



Regulatory Update

IRS Announces 2017 Health FSA Limits

Issue Date: October 2016

Overview

In Revenue Procedure 2016-55, released this week, the IRS set forth a variety of 2017 adjusted tax limits. Among other things, the notice addresses slightly increased limits for health flexible spending accounts (FSAs).

Health Flexible Spending Account (FSA) - 2017 Annual Limitation of \$2,600

Health care reform imposed a \$2,500 limit on annual salary reduction contributions to health FSAs offered under Section 125 (Cafeteria) plans, effective for plan years beginning after December 31, 2012. The \$2,500 amount is indexed for cost-of-living adjustments for plan years beginning after December 31, 2013, but was not changed for 2014. For 2015 and 2016, the annual limitation on salary reductions was increased to \$2,550. The annual limitation for 2017 has been increased to \$2,600.

NOTE - The \$2,600 annual limit for health FSAs applies only to the amount that can be deducted pre-tax from an employee's compensation to make employee contributions through a Section 125 cafeteria plan. It may help to think of this as a limit on pre-tax payroll deductions for health FSA purposes, rather than as a limit on the health FSA itself. In some circumstances an employee can have a health FSA benefit of greater than \$2600, for example:

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

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 \$2,600 allowed for employee contributions. However, if a health FSA is to avoid violating health care reform requirements, it must meet "excepted benefit" status. 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 in the class for a year cannot exceed two times the participant's salary reduction election under the health FSA for the year (or, if greater, the amount of the participant's salary reduction election for the health FSA for the year plus \$500). In other words, the employer could either do a matching contribution or limit the contribution to \$500.



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- **Availability Condition.** Other non-excepted group health plan coverage (e.g., major medical coverage) must be made available for the year to the class of participants by reason of their employment. This requirement is that the individuals must be eligible for both - both a group medical plan and health FSA are offered - not that they have to be enrolled in both.

Therefore, although there isn't technically an annual limitation on employer contributions, health care reform limits employer contributions to \$500/year or an arrangement in which the employer contribution will not exceed the employee's contribution, such as an employer match of employee contributions (up to \$2,600).

Summary

The full text of Rev. Proc. 2016-55, including 2017 amount limitations for other taxes, may be found at <https://www.irs.gov/pub/irs-drop/rp-16-55.pdf>.

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