

Effective Use of the Coverage Testing Rules Who's In & Who's Out

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Coverage is Minimum Participation

 Coverage Rules require a Qualified Plan to BENEFIT:

- A nondiscriminatory group of employees





Coverage is Minimum Participation

- Objective Tests Are Mandated (mostly)
 - Not a "facts and circumstances" test
 - Not a smell test





Coverage is Minimum Participation

- Objective Tests Are Mandated
 - Not a "facts and circumstances" test
 - Not a smell test
 - Except for the "nondiscriminatory classification test" coming up!
- Tests measure the relative coverage of
 - nonhighly compensated employees (NHCEs), and
 highly compensated employees (HCEs)

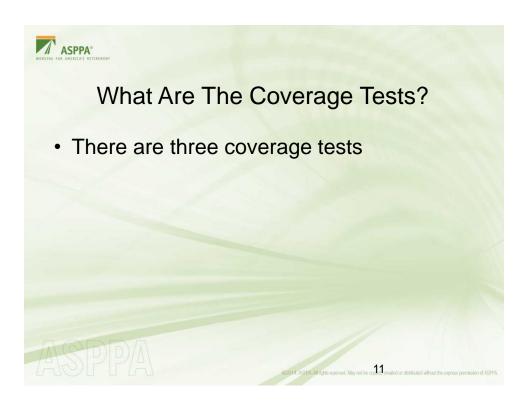






What Is The Important First Step?

- Figure out who your HCEs are!
 - More than 5% owner during the plan year or preceding year
 - Compensation in preceding year exceeding
 - \$115,000 in 2014 for 2015 year
 - \$120,000 in 2015 for 2016 year
 - and in top 20% of employees (if that election was made)



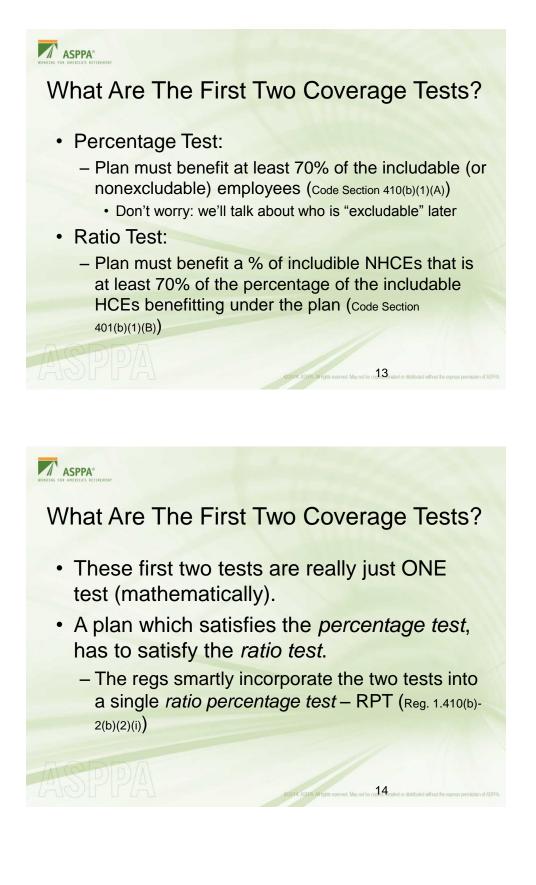


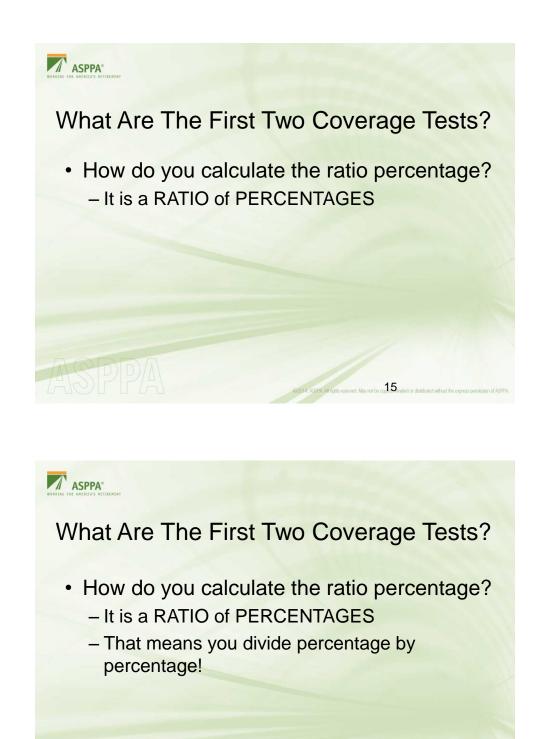
What Are The Coverage Tests?

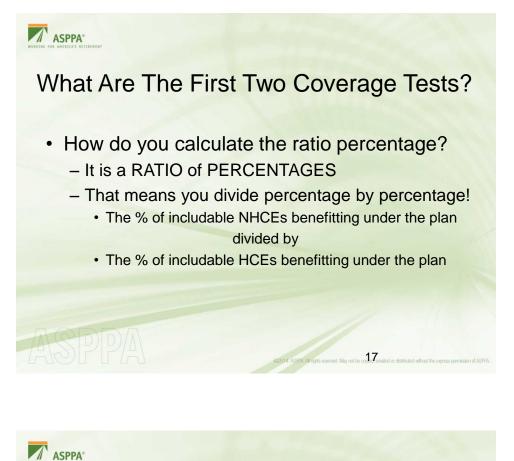
- There are THREE coverage tests
- The plan must satisfy one of the three tests

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- But there are really only TWO!



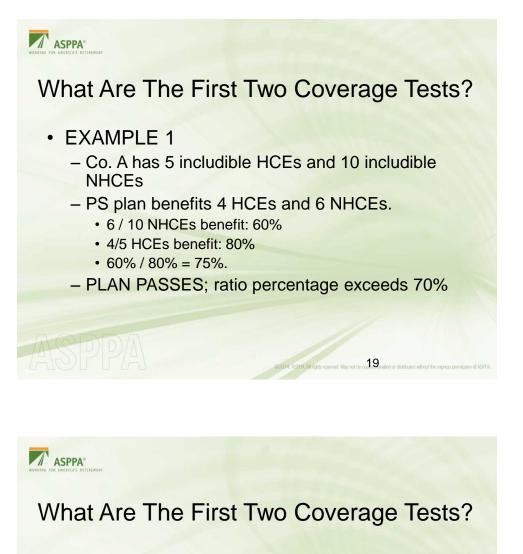




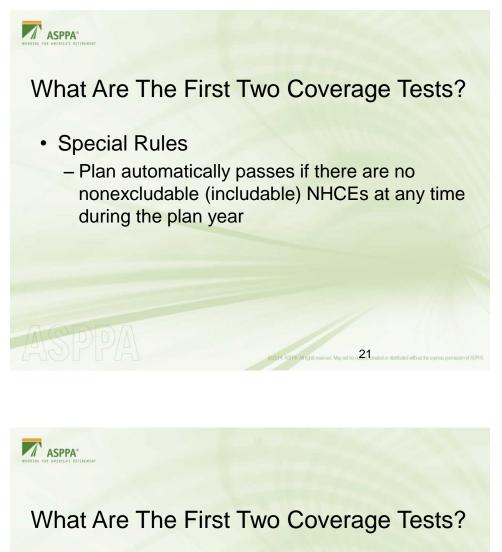


What Are The First Two Coverage Tests?

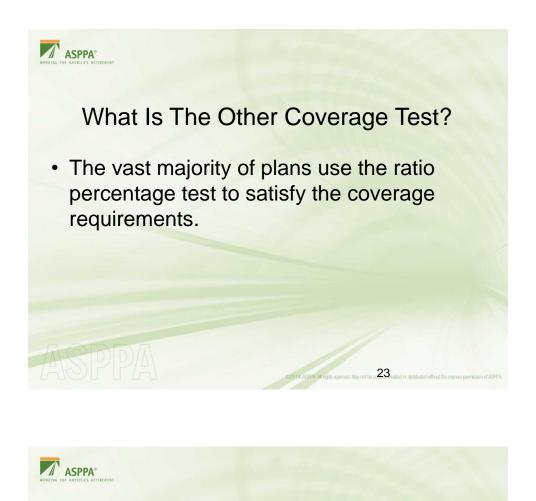
- How do you calculate the ratio percentage?
 - It is a RATIO of PERCENTAGES
 - That means you divide percentage by percentage!
 - The % of includable NHCEs benefitting under the plan divided by
 - The % of includable HCEs benefitting under the plan
 - Plan must have a ratio percentage of at least 70% to meet the *Ratio Percentage* test!



- EXAMPLE 2: same employee group
 - Co. A has 5 includible HCEs and 10 includible NHCEs
 - PS plan benefits 4 HCEs and 5 NHCEs.
 - 5 / 10 NHCEs benefit: 50%
 - 4/5 HCEs benefit: 80%
 - 50% / 80% = 62.5%.
 - PLAN FAILS; ratio percentage less than 70%

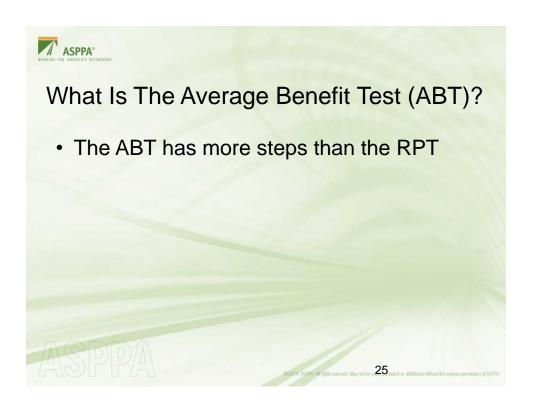


- Special Rules
 - Plan automatically passes if there are no nonexcludable (includable) NHCEs at any time during the plan year
 - Plan automatically passes if there are no HCEs benefitting at any time during the plan year
 - Treasury Reg (1.410(b)-2(b)(6)) was written to give us these special rules to avoid a "divide by zero" calculation and an undefined result



What Is The Other Coverage Test?

