

ADVISORY COMMITTEE ON ADMINISTRATION

Teamwork: Plan Sponsor and ESOP Recordkeeper

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Each year during the allocation process, most Plan Sponsors have to compile census data for submission to their third party ESOP recordkeepers. In order to make this process run as smoothly as possible it is important that complete and accurate information is provided. It is also important for the Plan Sponsor to understand why this information is requested by your ESOP recordkeeper.

The compilation of the plan year census information is the first step in the allocation process and all other steps in this process build on the data provided. To encourage timely completion of the allocation, the census data should be provided to your recordkeeper as soon as possible after the close of your plan year. With most ESOPs, the review and verification of the employee census data can be the most time consuming part of the allocation process.

In providing the year end employee data to your recordkeeper, it is essential to supply complete data for all employees who worked for the Plan Sponsor during the plan year so the ESOP recordkeeper can perform the required coverage test for your plan. This includes members of a control group (if applicable) as well as employees who have terminated employment during the plan year. For employees who are not employed at the end of the plan year it is crucial to provide the reason for their termination; these reasons generally include: deceased, disabled, leave of absence, and termination. The reason for the employee's termination may determine if the employee is eligible for an allocation during the plan year and when the employee is eligible for benefits. For employees on a leave of absence, the reason for the leave of absence (military, medical, maternity) should be provided as well. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) requires the protection of benefits for employees who return from military service under certain conditions. Also, there are special rules that apply to employees on FMLA (Family and Medical Leave Act of 1993) leave. You also need to alert the recordkeeper if an employee has been rehired prior to plan year end.

The data provided for each employee typically includes the employee's name, social security number (or other unique identifying number), date of birth, date of hire, date of termination, date of rehire, reason for termination, gross wages for the plan year and hours worked during the plan year. If your plan document defines compensation for allocation purposes as something other than gross wages, you will need to provide additional information so that accurate allocation compensation can be determined per participant. If the corporate fiscal year of the Plan Sponsor is not the same as the plan year, fiscal year compensation will also need to be supplied for compliance test purposes. Typically, hours worked includes all hours the employee is paid or entitled to payment. Again, as with compensation, the plan document will determine the hours to be reported for allocation purposes. The plan document should also provide guidance in reporting hours for employees for whom hours are not tracked. Your ESOP recordkeeper will also need to be aware of any changes in employees' names or social security numbers, as most databases are based upon a unique identifying number such as social security number.

If the Plan Sponsor maintains other qualified plan(s) such as an 401(k) and/or Profit Sharing Plan, the ESOP recordkeeper needs the amount of employee deferrals and any employer matching contributions for the plan year for each employee, along with the amount of contribution and forfeitures reallocated to such plans for the plan year. Information pertaining to other qualified plans is necessary in order to determine the maximum annual deductible contribution for the Plan Sponsor and to test the maximum annual addition for each employee for the plan year. If your ESOP recordkeeper is performing the aggregate top heavy test, you will also need to provide account balance and distribution information for the non-ESOP plans maintained by the Plan Sponsor.

In order for your ESOP recordkeeper to complete all of the required compliance testing, you need to provide a list of Company officers along with ownership percentages for employees who hold stock of the Company outside the ESOP. You should also indicate any employees and/or shareholders who are family members and specify how they are related. In addition, the Plan Sponsor should make sure the ESOP recordkeeper is aware of any employees who elected Section

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1042 on the sale of stock to the ESOP. If the Plan Sponsor is an S Corporation, you will need to provide your ESOP recordkeeper with details relating to synthetic equity.

If at any stage in the data compilation process, you have questions or concerns, your recordkeeper is there to explain confusing issues to you. When you give complete and accurate census data to your ESOP recordkeeper, it contributes to a smooth allocation process. Should you discover any revisions to the data submitted during this process, please notify your ESOP recordkeeper as soon as possible, as the steps that follow in the allocation process will build on this information. Working together with your ESOP recordkeeper in the data collection and verification process, in addition to understanding the process, results in timely and accurate allocation and reporting.

*The author of this article is a member of The ESOP Association's Advisory Committee on Administration.
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