

Employee Benefit Plans Alert

IRS Relief: Increased Flexibility – Section 125 Cafeteria Plans

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A significant amount of information pertaining to relief afforded retirement plans has previously been issued by the Internal Revenue Service and Department of Labor which was previously reported upon by us in a [prior Alert](#). The IRS has now released two Notices providing additional guidance relating to benefits offered through cafeteria plans, and clarifying the ability of a health plan to reimburse individual insurance policy premium expenses incurred prior to the beginning of the plan year for coverage provided during the plan year.

The guidance issued on May 12, 2020 addresses unanticipated changes in expenses because of the COVID-19 pandemic and provides that previously provided temporary relief for high deductible health plans may be applied retroactively to January 1, 2020. It also increases for inflation the \$500 permitted carryover amount for health Flexibility Savings Accounts (FSAs) to \$550.

Expanded Features

[Notice 2020-29](#) provides greater flexibility for taxpayers by:

- extending claims periods for taxpayers to apply unused amounts remaining in a health FSA or dependent care assistance program for expenses incurred for those same qualified benefits through December 31, 2020. Previously, this period was not to extend beyond 2½ months after the plan year-end (the “carryover rule”).
- expanding the ability of taxpayers to make mid-year elections for health coverage, health FSAs, and dependent care assistance programs, allowing them to respond to changes in needs as a result of the COVID-19 pandemic. The regulations for Section 125 plans provide that an election is irrevocable unless certain circumstances (i.e., change in status) apply.
- applying earlier relief for high deductible health plans to cover expenses related to COVID-19, and a temporary exemption for telehealth services retroactively to January 1, 2020.

Increased Limits

[Notice 2020-33](#) increases the limit for unused health FSA carryover amounts from \$500, to a maximum of \$550 for the 2020 plan year, as adjusted annually for inflation. This Notice modified prior IRS guidance on the carryover amount.

In addition, the Notice separately provides clarification regarding reimbursements of premiums by individual coverage health reimbursement arrangements (HRAs).

Required Notification

Both IRS Notices provide that an employer who decides to amend its Section 125 plan to be retroactively effective for the entire 2020 plan year has until December 31, 2021 as long as the employer informs all individuals eligible to participate in the Section 125 cafeteria plan of the changes to the plan, and operates in accordance with the Notices.

New Developments

Our practice is continuing to review these developments and future Alerts will be issued as needed.

Contact Us

The Employee Benefit Services Group at PKF O'Connor Davies is available to assist employers with the various compliance reporting and other requirements imposed by federal agencies. We also provide a full spectrum of compliance services for qualified retirement plans, non-qualified deferred compensation plans, and welfare plans. For more information, please contact your client services partner or either of the following:

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