- The vast majority of plan use the ratio percentage test to satisfy the coverage requirements.
- The alternative test is called:
 THE AVERAGE BENEFIT TEST (ABT)

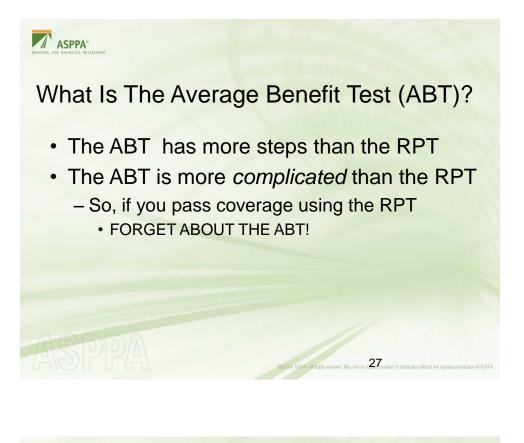




What Is The Average Benefit Test (ABT)?

- The ABT has more steps than the RPT
- The ABT is more *complicated* than the RPT

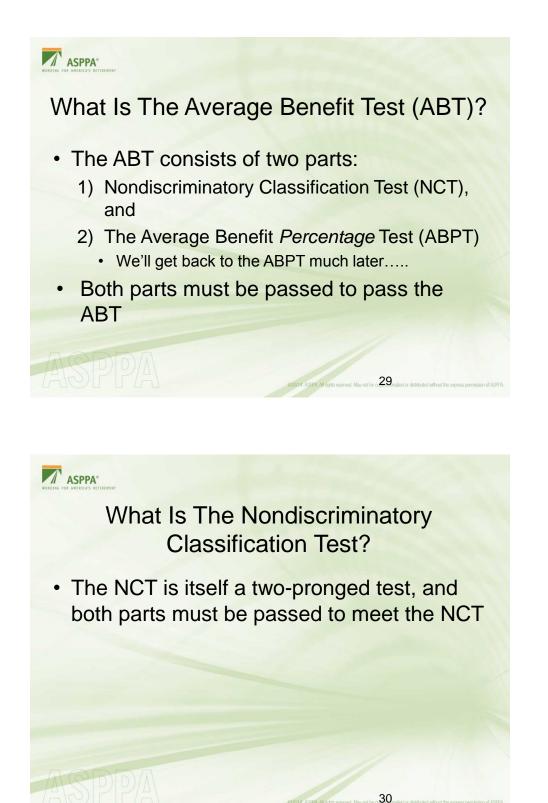


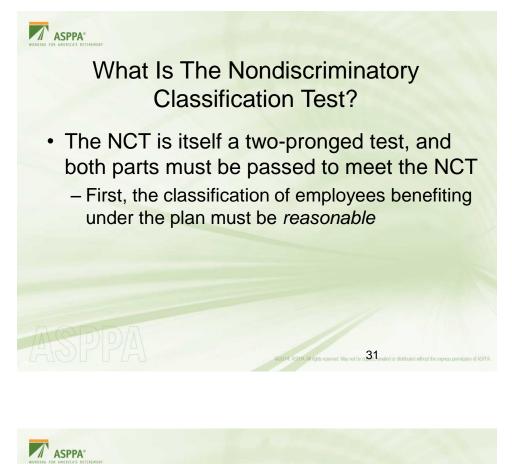




What Is The Average Benefit Test (ABT)?

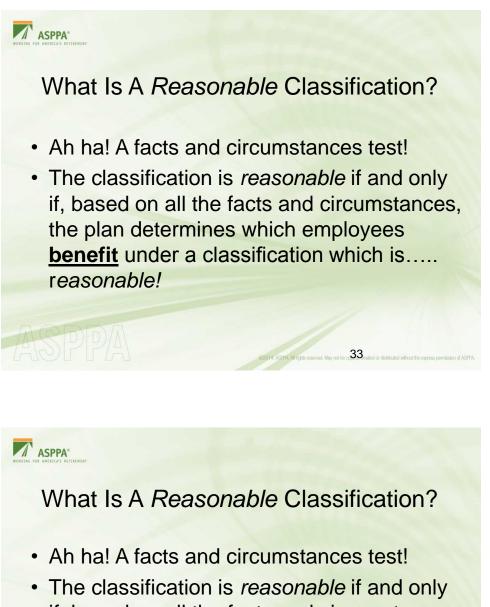
- So, you failed the RPT!
- Now, let's see if we can show that we have enough NHCEs covered using the ABT.





What Is The Nondiscriminatory Classification Test?

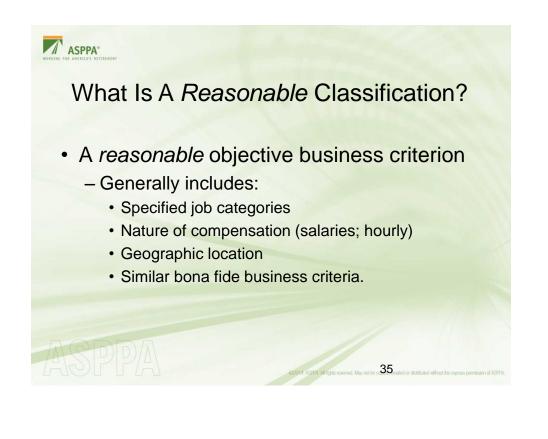
- The NCT is itself a two-pronged test, and both parts must be passed to meet the NCT
 - First, the classification of employees benefiting under the plan must be *reasonable;*
 - And second, the classification must satisfy a numerical nondiscrimination classification requirement.



if, based on all the facts and circumstances, the plan determines which employees <u>benefit</u> under a classification which is.... reasonable!

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- A reasonable objective business criterion

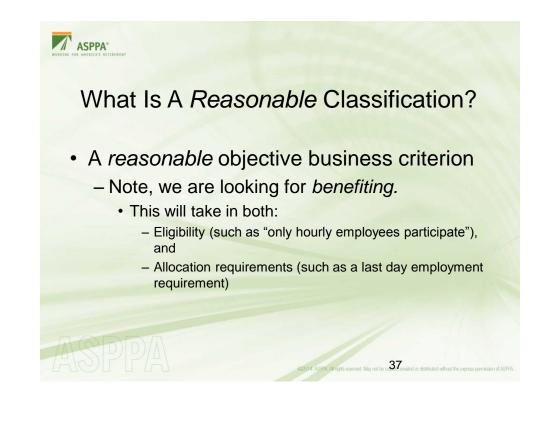




What Is A Reasonable Classification?

- A reasonable objective business criterion
 - Doesn't include:
 - Listing excluded OR included employees by name

- Or a procedure having the same effect – This is per se *not reasonable*
- NOTE: If the plan is relying on the Ratio Percentage Test, then excluding by name should not be an issue



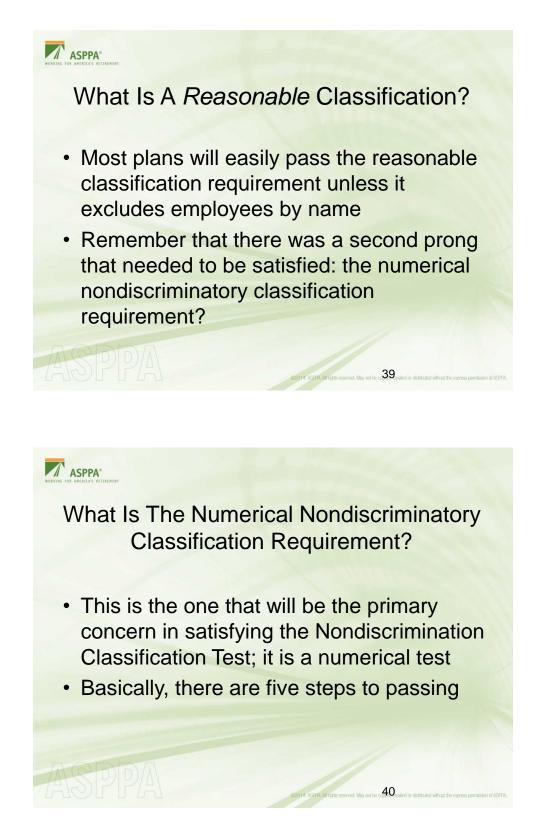


What Is A Reasonable Classification?

- Good examples:
 - Employees of ABC Co, year of service, and NOT commissioned salesperson
 - Employees of ABC Co employed at manufacturing facility in Hoboken, NJ
 - Controlled Group of X and Y, but only employees of X are eligible in plan established by X

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 All of these are reasonable, objective classifications





- Step 1:
 - Determine the plans coverage fraction.
 - This is the same as the Ratio Percentage from the earlier slides
 - The RPT must satisfy either:
 - a safe harbor test, or
 - a facts and circumstances test
 - The plan automatically satisfies the NCT if the RP equals or exceeds the safe harbor percentage (to be explained shortly)

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What Is The Numerical Nondiscriminatory Classification Requirement?

