

Reg. Section 1.127-2(f)(2)(iii)

Qualified educational assistance program

(f) Benefit limitation—

(1) In general. Under section 127(b)(3), a program is a qualified program for a program year only if no more than 5% of the amounts paid or incurred by the employer for educational assistance benefits during the year are provided to the limitation class described in subparagraph (2). For purposes of this paragraph (f), the program year must be specified in the written plan as either the calendar year or the taxable year of the employer.

(2) Limitation class. The limitation class consists of—

- i. Shareholders. Individuals who, on any day of the program year, own more than 5% of the total number of shares of outstanding stock of the employer, or
- ii. Owners. In the case of an employer's trade or business which is not incorporated, individuals who, on any day of the program year, own more than 5% of the capital or profits interest in the employer, and



- iii. Spouses or dependents. Individuals who are spouses or dependents of shareholders or owners described in subdivision (i) or (ii). For purposes of determining stock ownership, the attribution rules described in paragraph (h)(4) of this section apply. The regulations prescribed under section 414(c) are applicable in determining an individual's interest in the capital or profits of an unincorporated trade or business.