Client Alert

APRIL 2012

2013 Health FSA dollar limit impacts some fiscal year plans now

Effective January 1, 2013, the pre-tax salary deferral to Flexible Spending Accounts (FSAs) for health care will be limited to $2,500. This limit means you must amend your plan documents and employee communications before January 1, 2013 if your FSA plan currently permits an FSA health care election of more than $2,500 or no limit.

Plan now for 2013 changes

The new limit of $2,500 poses new administrative issues for health FSAs that operate on a *non-calendar year* fiscal year because the $2,500 limit applies on a *calendar year* basis.

The limit applies on a per participant, per employer basis. Therefore, if a husband and wife both participate in their respective employer's health care FSA plans, they may have a combined household pre-tax contribution of $5,000 for the taxable year, but neither may contribute more than the $2,500 per person pre-tax limit (e.g. one cannot contribute $2,000 and the other contribute $3,000). In addition, if an employee is employed by two different employers (who are not part of a controlled group), each with a health care FSA, the employee could contribute up to $2,500 to each plan.

You must amend your plan documents and employee communications before January 1, 2013 if your FSA plan currently permits an FSA health care election of more than $2,500, or no limit.

To simplify the administration on these changes, sponsors of a non-calendar year plan can adopt the new limit on the first day of the plan year beginning in 2012 rather than waiting until January 1, 2013. For example, if the current plan year starts on April 1 and ends on March 31, the plan sponsor may:

- Initiate the changes to the contribution effective April 1, 2012, rather than wait until the mid-plan year in January 1, 2013.
- Communicate the change to employees.

The $2,500 limit is on the amount that can be deducted pre-tax; it is not a limit on the amount the employee can elect during the calendar year. Therefore if you choose to not to alter your non-calendar year FSA plan prior to January 1, 2013, you will need to monitor pre-tax versus post-tax deductions during the calendar year. The most the employee can deduct during the 2013 calendar year pre-tax is $2,500; the remainder must be deducted post-tax.

In the absence of further guidance from the IRS providing some transition relief, if a fiscal year plan does not implement the limit in 2012, then the employer needs to track each individual's contributions during the 2012 plan year and the 2013 plan year to ensure that contributions do not exceed the limit during the 2013 calendar year.

IRS issues 2011 version of Publication 969 on HSAs, HRAs, Health FSAs and MSAs

Publication 969 has been updated for use in preparing 2011 tax returns. This publication provides basic information about HSAs, HRAs, health FSAs, Archer MSAs and Medicare Advantage MSAs, including brief descriptions of benefits, eligibility requirements, contribution limits and distribution issues. There are very few changes to the 2011 version. The publication has been updated to reflect two changes that apply beginning in 2011: the prescription requirement for OTC drugs (other than insulin) purchased after 2010, and the increase (to 20 percent) in the additional tax on HSA and MSA distributions not used for qualified medical expenses.

Click here to view IRS Publication 969.

For more information, please contact your account team, or:

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