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IRS Announces 2020 Health FSA Limits

In Revenue Procedure 2019-44, the IRS sets forth a variety of 2020 adjusted tax limits. Among other things, the notice addresses slightly increased limits for employee contributions toward health flexible spending accounts (FSAs). Therefore, employers who currently offer health FSAs may choose to increase the annual election limit for participants for the 2020 plan year.

HEALTH FLEXIBLE SPENDING ACCOUNT (FSA) – 2020 ANNUAL LIMIT OF \$2,750 FOR EMPLOYEE CONTRIBUTIONS

Healthcare reform imposed a \$2,500 limit on annual salary reduction contributions to health FSAs offered under §125 (Cafeteria) plans, effective for plan years beginning after December 31, 2012. The \$2,500 amount is indexed for cost-of-living adjustments. The annual limitation for 2019 was \$2,700. The annual limitation has now increased by \$50 to \$2,750 for 2020.

EMPLOYEE HEALTH FSA CONTRIBUTIONS

The \$2,750 annual limit applies only to the amount that can be deducted pre-tax from an employee's compensation to make employee contributions through a cafeteria plan. In some circumstances an employee can have an annual health FSA benefit of greater than \$2,750; for example:

- If the employer makes contributions to the employee's FSA accounts (see more below); or
- If the health FSA includes the optional \$500 carry-over provision and the employee has a carry-over from the previous year.

NOTE: Non-elective employer contributions to a health FSA (e.g., matching or seed contributions, or flex credits) generally do not count toward the limit. However, if employees may elect to receive the employer contributions in cash or as a taxable benefit, then the contributions will be treated as salary reductions and will count toward the \$2,750 limit if contributed to the health FSA.

EMPLOYER HEALTH FSA CONTRIBUTIONS

Employer contributions to an employee's health FSA are not limited by this rule, and may be made in addition to the \$2,750 allowed for employee contributions. However, a health FSA must meet "excepted benefit" status to avoid violating health care reform requirements. To meet excepted benefit status, the health FSA must satisfy the following two conditions:

- **Maximum Benefit Condition.** The maximum benefit payable under the health FSA to any participant cannot exceed the greater of (i) 2x the participant's salary reduction election; or (ii) the amount of the participant's salary reduction election plus \$500. In other words, the employer could either make a matching contribution (up to \$2,750 for 2020) or limit the contribution to \$500.
- **Availability Condition.** Other non-excepted group health plan coverage (e.g., major medical coverage) must be made available for the year to those eligible to participate in the health FSA. Therefore, individuals must be eligible for both a group medical plan and a health FSA, but they do not have to be enrolled in both.

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The full text of Rev. Proc. 2019-44, including 2020 amounts and limitations for other taxes (e.g. qualified transportation fringe benefits, adoption assistance programs, QSEHRAs, eligible long-term care premiums), may be found at <https://www.irs.gov/pub/irs-drop/rp-19-44.pdf>.

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