- Step 1:
 - Determine the plans coverage fraction.
 - If the plan's RP does NOT exceed the UNSAFE harbor (explanation coming), then the plan FAILS the NCT
 - If the plan's RP is equal to or higher than the unsafe but less than the safe harbor, we have another facts and circumstances test
 - IRS determination based on relevant facts, including business reasons, % of employer's employees benefiting, and the difference between the plans RP and the safe harbor percentage



- Step 2:
 - Determine the plans Concentration Percentage (CP)
 - The CP determines the values for the safe harbor and unsafe harbor percentages.
 - The CP is equal to:
 - Includable NHCEs / All Includable employees
 - » It's really an NHCE concentration percentage!
 - The lower the NHCE CP, the greater the safe harbor percentage (capped at 50%)
 - Includables include ALL employees included in the coverage test regardless of whether they are eligible to participate in the plan

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What Is The Numerical Nondiscriminatory Classification Requirement?

- Step 2:
 - Example: Corp X has 120 ees; 20 HCEs and 100 NHCEs. All 20 HCEs satisfy min age and service, but only 79 of 100 NHCEs do. No other exclusions apply.
 - There are 99 includible employees of which 79 are NHCEs.
 - The concentration percentage is 79/99 = 79.798%
 - Always round down: CP = 79%



- Step 3:
 - Determine the plan's safe and unsafe harbor percentages.
 - Regulations give us the table to determine safe and unsafe harbor percentages.
 - SH % is defined as 50% reduced by 0.75% for each whole % point by which the CP exceeds 60%.

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INONG	aiscrim	ination	Class	sificati	on Test Table
	NHCE Concentration				
				Unsafe Harbor Percenta	ge.
	0 - 60%	50.00%	45.00%	40.00%	
	61%	49.25%	44.25%	39.25%	
	62%	48.50%	43.50%	38.50%	
	63%	47.75%	42.75%	37.75%	
	64% 65%	47.00%	42.00% 41.25%	37.00% 36.25%	
	66%	45.50%	41.25%	35.50%	
	67%	43.50%	39.75%	34.75%	
	68%	44.00%	39.00%	34.00%	
	69%	43.25%	38.25%	33.25%	
	70%	42.50%	37.50%	32.50%	
	71%	41.75%	36.75%	31.75%	
	72%	41.00%	36.00%	31.00%	
	73%	40.25%	35.25%	30.25%	
	74%	39.50%	34.50%	29.50%	
	75%	38.75%	33.75%	28.75%	
and the second se	76%	38.00%	33.00%	28.00%	
	77%	37.25%	32.25%	27.25%	
	78%	36.50%	31.50%	26.50%	
	79%	35.75%	30.75%	25.75%	
	80%	35.00%	30.00%	25.00%	
	81%	34.25%	29.25%	24.25%	
	82%	33.50%	28.50%	23.50%	
	83%	32.75%	27.75%	22.75%	
and the second	84% 85%	32.00% 31.25%	27.00% 26.25%	22.00% 21.25%	
	86%	30.50%	25.50%	20.50%	
	87%	29.75%	24.88%	20.00%	
and the second	88%	29.00%	24.50%	20.00%	
	89%	28.25%	24.13%	20.00%	
	90%	27.50%	23.75%	20.00%	
	91%	26.75%	23.38%	20.00%	
	92%	26.00%	23.00%	20.00%	
	93%	25.25%	22.63%	20.00%	
	94%	24.50%	22.25%	20.00%	
	95%	23.75%	21.88%	20.00%	
HILL PUP	96%	23.00%	21.50%	20.00%	
	97%	22.25%	21.13%	20.00%	46
	98%	21.50%	20.75%	20.00%	pto melled or distributed without the express permission of ASPPA.
	99%	20.75%	20.38%	20.00%	



• Step 4

- If plan's coverage fraction (not CP) is at least = to safe harbor percentage, it passes the numerical portion of the NCT
 - » NOTE: Since the highest SH % is 50%, if the coverage fraction is at least 50%, the plan will pass the numerical part of the NCT without regard to the concentration %.

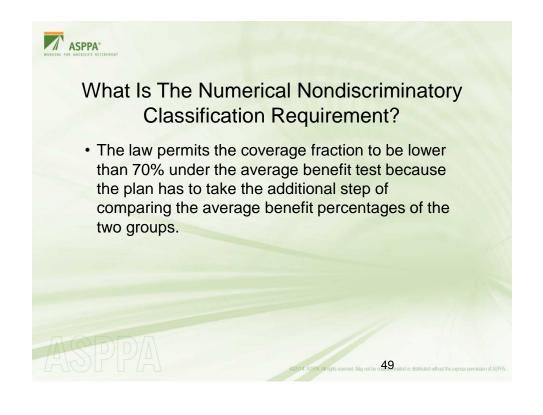
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What Is The Numerical Nondiscriminatory Classification Requirement?

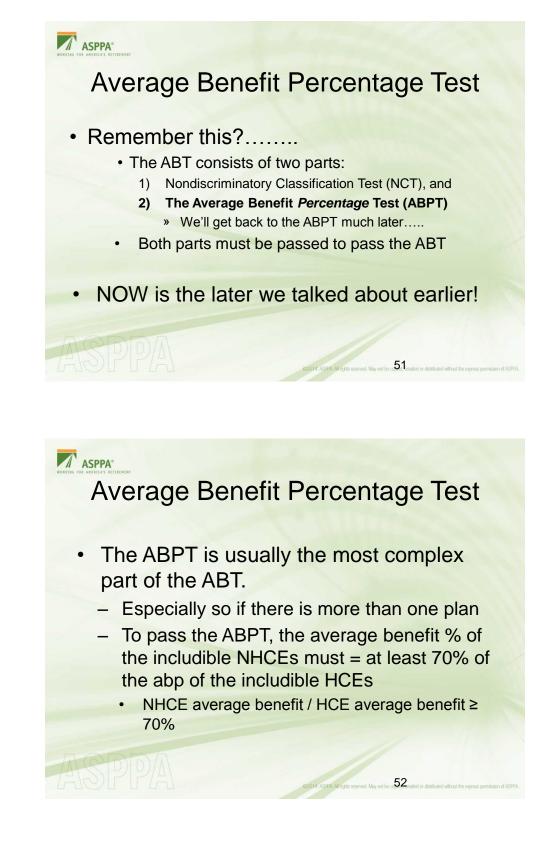
- Step 5
 - If plan's coverage fraction (not CP) is NOT at least = to safe harbor percentage, but it is at least = to the unsafe harbor percentage (it's in the middle between the safe and unsafe harbor), it passes the numerical portion of the NCT :
 - » IF it can also satisfy a fact and circumstances test (Treas Reg 1.410(b)-4(c)(3)(ii))
 - Since there is no assurance of having passed the NCT if the facts and circumstances test has to be met, most employers will prefer to cover a sufficient number of NHCEs to satisfy the safe harbor percentage.

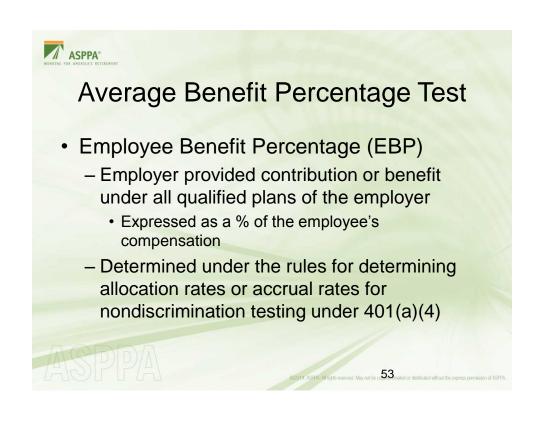




Coverage Fraction Summary

If the coverage fraction is:	Then:			
At least 70%	The plan passes the ratio percentage test			
At least 50%	The plan passes the numerical nondiscriminatory classification test			
Less than 20%	The plan fails the numerical nondiscriminatory classification test			
At least 20% but is not 50% or greater	Passage depends on the safe and unsafe harbor percentages, which in turn are based on the concentration percentage.			







Average Benefit Percentage Test

- Employee Benefit Percentage (EBP)
 - Employer may calculate EBP on the basis of either:
 - Contributions
 - Converted to allocation rates
 - Benefits
 - Converted to accrual rates
 - Conversions done using "cross testing" rules of 1.401(a)(4)-8

Average Benefit Percentage Test

- Employee Benefit Percentage (EBP)
 - Employer may use any nondiscriminatory definition of compensation
- Plan's ABP for a testing period is determined by dividing the benefit percentage of the NHCEs in the testing group by the benefit percentage of the HCEs in the testing group.

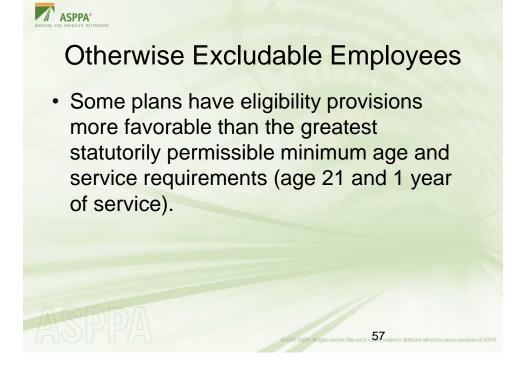


Average Benefit Percentage Test

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- This is NOT a session on the ABP test; that would take at least an entire session by itself.
- So, we will assume that you have some basic knowledge about that process

 Or that you will get it.

