



Health Care Flexible Spending Account Salary Reductions

Clarification of \$2500 limit for Off-calendar Plan Years

The Internal Revenue Service issued Notice 2012-42 to clarify how the limit on Health Care Flexible Spending Account salary reduction contributions applies to off-calendar year plan years.

Section 125(i) was added to IRC Section 125 by the Patient Protection and Affordable Care Act and it imposes a statutory limit on the amount of salary reduction contributions that may be made to a health care flexible spending account plan during a “taxable year.” Notice 2012-42 clarifies that the term “taxable year” refers to the “plan year” of the health care flexible spending account plan since this is the period during which participant salary reductions are made. The limit is effective for plan years beginning after December 31, 2012.

Example: If a plan has a plan year beginning August 1 and ending on July 31 and the plan’s contribution limit is \$5000, the \$5000 limit may remain in place for the plan year beginning on August 1, 2012 and ending on July 31, 2013. Contributions must be limited to \$2500 for plan years beginning on and after August 1, 2013.

A plan may be amended to reflect the statutory limit at any time through the end of calendar year 2014 as long as the limit is in place operationally on the first day of the plan year beginning in 2013.

For plan years beginning in 2012 or later if a plan has a grace period, unused contributions to the health care flexible spending account that are carried over into the grace period associated with a plan year will not count against the \$2500 limit for the subsequent plan year.

The \$2500 limit is indexed for cost of living adjustments for plan years beginning after December 31, 2013.

Note: An employer may choose a lower limit and/or may choose not to index the limit.

Clarification of \$2500 limit on Health Care
Flexible Spending Accounts for Off-calendar
Plan Years

The \$2500 statutory limit applies **only** to salary reduction contributions to a health care flexible spending account plan. It does not apply to salary reduction contributions made to dependent care assistance plans, adoption assistance plans, health savings accounts (HSA), health reimbursement arrangements (HRA) or to an employee's pre-tax share of health coverage premiums.

the \$2500 statutory limit applies on an employee-by- employee basis. If both spouses are eligible to elect to contribute to a health care spending account each spouse may elect to contribute up to \$2500 even if both spouses are employed by the same employer.

If an individual is employed by two or more employers that are not part of the same controlled group or affiliated service group (as defined by the IRS), he or she may establish a health care flexible spending account at each employer and contribute \$2500 to each account.