



# ACA COMPLIANCE BULLETIN

## HIGHLIGHTS

- Employees' salary reduction contributions to health FSAs are subject to a maximum dollar limit.
- The initial dollar limit was \$2,500. For 2015 and 2016, the dollar limit increased to \$2,550.
- For the 2017 plan year, the health FSA dollar limit will increase to \$2,600.

## IMPORTANT DATES

### Oct. 25, 2016

The IRS announced the health FSA dollar limit for 2017.

### Tax Years Beginning in 2017

The \$2,600 dollar limit on employee salary reduction contributions to health FSAs applies for these years.

## HEALTH FSA LIMIT WILL INCREASE FOR 2017

The Affordable Care Act (ACA) imposes a dollar limit on employees' salary reduction contributions to health flexible spending accounts (FSAs) offered under cafeteria plans. This dollar limit is indexed for cost-of-living adjustments and may be increased each year.

On Oct. 25, 2016, the Internal Revenue Service (IRS) released [Revenue Procedure 2016-55](#) (Rev. Proc. 16-55). Rev. Proc. 16-55 increased the FSA dollar limit on employee salary reduction contributions to **\$2,600 for taxable years beginning in 2017**. It also includes annual inflation numbers for 2017 for a number of other tax provisions.

## ACTION STEPS

Employers should ensure that their health FSA will not allow employees to make pre-tax contributions in excess of \$2,600 for 2017, and they should communicate the 2017 limit to their employees as part of the open enrollment process.

An employer may continue to impose its own health FSA limit, as long as it does not exceed the ACA's maximum limit for the plan year. This means that an employer may continue to use the 2016 maximum limit for its 2017 plan year.

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The ACA initially set the health FSA contribution limit at **\$2,500**. For years after 2013, the dollar limit is indexed for cost-of-living adjustments.

- ✓ **2014:** For taxable years beginning in 2014, the dollar limit on employee salary reduction contributions to health FSAs remained unchanged at \$2,500.
- ✓ **2015:** For taxable years beginning in 2015, the dollar limit on employee salary reduction contributions to health FSAs increased by \$50, for a total of **\$2,550**.
- ✓ **2016:** For taxable years beginning in 2015, the dollar limit on employee salary reduction contributions to health FSAs remained unchanged at **\$2,550**.
- ✓ **2017:** For taxable years beginning in 2017, Rev. Proc. 16-55 increased the dollar limit on employee salary reduction contributions to health FSAs to **\$2,600**.

*An employer may continue to impose its own health FSA dollar limit, as long as it does not exceed the ACA's maximum limit in effect for the plan year. For example, an employer may continue to limit employee health FSA contributions for the 2017 plan year to \$2,500.*

The health FSA limit will potentially be increased further for cost-of-living adjustments in later years.

## Employer Limits

An employer may continue to impose its own dollar limit on employees' salary reduction contributions to health FSAs, as long as the employer's limit does not exceed the ACA's maximum limit in effect for the plan year. For example, an employer may decide to continue limiting employee health FSA contributions for the 2017 plan year to \$2,500.

## Per Employee Limit

The health FSA limit applies on an employee-by-employee basis. Each employee may only elect up to \$2,600 in salary reductions in 2017, regardless of whether he or she also has family members who benefit from the funds in that FSA. However, each family member who is eligible to participate in his or her own health FSA will have a separate limit. For example, a husband and wife who have their own health FSAs can both make salary reductions of up to \$2,600 per year, subject to any lower employer limits.

If an employee participates in multiple cafeteria plans that are maintained by employers under common control, the employee's total health FSA salary reduction contributions under all of the cafeteria plans are limited to \$2,600. However, if an individual has health FSAs through two or more unrelated employers, he or she can make salary reductions of up to \$2,600 under each employer's health FSA.

## Salary Reduction Contributions

The ACA imposes the \$2,600 limit on health FSA salary reduction contributions. Non-elective employer contributions to health FSAs (for example, matching contributions or flex credits) generally do not count



toward the ACA's dollar limit. However, if employees are allowed to elect to receive the employer contributions in cash or as a taxable benefit, then the contributions will be treated as salary reductions and will count toward the ACA's dollar limit.

In addition, the limit does not impact contributions under other employer-provided coverage. For example, employee salary reduction contributions to an FSA for dependent care assistance or adoption care assistance are not affected by the health FSA limit. The limit also does not apply to salary reduction contributions to a cafeteria plan that are used to pay for an employee's share of health coverage premiums, to contributions to a health savings account (HSA) or to amounts made available by an employer under a health reimbursement arrangement (HRA).

## **Grace Period/Carry-over Feature**

A cafeteria plan may include a grace period of up to two months and 15 days immediately following the end of a plan year. If a plan includes a grace period, an employee may use amounts remaining from the previous plan year, including any amounts remaining in a health FSA, to pay for expenses incurred for certain qualified benefits during the grace period. If a health FSA is subject to a grace period, unused salary reduction contributions that are carried over into the grace period do not count against the \$2,600 limit applicable to the following plan year.

Also, if a health FSA does not include a grace period, it may allow participants to carry over up to \$500 of unused funds into the next plan year. This is an exception to the "use-it-or-lose-it" rule that generally prohibits any contributions or benefits under a health FSA from being used in a following plan year or period of coverage. A health FSA carryover does not affect the limit on salary reduction contributions. This means the plan may allow the individual to elect up to \$2,600 in salary reductions in addition to the \$500 that may be carried over.

## **Plan Amendments**

Plan documents that specify the health FSA dollar limit must be amended if the higher limit will be used in 2017.