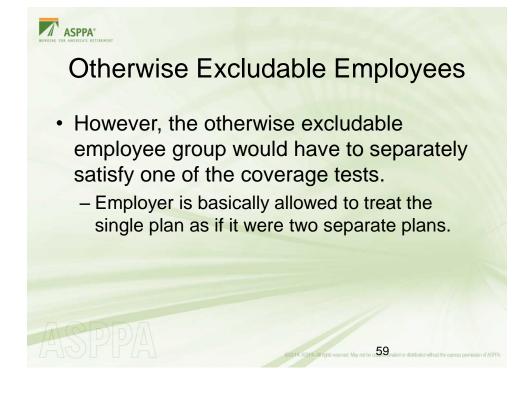




Otherwise Excludable Employees

- Some plans have eligibility provisions more favorable than the greatest statutorily permissible minimum age and service requirements (age 21 and 1 year of service).
- Such plans are allowed to exclude such employees who would be *otherwise* excludable from the testing of the plan

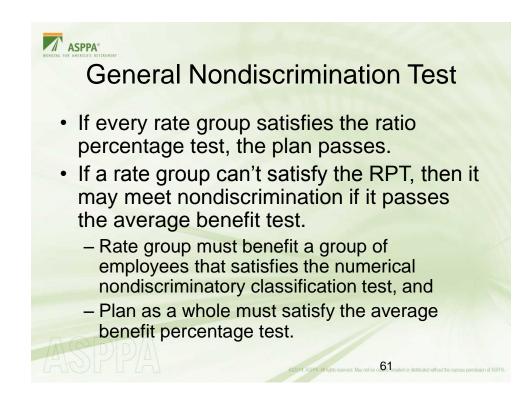
- Even though they are covered under the plan





General Nondiscrimination Test

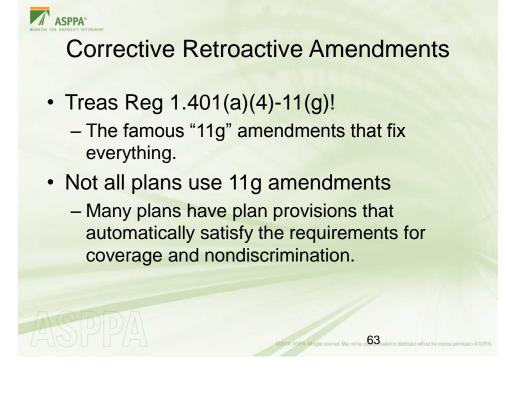
- We've passed coverage, but are we discriminating?
- That's where testing for individual rate groups comes in (again, this is not a session on all the rules about nondiscrimination testing).
- However, the testing for nondiscrimination via "rate groups" is very similar to coverage testing





General Nondiscrimination Test

- A rate group satisfies the nondiscriminatory classification portion of the test if the coverage fraction of the rate group equals at least the midpoint between the safe harbor percentage and the unsafe harbor percentage.
- In cross tested plans, we generally use the average benefit test to demonstrate that the equivalent benefit rates satisfy rate group testing.





Corrective Retroactive Amendments

- Treas Reg 1.401(a)(4)-11(g)!
 - The famous "11g" amendments that fix everything.
- Not all plans use 11g amendments
 - Many plans have plan provisions that automatically satisfy the requirements for coverage and nondiscrimination.
 - Often that means "giving away the store"

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Corrective Retroactive Amendments

- Many plans (instead) apply the almost uncountable options in the coverage and nondiscrimination rules to ensure compliance in the annual testing process
- -11g of the regs allows retroactive amendments to correct coverage or nondiscrimination failures that arise in the normal course of plan operations.

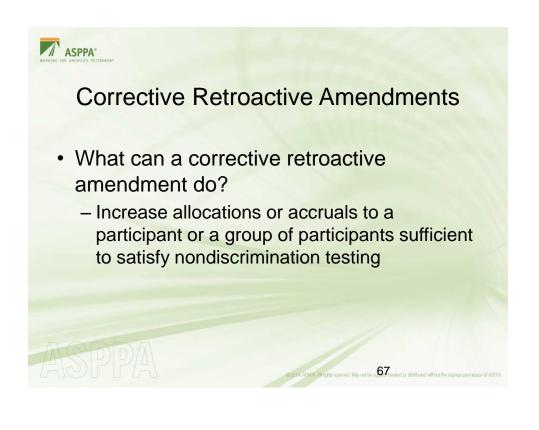
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Corrective Retroactive Amendments

- Purpose of a corrective amendment?
 - Correct a discriminatory amount
 - Correct a discriminatory benefit, right or feature
 - Correct discriminatory coverage
 - Correct failure to meet minimum participation requirements (DB plans – 401(a)(26) issues).





Corrective Retroactive Amendments

- What can a corrective retroactive amendment do?
 - Increase allocations or accruals to a participant or a group of participants sufficient to satisfy nondiscrimination testing
 - Permit an employee or group of employees to benefit under the plan (or a segment of the plan) sufficient to satisfy coverage or minimum participation testing





Corrective Retroactive Amendments

- What can a corrective retroactive amendment do?
 - Increase allocations or accruals to a participant or a group of participants sufficient to satisfy nondiscrimination testing
 - Permit an employee or group of employees to benefit under the plan (or a segment of the plan) sufficient to satisfy coverage or minimum participation testing
 - Expand a benefit, right or feature to a larger group of participants sufficient to satisfy nondiscrimination

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 Eliminate a benefit, right or feature from the plan completely



General Conditions for All Corrective Retroactive Amendments

 The Treasury Reg allows an amendment that satisfies the corrective retroactive amendment (CRA) conditions to be taken into account retroactively to the first day of the prior year for purposes of coverage, nondiscrimination, and minimum participation.



General Conditions for All Corrective Retroactive Amendments

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- Examples of correction
 - A CY plan fails the RP test for 2014; 4 of 10 NHCEs terminated before the last day of the plan year (but all of the HCEs benefit that year).

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General Conditions for All Corrective Retroactive Amendments

- Examples of correction
 - A CY plan fails the RP test for 2014; 4 of 10 NHCEs terminated before the last day of the plan year (but all of the HCEs benefit that year).
 - A CRA is adopted on July 1, 2015 to add back in one of the 4 terminees (by name) for an allocation in 2014.

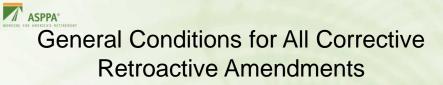
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General Conditions for All Corrective Retroactive Amendments

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 - If all the CRA conditions are met (see following), the amendment causes only 3 of the 10 to be excluded and the RP is now passed.



- Examples of correction
 - A CY plan fails the RP test for 2014; 4 of 10 NHCEs terminated before the last day of the plan year (but all of the HCEs benefit that year).
 - A CRA is adopted on July 1, 2015 to add back in one of the 4 terminees (by name) for an allocation in 2014.
 - If all the CRA conditions are met (see following), the amendment causes only 3 of the 10 to be excluded and the RP is now passed.
 - If the employer fails to meet any of the CRA conditions, the amendment will not have retroactive effect for the 2014 year, the coverage test is failed, and the plan will likely need to file under the Voluntary Correction Program (VCP) to correct the demographic failure.

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General Conditions for All Corrective Retroactive Amendments

Required Conditions for a valid CRA



- Required Conditions for a valid CRA
 - Benefits may not be reduced
 - This includes benefits, rights and features
 - A very stringent rule (even more so than the general anti-cutback rule under IRC 411(d)(6))
 - Thus, a CRA will either expand coverage or increase allocations or accruals sufficient to satisfy coverage, nondiscrimination, or minimum participation requirements

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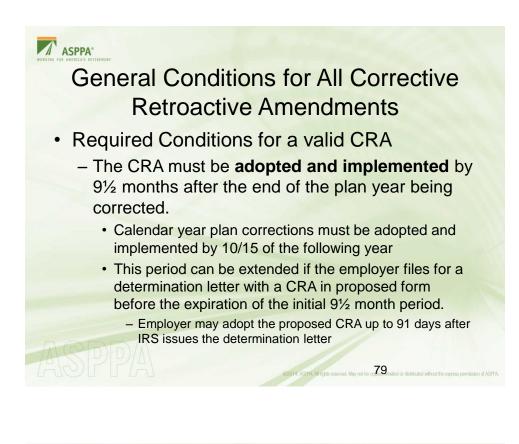
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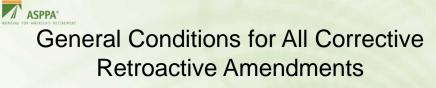


General Conditions for All Corrective Retroactive Amendments

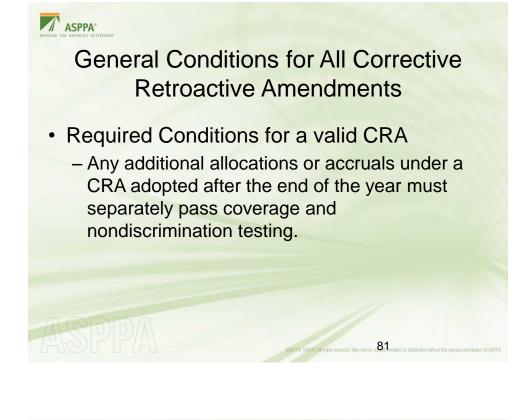
- Required Conditions for a valid CRA
 - The CRA must be effective the first day of the plan year being corrected
 - Correction would apply equally to all eligible participants (including those added back by the CRA)

