Ekon Explains -
The Dreaded Census Questionnaire

Part Three. Key & Highly Compensated Employees

Why are you asking so many questions? Is this really necessary?
Why do I have to do this year after year?

As a Plan Sponsor, you likely ponder these questions every time your TPA sends out the yearly census questionnaire. The truth is the census questionnaire is a key piece of your Plan's administration and compliance. The information requested is used to help ensure that your Plan's operation conforms to your Plan Document and with current laws and regulations.

To clarify the significance of the information requested, we are breaking down the census questionnaire piece by piece in our new series, Ekon Explains - The Dreaded Census Questionnaire.

Part Three. Key & Highly Compensated Employees

We discussed employee counts in Part One of our series, but a listing of Key & Highly Compensated Employees is likely requested in a separate section of your census questionnaire. This information is necessary to complete annual compliance tests for your Plan.

Key employees? Highly compensated employees? What is the difference?

Key Employees

Key employees fall into at least one of the following categories at some point during the plan year:

- An Officer with annual compensation greater than $170,000 (limit for 2015, 2016)
- A 5% Owner
- A 1% Owner with annual compensation exceeding $150,000

Key employee information is required for annual top-heavy testing.

Highly Compensated Employees

A highly compensated employee, or HCE, meets one or both of the following criteria:

- A 5% Owner
- Received more than the annual limit for HCEs in the *previous year*. For 2014, this limit was $115,000. For 2015 & 2016, the limit is $120,000.

HCE and non-HCE information is necessary to complete annual nondiscrimination testing, including coverage testing,to ensure HCEs do not disproportionally benefit when compared to non-HCEs.

Many times, HCE & key employee groups are identical, however this is not always the case.

Family Attribution Rules

Family Attribution Rules dictate that an individual is treated as having the same ownership interest as their spouse, children, parents, and grandparents if they also receive compensation from the employer.

The Bottom Line

Your TPA is asking for HCE and Key Employee information in order to conduct required annual compliance testing. While it may seem cumbersome to provide the information requested for these employees and applicable family members, it is necessary to maintain your Plan's tax preferred status.