

Nondiscrimination Requirements

Nondiscrimination Rules as stated in IRC Section 105(h) apply to Health Reimbursement Arrangements. Ownership interest (including ownership attribution due to family relationship), occupation and gross wage are considered. Individual status and legal arrangements may affect how nondiscrimination rules impact an individual. Organizations should consult with their accountant or legal advisor to identify individuals with restrictions. **Business Entity Identification** - Participation by owners and their family members is based on the ownership designation filed by the entity.

Who May Be Restricted?

- **Owners**, except in the case of C Corporations, are considered self-employed by the IRS. Regulations do not allow self-employed individuals to participate in tax free benefits.
- **Owners' spouses** must be bona fide employees. A spouse cannot have any ownership in the company. If joint ownership of company assets exists, the spouse is considered an "owner" with applicable owners rights and restrictions.
- **Owners' lineal ascendants and descendants** include (in relationship to the owner): Parents, children and grandchildren. Individuals must be bona fide employees, cannot be tax dependents of an owner, and cannot have any ownership in the company. If ownership of assets exists, the individual is considered an "owner" with applicable owners' rights and restrictions. See Constructive Ownership of Stock below.

Entity Type	Owner	Owner's Spouse	Owner's Lineal Ascendants and Descendants
Limited Liability Partnership (LLP)	No	Yes	Yes
Limited Liability Company (LLC)	dependent upon company tax filing status		
Sole Proprietorship	No	Yes	Yes
Partnership	No	Yes	Yes
Sub S Corporation	No <i>(applies to greater-than-2% ownership)</i>	No	No
C Corporation	Yes <i>(applies to greater-than-5% ownership)</i>	Yes	Yes

"No" - Cannot receive tax free benefits from the Plan

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Constructive Ownership of Stock *(IRC Sec 318 Ownership Attribution Rules)*

For Sub S and C Corporations, individual owners are considered as owning stock by and for a spouse (unless legally separated), children, grandchildren and/or parents. Therefore, the spouse, children, grandchildren and parents of owners are considered owners for nondiscrimination purposes.

Failure to comply with nondiscrimination guidelines can result in disqualification of the entire Plan. The organization and all plan participants would be subject to back taxes and penalties on amounts disallowed.

Our goal is to provide maximum benefit to all plan participants. Flyte HCM works with your internal benefit administration staff to ensure the plan complies with current regulations.