 Corrections to make a benefit, right or feature available may be made effective as of the date adopted



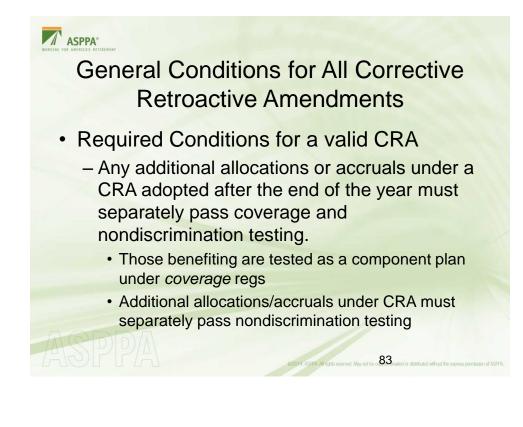


- Required Conditions for a valid CRA
 - The CRA must separately satisfy coverage and nondiscrimination testing



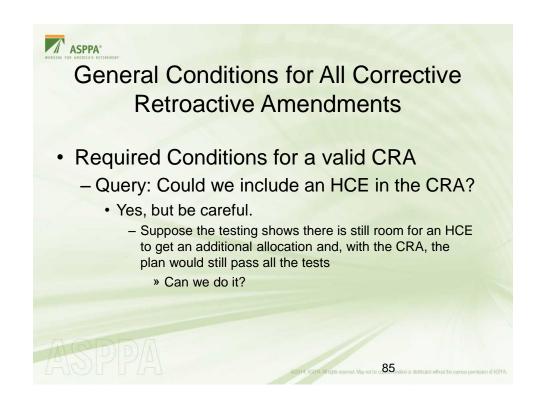


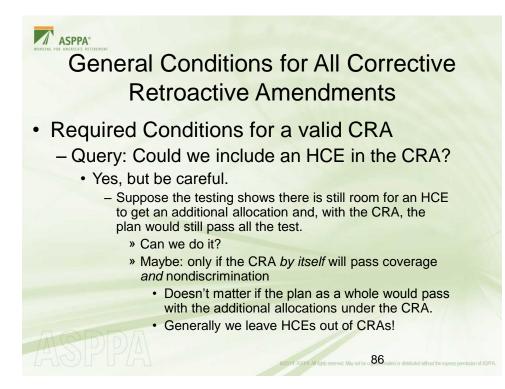
- Required Conditions for a valid CRA
 - Any additional allocations or accruals under a CRA adopted after the end of the year must separately pass coverage and nondiscrimination testing.
 - Those benefiting are tested as a component plan under *coverage* regs

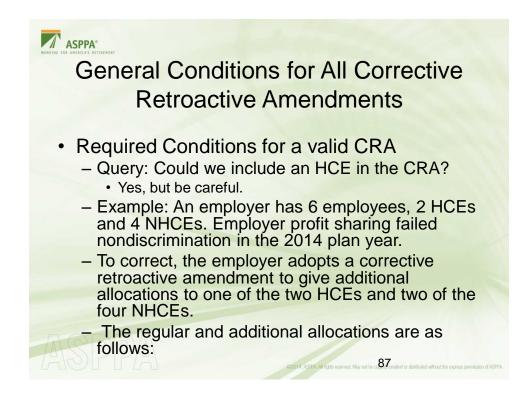


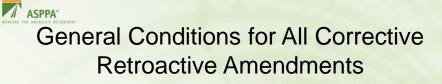


- Required Conditions for a valid CRA
 - Any additional allocations or accruals under a CRA adopted after the end of the year must separately pass coverage and nondiscrimination testing.
 - Generally not a problem because CRA is giving additional allocations/accruals only to NHCEs
 - Can't fail; automatically satisfies coverage and nondiscrimination testing because there are no HCEs benefiting in the "component" plan to test against the NHCEs benefiting in the amendment





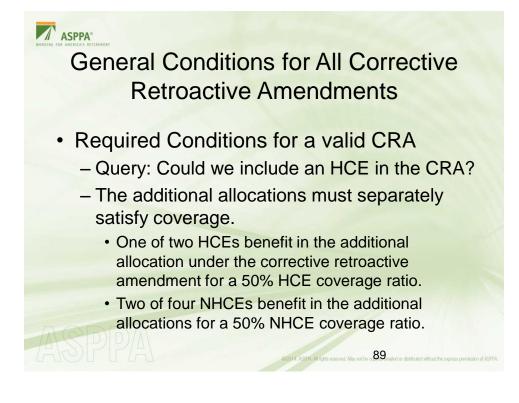


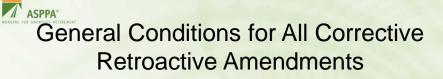


Required Conditions for a valid CRA

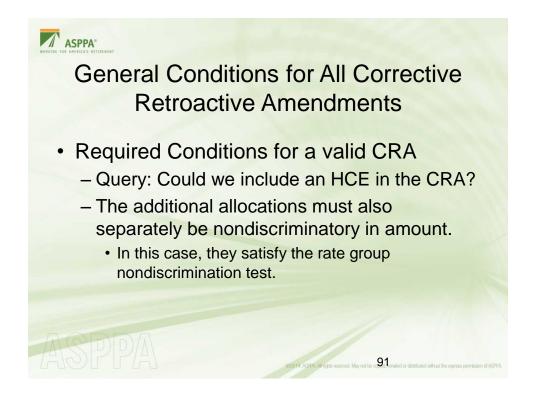
 Query: Could we include an HCE in the CRA?

Name	HCE	414(s) Comp.	Regular allocations	Additional allocations	Additional nondiscrim. Calculation	Additional allocation rate	General nondiscrim.	General nondiscrim. allocation rate
Anthony	Yes	230,000	34,500	0	0/230,000	0%	34,500/230,000	15%
Victoria	Yes	250,000	37,500	10,000	10,000/250,000	4%	37,500+10,000/250,000	19%
Michael	No	60,000	7,500	1,500	1,500/60,000	2.5%	7,500+1,500/60,000	15%
Rusty	No	60,000	7,500	3,900	3,900/60,000	6.5%	7,500+3,900/60,000	19%
Daniel	No	50,000	6,250	0	0/50,000	0%	6,250/50,000	12.5%
Jordan	No	45,000	5,625	0	0/45,000	0%	5,625/45,000	12.5%
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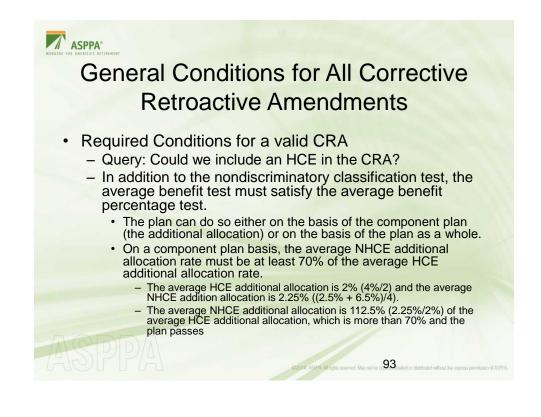


- Required Conditions for a valid CRA
 - Query: Could we include an HCE in the CRA?
 - The additional allocations must separately satisfy coverage.
 - One of two HCEs benefit in the additional allocation under the corrective retroactive amendment for a 50% HCE coverage ratio.
 - Two of four NHCEs benefit in the additional allocations for a 50% NHCE coverage ratio.
 - Comparing the two, the corrective retroactive amendment has a 100% coverage ratio which satisfies the ratio percentage test under the coverage regulations





- Required Conditions for a valid CRA
 - Query: Could we include an HCE in the CRA?
 - The additional allocations must also separately be nondiscriminatory in amount.
 - In this case, they satisfy the rate group nondiscrimination test.
 - The additional allocation rate group to be tested for nondiscrimination is 4%, Victoria's rate group.
 - Again, the HCEs' ratio at the 4% rate group is 50%.
 - The NHCEs' ratio at the 4% rate group is 25%.
 - Comparing the two, the nondiscrimination ratio is 50%, which fails the ratio percentage test, however, it passes the average benefit test when the NHCE concentration percentage is 66.67%.



Required Conditions for a valid CRA

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- Query: Could we include an HCE in the CRA?
- New Example: Same facts, with one change:

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• Victoria does not benefit in the corrective retroactive amendment.



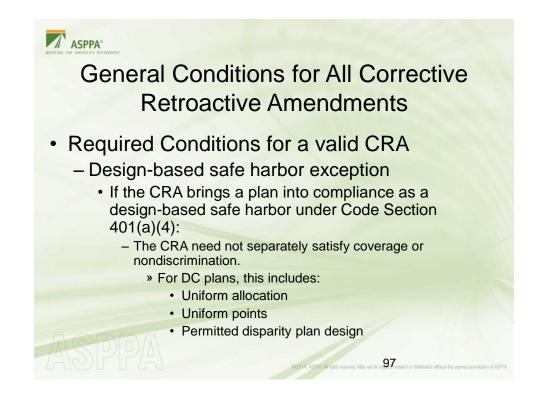
- Required Conditions for a valid CRA
 - Query: Could we include an HCE in the CRA?
 - New Example: Same facts, with one change:
 - Victoria does not benefit in the corrective retroactive amendment.
 - The amendment automatically satisfies coverage and nondiscrimination on a separate basis



General Conditions for All Corrective Retroactive Amendments

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- Required Conditions for a valid CRA
 - Query: Could we include an HCE in the CRA?
 - New Example: Same facts, with one change:
 - Victoria does not benefit in the corrective retroactive amendment.
 - The amendment automatically satisfies coverage and nondiscrimination on a separate basis
 - See how easy it is when there's no HCEs in the CRA!



