



# Nondiscrimination Questionnaire

## Instructions

1. Fill out all fields of this form.
2. Send this form to EMPOWER using either one of the following:
  - a. Email to [compliance@empowerflex.com](mailto:compliance@empowerflex.com)
  - b. Fax to (316) 687-2113

EMPOWER will contact you if your company does not pass nondiscrimination testing.

*EMPOWER performs your company's discrimination testing based on the information you provide on this questionnaire. You are responsible for ensuring the accuracy of such information and bear the burden of proof relating to the accuracy of such information understanding that your discrimination testing is only as accurate as the information you provide.*

## Current IRS Guidelines

Current for Plan Years starting in 2023

- Highly Compensated Individual** Employee with compensation of \$135,000 or more in prior Plan Year
- Key employee**
- A) Officer with compensation of \$215,000 or more in prior Plan Year
  - B) Or Business owners currently holding more than 1% of the stock or capital and with compensation over \$150,000 or more in the prior Plan Year
  - C) Or Business owners currently holding more than 5% of the stock or capital

## Company Information

Company Name \_\_\_\_\_ Plan Year Start Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Questionnaire Completed By \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

S-Corp      C-Corp      Partnership      Sole Proprietorship      Government      Non-Profit      LLC

Other \_\_\_\_\_

Total number of employees currently (include employees terminated in current plan year) \_\_\_\_\_

## Health Savings Account (HSA)

Does your company have an HSA plan administered by EMPOWER?      Yes      No

If yes, are the HSA contributions made pre-tax?      Yes      No

If yes, provide all HSA contributions (employer and employee) per year:

Total HSA contributions for Key employees      \$ \_\_\_\_\_

Total HSA contributions for all other employees      \$ \_\_\_\_\_



## Employee Information

Please include all employees who participate in your cafeteria plan. Note that this includes other business entities if applicable.

- List ALL employees who fit into one or more of the following categories (even if they have no pre-tax insurance premiums).
- An employee may be classified based on more than one category.
- When listing employees, list each employee in every applicable category.
- If the employee has yearly pre-tax health insurance premiums (health, dental, vision, supplemental) taken out of his/her paycheck, write this amount in the last column.
- Do not include FSA election amounts; only payroll deducted insurance premiums.
- Use additional forms for more room

IRS Definition	Employee Name	Pre-tax Insurance Premium
Officer* with annual compensation meeting definition of a key employee (see page 1, section <i>Current IRS Guidelines, section A</i> for definition).		
Employee with more than 1% ownership** and annual compensation meeting definition of a key employee (see page 1, section <i>Current IRS Guidelines, section B</i> for definition).		
Owner with more than 5% ownership** during the <u>current</u> Plan Year		
Employee who is the spouse, son, daughter, parent, or grandparent of any of the more than 5% owners		
Employee with more than 5% ownership** during the <u>prior or current</u> plan year		
Highly Compensated Individuals		

Total yearly dollar amount of insurance premiums (health, dental, vision, etc.) that all other employees not listed above pay on a pre-tax basis (include only the employee paid pre-tax portion of the insurance premiums): \$ \_\_\_\_\_

*\*The determination as to whether an employee is an officer should be made on all the facts and circumstances. Generally the term "officer" means an administrative executive. According to regulations under 414(q), an officer includes the president, vice-president, general manager, treasurer, secretary and comptroller of a corporation and any other person who performs duties corresponding to those normally performed by persons occupying those positions.*

*\*\*For purposes of determining ownership, stock owned by an employee's spouse children, grandchildren or parent is treated as owned by the employee.*