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Annual Limits of Salary Redirections Used To Fund Flexible Spending Arrangement (FSA) Benefits

General Principle: Health FSAs currently are not subject to any federally mandated annual maximum benefit or limit on related salary redirections to fund benefits. Plan Sponsors are free to set their own annual maximums with limits between \$1,500 and \$5,000 per Plan Year being common.

The Issue: The recently enacted federal Patient Protection and Affordable Care Act (PPACA)¹ statutorily established a \$2,500 per tax year limitation on salary redirections used to fund FSA benefits. The PPACA limit was scheduled to take effect for taxable years beginning January 1, 2011. Note that the newly enacted limit is not measured based on the Plan Year of the affected FSA. Instead, the limitation is set up much like the calendar year annual limit previously applicable to Dependent Care Expense Reimbursement Plans related to day care expenses. Also like the Dependent Care Expense limit, the new changes do not prohibit employers from imposing a lower annual cap than is permitted under federal law.

Unlike the Dependent Care Expense limit however, the new Health FSA annual limit is indexed to inflation. PPACA scheduled for increases to be tied to increases in the Consumer Price Index beginning in 2012. The specific CPI measurement used will be the CPI-U which measures general inflation rates as opposed to medical inflation rates. Therefore, annual increases in the cap are widely expected to lag increases in healthcare costs.

The implementation of the \$2,500 limit was deferred until tax years beginning January 1, 2013 by the Health Care and Education Tax Credit Reconciliation Act of 2010² (commonly referred to as the "Reconciliation Bill" that was enacted a few days after the passage of the PPACA).

Under the Reconciliation Bill, increases to the cap based on CPI will begin in 2014. No other changes to how the annual cap will be applied were included in the Reconciliation Bill.

Admin America's Recommendations:

Employers that offer FSAs should clarify for employees participating in FSA open enrollments for Plan Years ending before January 1, 2013 that the annual limits that they may have previously heard about through other sources have been delayed until 2013. While Admin America will also endeavor to make Plan Participants aware of these changes, we strongly believe that this message needs to be delivered through several channels to prevent Participants from being needlessly confused by the timing of the mandatory changes.

Admin America will continue to monitor any federal guidance related to the Health FSA cap. Future notifications will be made via e-mail and through Admin America's website at www.adminamerica.com. Admin America also posts periodic updates to our Facebook group. Any Facebook user wishing to join the group in order to receive our updates is welcome.

¹ Pub. L. No. 111-148 (2010).

² Pub. L. No. 111-152 (2010).