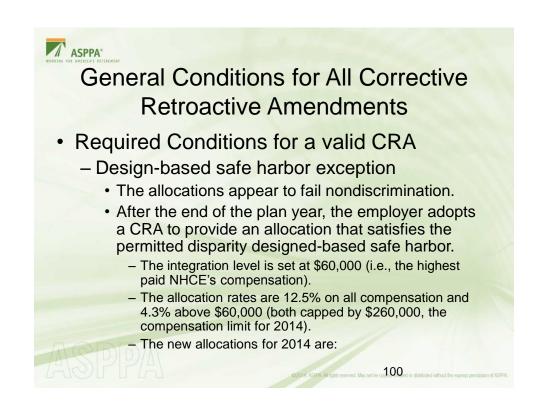


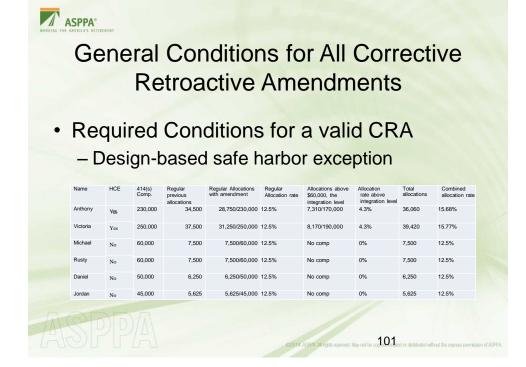
- Required Conditions for a valid CRA
 - Design-based safe harbor exception
 - Example:
 - A profit sharing plan has a discretionary crosstested design which is funded monthly throughout the year.
 - Changes in the demographics of the participant population make a cross-tested design expensive.
 - After the end of the plan year, the allocations are as follows:



- Required Conditions for a valid CRA
 - Design-based safe harbor exception

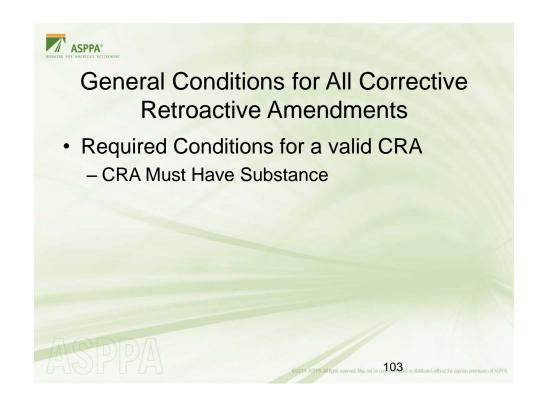
Name	HCE	414(s) Comp.	Regular Allocation	Nondiscrimination Calculation	General nondiscrimination allocation rate
Anthony	Yes	230,000	34,500	34,500/230,000	15%
Victoria	Yes	250,000	37,500	37,500/250,000	15%
Michael	No	60,000	7,500	7,500/60,000	12.5%
Rusty	No	60,000	7,500	7,500/60,000	12.5%
Daniel	No	50,000	6,250	6,250/50,000	12.5%
Jordan	No	45,000	5,625	5,625/45,000	12.5%
				sizo14 ASARA Allinghts reserved. Way in	of be co.999 where or distributed without the exp





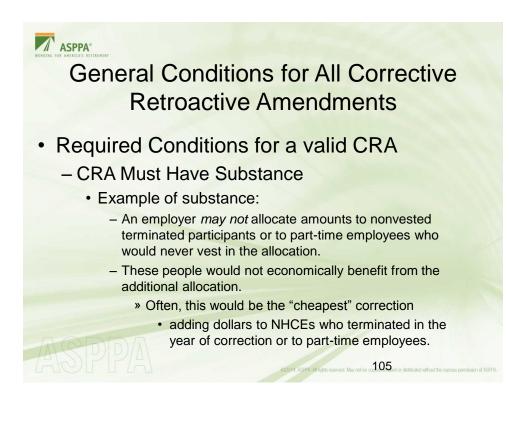


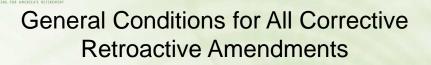
- Required Conditions for a valid CRA
 - Design-based safe harbor exception
 - While only the HCEs participate in the additional contributions under the corrective retroactive amendment, the amendment is proper because it is not required to separately pass coverage and nondiscrimination when the purpose of the amendment is to conform the plan to a designedbased safe harbor





- Required Conditions for a valid CRA
 - CRA Must Have Substance
 - Example of substance:
 - An employer may not allocate amounts to nonvested terminated participants or to part-time employees who would never vest in the allocation.

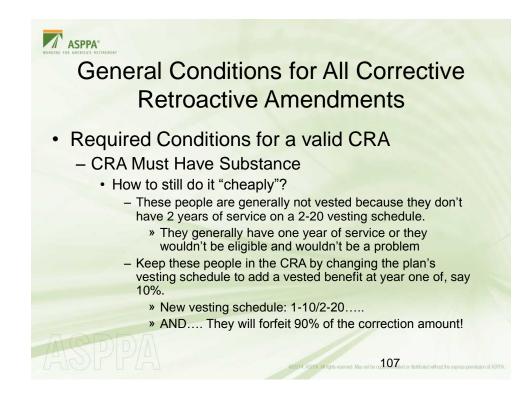


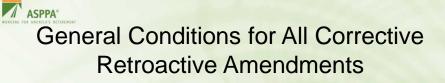


- Required Conditions for a valid CRA
 - CRA Must Have Substance

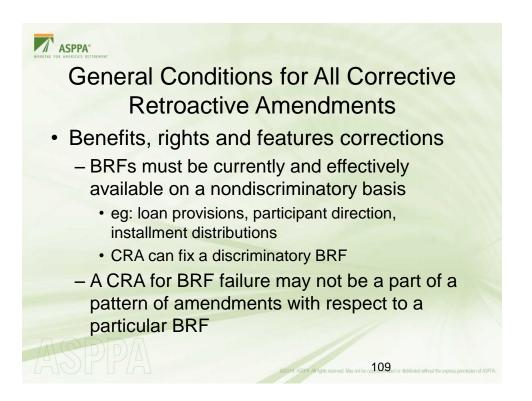
ASPPA"

- How to still do it "cheaply"?
 - These people are generally not vested because they don't have 2 years of service on a 2-20 vesting schedule.
 - » They generally have one year of service or they wouldn't be eligible and wouldn't be a problem





- Required Conditions for a valid CRA
 - CRA Must Have Substance
 - How to still do it "cheaply"?
 - These people are generally not vested because they don't have 2 years of service on a 2-20 vesting schedule.
 - » They generally have one year of service or they wouldn't be eligible and wouldn't be a problem
 - OR, just fully vest the individual as part of the CRA.
 - » But then they get 100% of the amount
 - » But you don't have a permanent 10% at year 1 vesting





- Benefits, rights and features corrections
 - BRF correction must either:
 - expand the group to whom the BRF is available to a nondiscriminatory classification that satisfied the applicable safe harbor percentage under the NCT, or
 - Eliminate the BRF with respect to all participants
 - must still comply with anti-cutback rules of 411(d)(6)
 - must be effective on or before the last day of the correction year

 must remain in effect through the end of the following plan year



- Benefits, rights and features corrections
 - Example: Company A and Company B form a controlled group but each maintains a separate 401(k) plan for its respective employees
 - the Company A plan has participant loans,
 - the Company B plan does not.
 - · The plans are combined to satisfy coverage testing.
 - When performing the 2014 plan year benefits, rights and features nondiscrimination test for the availability of participant loans, the aggregated plan failed

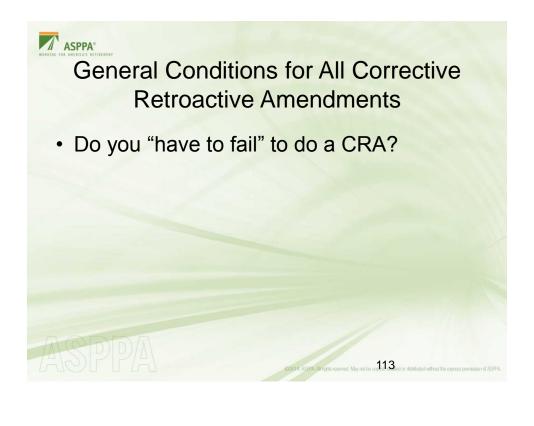
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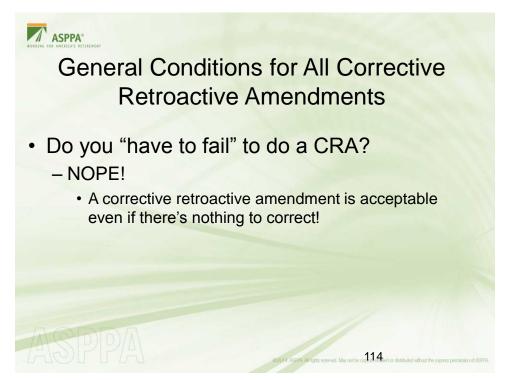
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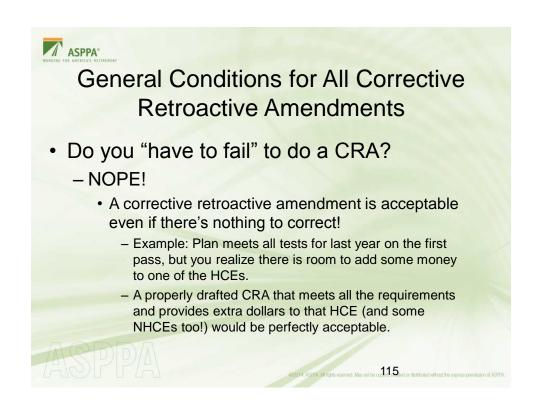
General Conditions for All Corrective Retroactive Amendments

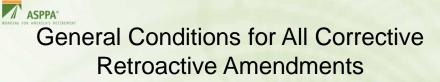
- Benefits, rights and features corrections

 CRA Correction:
 - The employer can add a sufficient number of NHCEs from Company B to satisfy the nondiscriminatory classification test by adopting a corrective retroactive amendment in 2015, which must be effective through the end of the 2016 plan year.
 - Alternatively, if the employer identified the failure and adopted a corrective retroactive amendment before the end of the 2014 plan year, the employer may eliminate the availability of participant loans in the Company A 401(k) plan, effective through December 31, 2015.

