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Coverage and Nondiscrimination Answer Book

Fourth Edition

Thomas E. Poje
Frank J. Bitzer
Bernadine Topazio



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Printed in the United States of America

ISBN 978-0-7355-8194-4

3 4 5 6 7 8 9 0



Coverage and Nondiscrimination Answer Book

Fourth Edition

by Thomas E. Poje, Frank J. Bitzer, & Bernadine Topazio

Coverage and Nondiscrimination Answer Book is the first reference guide that focuses exclusively on the participation, coverage, nondiscrimination, and compliance requirements that must be met to ensure a plan's qualified status. This book is designed to help plan sponsors and administrators, as well as benefits professionals, attorneys, and consultants, cope with the complicated requirements of compliance testing.

The practical guidance, regulatory and legislative updates, and detailed analysis in *Coverage and Nondiscrimination Answer Book* will assist pension professionals in managing all aspects of coverage and nondiscrimination testing and compliance.

Highlights of the Fourth Edition

The Fourth Edition of the *Coverage and Nondiscrimination Answer Book* gives subscribers the most relevant, current, and practice-oriented answers to the major issues in the area of coverage and nondiscrimination testing, including:

- Most recent available information on Automatic Enrollment plans from the final regulations
- Issues pertaining to short plan years
- A more in-depth discussion on "restructuring" plans for purposes of cross-testing
- A succinct compilation of issues related to testing Puerto Rican and foreign plans
- A comprehensive review of coverage, nondiscrimination and eligibility issues with regard to Davis-Bacon plans



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- An in-depth discussion detailing the different classifications of employees and the impact these classifications have on testing

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In memory of my father who taught me by example you can always, in many quiet and unassuming ways, find the time for others, that the cost of what you may give up is the worth the reward.

TEP

To my wife Dana and my sons Griffin and Quinn.

FJB

To my parents, Dominick and Blanche Topazio, for their love and encouragement to always climb higher and to my husband, Mark A. Fullerton, a fellow traveler on that journey, for his love and encouragement.

BCT

Preface

Coverage and Nondiscrimination Answer Book, Fourth Edition, is designed for professionals who need quick and authoritative answers to help them comply with requirements of coverage and nondiscrimination testing. This book uses straightforward language and avoids technical jargon whenever possible. Citations to authority, particularly the Internal Revenue Code, are provided as research aids for those who wish to pursue particular items in greater detail. Using the guidance set forth in *Coverage and Nondiscrimination Answer Book*, subscribers can:

- Understand the impact of EGTRRA on coverage and nondiscrimination testing
- Discover methods of plan design that avoid the need for most coverage and nondiscrimination testing
- Determine which entities comprise an “employer” for qualified plan purposes
- Craft employee census and data requests that capture the information essential to accurate testing
- Perform all required compliance tests accurately
- Be aware of corrective measures available and the time frame for these corrections
- Design plans or combinations of plans that favor certain targeted employees
- Know the benefits of applying for a determination letter
- Complete required schedules needed to request a determination letter from the IRS

Coverage and Nondiscrimination Answer Book offers real-life examples, charts, and illustrations in a concise format. It provides specific tools and answers such frequently occurring questions as: Do I have a controlled group situation? Is my plan providing meaningful benefits?

The information in *Coverage and Nondiscrimination Answer Book* includes the implications of Revenue Procedure 2003-44, as well as all other pertinent regulatory and legislative developments.

Some special features that make *Coverage and Nondiscrimination Answer Book* easy to use are listed below.

Format. The question-and-answer format breaks down complex subject areas into concise units. Introductory text provides an overview of the subject that is covered in detail in the questions and answers. Extensive cross-referencing facilitates locating information.

Numbering System. The questions are numbered consecutively within each chapter (e.g., Q 1:1, Q 1:2, Q 1:3).

List of Questions. The detailed list of questions that follows the table of contents helps the reader locate areas of immediate interest. A series of subheadings organizes questions by topic within each chapter.

Examples. Questions contain numerous examples that illustrate specific points. Where relevant, sample calculations are provided.

Appendices. For the reader's convenience, supplementary reference materials related to coverage and nondiscrimination issues are provided in the appendices at the end of this book.

Index. A subject index is provided as a further aid to locating specific information. All references in the index are to question numbers rather than page numbers.

Acronyms and Abbreviations. A number of terms and statutory references are abbreviated throughout *Coverage and Nondiscrimination Answer Book*. Among them are the following:

- ACA—Automatic Contribution Arrangement
- ADEA—The Age Discrimination in Employment Act
- APRSC—The Administrative Policy Regarding Self-Correction
- COBRA—The Consolidated Omnibus Budget Reconciliation Act of 1985, as amended
- Code or IRC—The Internal Revenue Code of 1986, as amended
- EACA—Eligible Automatic Contribution Arrangement
- EBSA—The Employee Benefits Security Administration
- EGTRRA—The Economic Growth and Tax Relief Reconciliation Act of 2001

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- ERISA—The Employee Retirement Income Security Act of 1974, as amended
- FLSA—The Fair Labor Standards Act of 1938, as amended
- FMLA—The Family and Medical Leave Act of 1993
- HIPAA—The Health Insurance Portability and Accountability Act of 1996
- JCWAA—The Job Creation and Workers' Assistance Act of 2002
- MHPA—The Mental Health Parity Act of 1996
- NMHPA—The Newborns' and Mother's Health Protection Act of 1996
- PBGC—The Pension Benefit Guaranty Corporation
- PRIRC—The Puerto Rico Internal Revenue Code
- QACA—Qualified Automatic Contribution Arrangement
- RPA—The Retirement Protection Act of 1994
- WHCRA—The Women's Health and Cancer Rights Act of 1998

We hope you will find the guidance and detailed analyses included in *Coverage and Nondiscrimination Answer Book* useful in your practice.

Tom Poje
Frank Bitzer
Bernadine Topazio

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