

Health and Welfare Non-Discrimination Tests

(excerpt from AN ERISADIAGNOSTIC® SELF-AUDIT GUIDE FOR Health and Welfare Plans, June 2011 edition)

Type of Plan	Non -discrimination tests required
Group Life Insurance Plans (IRC §79)	<ul style="list-style-type: none"> • eligibility • benefits
Self insured health plans (IRC §105) Including HRAs	<ul style="list-style-type: none"> • eligibility or reasonable classification • contribution and benefits • utilization
Cafeteria plans (IRC §125)	<ul style="list-style-type: none"> • eligibility • contribution and benefits • utilization
Dependent care plans (IRC §129)	<ul style="list-style-type: none"> • eligibility • contribution and benefits • 55% concentration test • 5% shareholder test
Health Savings Accounts	<ul style="list-style-type: none"> • Comparability test unless part of a cafeteria plan <p>Note: plan design can enable plan sponsors to avoid the comparability test and will not be discussed in this guide. For more information on HSAs see</p> <p>http://www.ustreas.gov/offices/public-affairs/hsa/faq_basics.shtml</p> <p>http://www.ustreas.gov/offices/public-affairs/hsa/</p>
Adoption plans	<ul style="list-style-type: none"> • Reasonable classification • 5% shareholder test
VEBAs	VEBAs have rules relating to unrelated business income (UBIT) and are not discussed in this guide