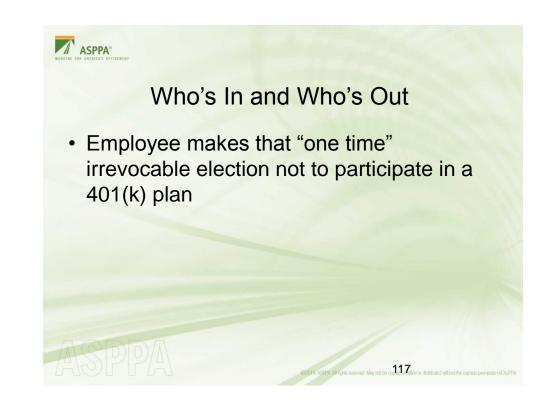






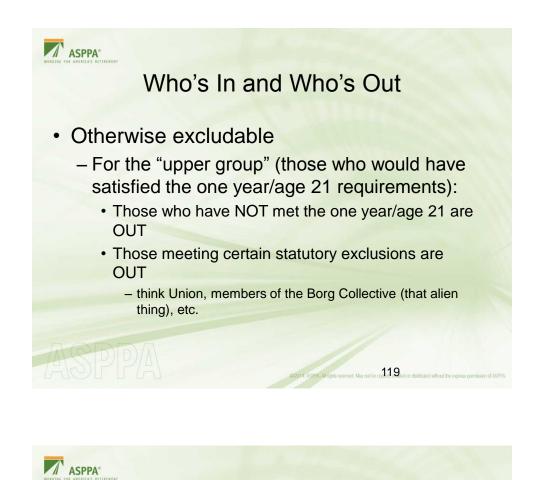


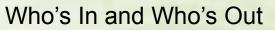
- Do you "have to fail" to do a CRA?
 NOPE!
 - A corrective retroactive amendment is acceptable even if there's nothing to correct!
 - Example: Plan meets all tests for last year on the first pass, but employer wants to give an extra \$10,000 now to his "significant other" who is NOT a spouse!
 - A properly drafted CRA that meets all the requirements and provides extra dollars to that NHCE would be perfectly acceptable.





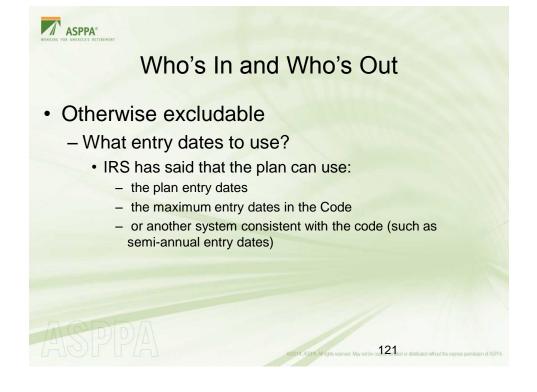
- Employee makes that "one time" irrevocable election not to participate in a 401(k) plan
 - He's IN for the coverage testing
 - However, he is OUT for ADP testing





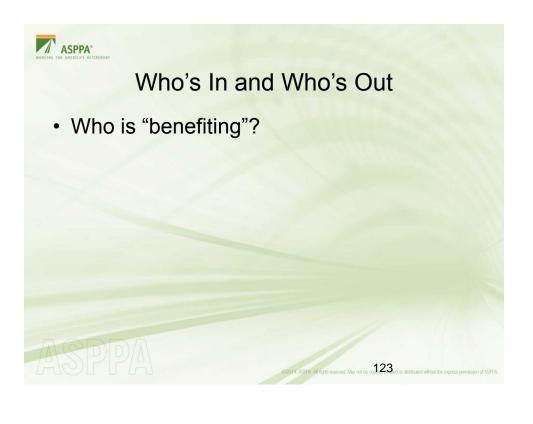
- Otherwise excludable
 - For the "lower group" (those who would NOT have satisfied the one year/age 21 requirements):
 - Those who HAVE met the one year/age 21 are OUT
 - Those who have met the plan's eligibility requirements if they are less than one year/age 21
 - e.g.: plan eligibility is six months and age 18
 - » those who met those requirements are OUT of the lower group for testing

- · Those meeting certain statutory exclusions are OUT
 - think Union, members of the Borg Collective (that alien thing), etc.





- Otherwise excludable
 - Employee has satisfied plan's eligibility conditions but has not entered the plan because of its entry dates
 - He's OUT (excludable).
 - Example: Calendar year plan with one year/age 21 and semi-annual entry dates of 1/1 and 7/1.
 - » Employee hired full time 8/15/13.
 - » Completes one year of service in 8/15/14
 - Employee is OUT (excludable) for the 2014 plan year because he/she would not enter the plan until 1/1/15

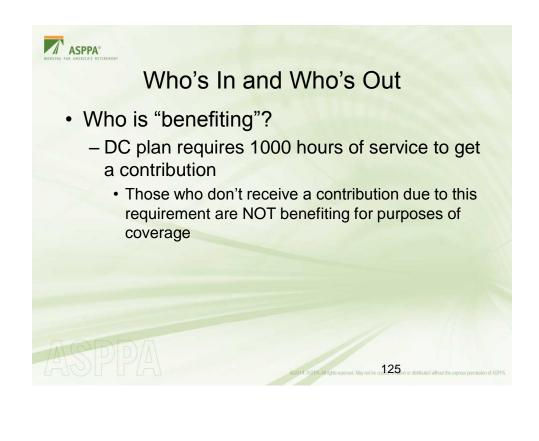


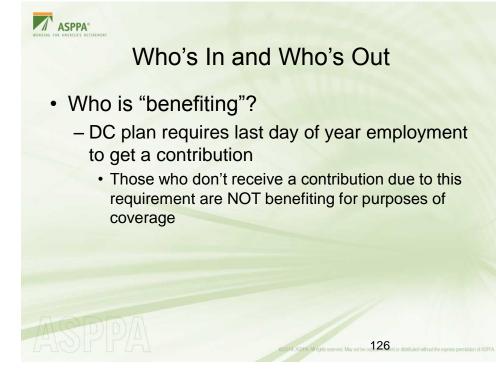


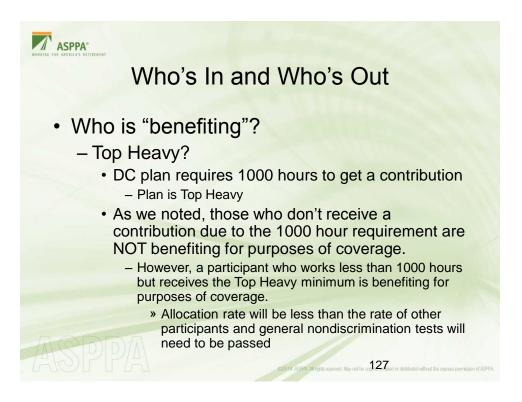
- Who is "benefiting"?
 - For coverage, an employee is benefiting for a plan year only if, for that plan year:
 - For nonelective DC plan:
 - Employee receives ANY allocation of contributions or forfeitures
 - For DB plan:
 - Employee accrues a benefit
 - » Generally, must be at least ½ of 1% per year to count.

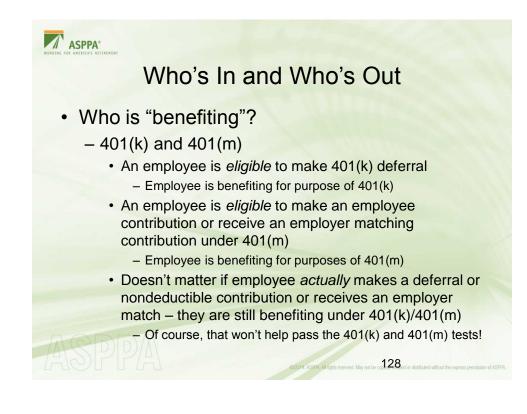
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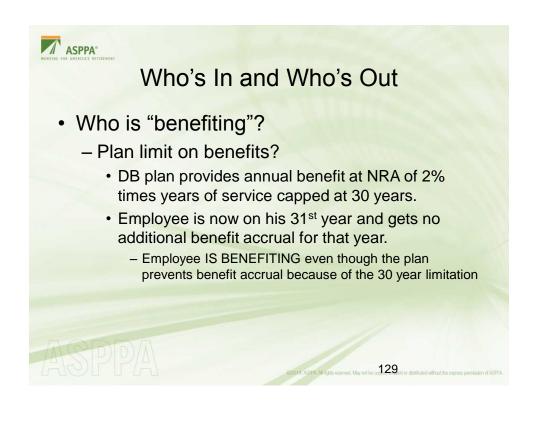
A \$1/year accrual won't make it!

