% of the amounts paid or incurred by the company for dependent care assistance during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents).
- **Average Benefits Test:** This test is intended to determine whether the average dependent care benefits provided to employees who are not highly compensated under all plans of the company must be at least 55% of the average benefits provided to highly compensated employees under all plans of the employer.

Please complete the enclosed "Non-Discrimination Testing Request Form" and return to Horizon. We will conduct the test and deliver the results within 30 days.

Sincerely,

Horizon Operations

## 2018 Non-Discrimination Testing Request Form

1. Please choose one of the following:

- I wish to waive testing – no need to return the form.
- Test just the Medical FSA and Dependent Care FSA – go to step #2.
- Test the entire Cafeteria Plan (Health Premium, Medical FSA, Dependent Care FSA, and HSA contributions). **If this option is selected, please complete the following chart:**

|   | Key Employees | Non-Key Employees |
|---|---------------|-------------------|
| <b>Yearly Health Premiums:</b><br>(add employer contributions & employee premiums together)         | \$            | \$                |
| <b>Yearly Cafeteria Plan HSA contributions:</b><br>(add employer & employee contributions together) | \$            | \$                |
| <b>Any other cafeteria plan contributions</b><br>(Life, PTO, disability, etc. for the year)         | \$            | \$                |
| <b>TOTAL</b>  | \$            | \$                |

**Check the box if you have your Flexible Spending Account with a different administrator.**

2. Check the type of organization for your company:

- C Corporation    
  Partnership\*    
  Political Subdivision/Church    
  S Corporation\*  
 Sole Proprietor\*    
  LLC    
  Other

\*Any person who owns more than 2% of this type of organization (also anybody related to this person) is not eligible to participate in a Section 125 plan.

- 3. Please provide a listing of names of all Highly Compensated Employees.
- 4. Please provide a listing of names of all Key Employees.
- 5. Total number of eligible Highly Compensated Employees: \_\_\_\_\_
- 6. Total number of eligible Non-Highly Compensated Employees: \_\_\_\_\_

Horizon is not responsible for, nor liable for, the test results. Groups found to be non-compliant should seek expert tax advice and/or changes in their benefits strategy. Horizon does not provide this advice but will assist the client and their tax advisor in re-administering testing.

Group Name \_\_\_\_\_ Group Number \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

## Non-Discrimination Testing Definitions for 2018

### Highly Compensated Employees – IRC 414(q) are:

List all employees who, at any time during the current plan year or the preceding plan year, fit into one or more of these categories.

- All employees with more than a 5% ownership
- All employees who are a spouse or relative (within the meaning of IRC Section 318) of any individual listed in first bullet.
- The employees earning more than \$120,000 (indexed - meaning amount is subject to change) (bonuses included)  
\*An employer may elect to treat highly compensated under the \$120,000 compensation and test only those employees who are also in the top-paid 20% group.

### Key Employees – IRC 416(l)(1)(A) are:

Please list all employees who, at any time during the current plan year or the preceding plan year, fit into one or more of these categories.

- Officers with annual compensation greater than \$175,000 (indexed) (bonuses included)
- Employees with more than 5% ownership
- Employees with more than 1% ownership and annual compensation greater than \$175,000.

## Non-Discrimination Testing FAQ's

**What is the purpose of the Nondiscrimination Testing (NDT)?** In order to provide benefits on a pre-tax basis, Congress required benefit plans to be nondiscriminatory. Nondiscrimination Testing is utilized to validate these requirements and ensure the Highly Compensated (HCE's) and Key (Keys) employees are not being favored.

**When will the NDT become mandatory?** The new federal regulations for non-discrimination testing that were originally intended to be effective January 2009 have still not been finalized. As written, the new regulations will make non-discrimination testing mandatory to maintain a qualified cafeteria plan. Once the regulations are finalized, Horizon will advise you of the new regulations, pricing and the requirements for compliance.

**Which option do I test?** Your options are: waive testing, or test just the Medical and Dependent Care FSA, or test the entire Cafeteria Plan. We suggest you speak with your tax advisors to choose which option that's best for your company.

**Is the testing mandatory?** The NDT is not mandatory, yet if your company is audited by the IRS, they will want to verify you're compliant with Cafeteria Plan nondiscrimination regiment.

**When should I test?** IRS recommends testing at the beginning of your Plan year so that if you are not-compliant, there is time to make the necessary changes to the Cafeteria Plan.

**Who do I include in the test?** You should include all eligible employees, not only ones who have chosen to participate in the Cafeteria Plan.

**What dollar amounts do I include for testing?** You will want to use any dollar amount that is considered pre-tax through the Cafeteria Plan. It is your choice to do a "look back" at the previous year or you can use the current year dollar amounts and estimate.

**What if our company is not compliant?** The IRS allows changes to be made to the affected employee's election amounts and/or contribution amounts to ensure the company is compliant. These changes need to be made within the same plan/calendar year that is being tested. After necessary changes have been made, we will re-test your plan and email the updated results.

**When will we receive the results?** The NDT results will be emailed within 30 days after Horizon receives the form.

**Where do I send this form?** You can fax the form to 651-662-7247, or email it to [HorizonMyWay.NDT@hellofurther.com](mailto:HorizonMyWay.NDT@hellofurther.com), or mail to Horizon S1-40, PO Box 64193, St. Paul, MN 55164-0193.