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New Limits on Healthcare Flexible Spending Account Contributions

Effective January 1, 2013, the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (together, the ACA) will limit annual salary reduction contributions to a healthcare flexible spending account offered under an Internal Revenue Code Section 125 Cafeteria Plan (Cafeteria Plan) to a maximum of \$2,500. The annual limit applies to a participant's "taxable year," which in most cases means the calendar year. Consequently, this annual limitation will apply effective January 1, 2013, regardless of the plan year that applies to the Cafeteria Plan.

All employers must determine how their Cafeteria Plans will comply with the new annual limit prior to the January 1, 2013, effective date. Those employers with Cafeteria Plans that use a non-calendar year plan year may need to amend their plans well before January 1, 2013, to comply with the new annual limit. They could face additional challenges. For example, if an employer sponsors a Cafeteria Plan with a plan year beginning each July 1st and ending the following June 30th, the employer will need to determine how to comply with the new annual limit and amend the plan before July 1, 2012. Some options to comply include switching to a calendar year plan year effective January 1, 2013, or adopting the \$2,500 limit for the plan year that includes January 1, 2013.

What This Means to You

If your company offers a healthcare flexible spending account plan with an annual dollar limit in excess of \$2,500, your plan must be amended to adopt the \$2,500 annual limit prior to the January 1, 2013, effective date. If your company sponsors a non-calendar year Cafeteria Plan, your plan will likely require amendment before the plan year that includes January 1, 2013. Summary plan descriptions and other participant communications should be reviewed and updated as necessary in light of the required amendment.

Contact Info

Please contact a member of the Employee Benefits & Executive Compensation practice group if you have questions or if we can assist in any way.

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