



REID AND RIEGE, P.C.

COUNSELLORS AT LAW

EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION ALERT

NEW HEALTH FLEXIBLE SPENDING ARRANGEMENT LIMITS BEGIN IN 2013

October 2012

As a result of the Patient Protection and Affordable Care Act, a qualified Internal Revenue Code Section 125 cafeteria plan with a health flexible spending arrangement (“Health FSA”) must limit the amount of salary reduction contributions that a participant may elect to make to his or her Health FSA. For the first coverage year beginning on or after January 1, 2013, the maximum amount that an individual may contribute to his or her Health FSA is \$2,500. With respect to subsequent coverage years, the maximum amount will be adjusted for inflation. Importantly, failure to comply with the new Health FSA limit will result in the disqualification of the cafeteria plan and the realization of certain taxable income by the participant.

The new federal limit replaces the prior practice of allowing the plan sponsor to determine the maximum salary reduction that could be contributed to a participant’s Health FSA. Note that the limit concerns only contributions made by the participant to a Health FSA. It does not apply to employer contributions, salary reduction contributions used to pay for health insurance premiums, or salary reduction contributions to a health savings account. Salary reduction contributions to other FSA programs, such as dependent care assistance or adoption care assistance, are also unaffected.

What a Plan Sponsor Should Do Now

The sponsor of a cafeteria plan with a Health FSA should adopt an appropriate amendment as soon as possible to ensure documentary compliance with the new contribution limit. For coverage years beginning on or after January 1, 2013, the sponsor should operate its plan in accordance with the new limit. In the event of an erroneous excess salary reduction contribution, proof of timely documentary and operational compliance is imperative to ensure that the error may be corrected without the risk of plan disqualification or other adverse tax consequences.

If you have any questions concerning the new Health FSA limit or cafeteria plans in general, please contact us.

Note from the Editor This edition of the Employee Benefits and Executive Compensation Alert highlights new rules concerning Health FSAs. The Alert was written by Devin M. Karas, a member of the Employee Benefits & Pension Practice Area at Reid and Riege, P.C., One Financial Plaza, Hartford, CT 06103. The Practice Area works closely with clients to design and draft tax-qualified and nonqualified retirement plans. For information or additional copies of this Alert, or to be placed on our mailing list, please contact Devin (tel. 860-240-1063)(e-mail dkaras@rrlawpc.com), another member of the Practice Area: John J. Jacobson, Chairman (tel. 860-240-1006) (e-mail jjacobson@rrlawpc.com), John V. Galiette (tel. 860-240-1009) (e-mail jgaliette@rrlawpc.com), Ronald J. Koniuta (tel. 860-240-1034) (e-mail rkoniuta@rrlawpc.com) or Erik M. Sharp (tel. 860-240-1074) (e-mail esharp@rrlawpc.com), or the Reid and Riege attorney with whom you regularly work. For other information regarding Reid and Riege, P.C., please visit our web site at www.rrlawpc.com.

Reid and Riege, P.C. – 2012 – © ALL RIGHTS RESERVED

The Employee Benefits and Executive Compensation Alert is a publication of Reid and Riege, P.C. This Alert is for informational purposes only and is not intended to offer legal advice about specific situations or problems. The information contained herein should not be used or relied upon in regard to any particular facts or circumstances. Readers are urged not to act on this Alert without consultation with their counsel.

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.