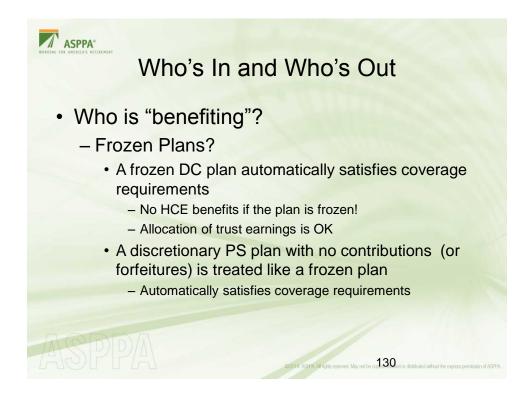


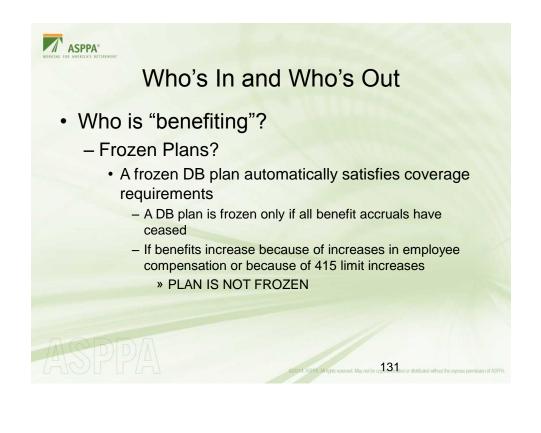


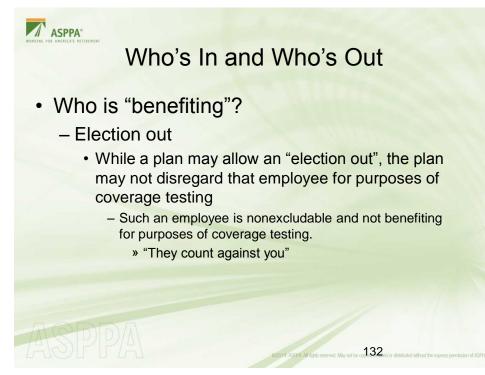


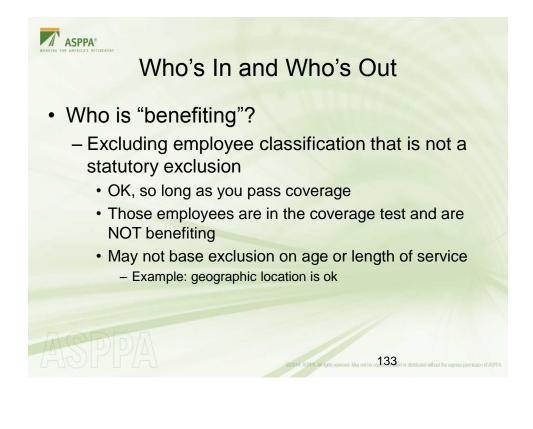






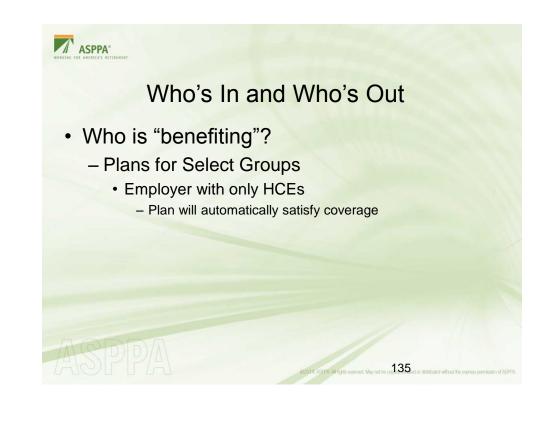


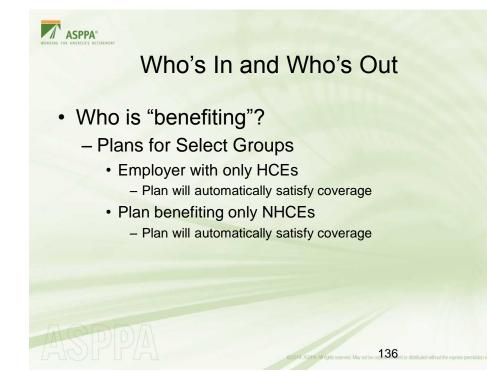


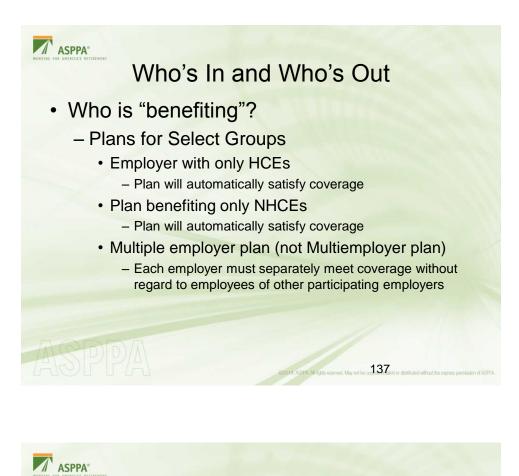




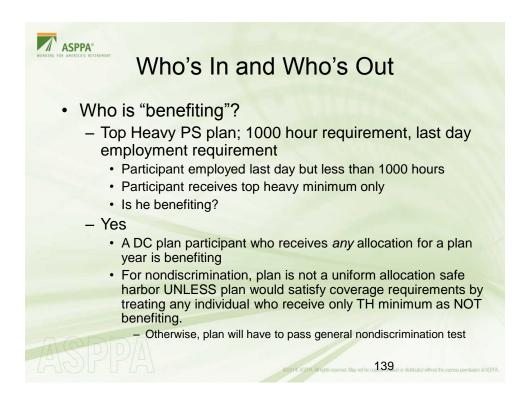
- Who is "benefiting"?
 - Plans for Select Groups





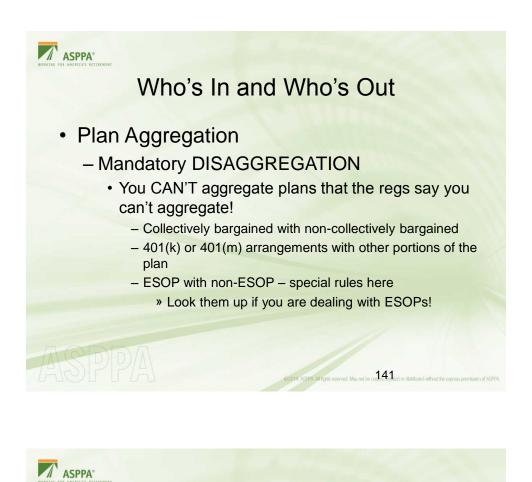


- Who is "benefiting"?
 - Plans for Select Groups
 - Employer with only HCEs
 - Plan will automatically satisfy coverage
 - Plan benefiting only NHCEs
 - Plan will automatically satisfy coverage
 - Multiple employer plan (not Multiemployer plan)
 - Each employer must separately meet coverage without regard to employees of other participating employers
 - Separate line of business
 - If SLOB requirements are met, employer may separately apply the alternative minimum coverage requirements to each SLOB





- Plan Aggregation
 - For coverage testing, each single plan is a separate plan
 - An employer MAY aggregate two or more plans and test them as a single plan for minimum coverage
 - But the plans must also satisfy nondiscrimination rules as a single plan
 - We're not going into the details of aggregation in this presentation



- Sample -11g Amendment
 - see next page

	AMENDMENT TO
	401(K) PLAN AND TRUST
ASPPA® WORKING FOR AMERICA'S RETIREMENT	BY THIS AGREEMENT, the401(k) Plan and Trust (herein called the "Plan") is hereby amended as follows, effective as of January 1, 20:
	 For the plan year ending201_, in addition to the employer discretionary contribution of, which shall be allocated in accordance with the plan document, an additional contribution of <u>S</u>shall be made and allocated as follows:
	\$
	 For the plan year ending201_, in addition to the employer discretionary contribution of \$
	First, an additional allocation of S
	S
	For the plan year ending, 201_, in addition to the employer discretionary contribution of S, which shall be allocated in accordance with the plan document as follows: (1) S to Group A; (1) S
	(2) \$ to Group B;
	(3) \$ to Group C, and
	an additional contribution of \$ shall be made and allocated as follows:
	2. The Vesting Schedule in Article 6.4 (b) shall be modified as follows:
	Vesting Schedule Years of Service Percentage
	Less than 1 0 % 1 10 % 2 340 % 4 60 % 5 80 % 6 100 %
	2. It is intended that this amendment shall be considered a corrective amendment under Treasury Regulations 1.401(a)(4)-11(g).
ASP	IN WITNESS WHEREOF, the Agreement has been executed this day of, 201
	WITNESS AS TO EMPLOYER By EMPLOYER 143 of whoat the express perifestion of ASPA.

