

## 2021 Cost of Living Adjustments

Issued date: 11/04/20

The IRS recently released cost of living adjustments for 2021 under various provisions of the Internal Revenue Code (the Code). Some of these adjustments may affect your employee benefit plans.

### ■ Cafeteria Plans – Health Flexible Spending Arrangements

For plan years beginning in 2021, the dollar limitation under Code Section 125(i) for voluntary employee salary reductions for contributions to health flexible spending arrangements (health FSAs) remains unchanged at **\$2,750**.

The Affordable Care Act (ACA) amended Code Section 125 to place a \$2,500 limitation on voluntary employee salary reductions for contributions to health flexible spending arrangements, subject to inflation for plan years beginning after December 31, 2013.

### Annual Maximum carryover

In May 2020, the IRS issued Notice 2020-33 to increase the carryover limit for unused amounts remaining in a health FSA as of the end of a plan year from a maximum of \$500 to \$550 for plans that have adopted the carryover option. This increase reflects a change from the static \$500 carryover amount to 20% of the currently indexed health FSA contribution limit.

For plan years beginning in 2021, 20% of the current \$2,750 limit on health FSA contributions is \$550. Thus, the maximum unused amount from a health FSA plan year that begins in 2021 that can be carried over to the following plan year (2022) is **\$550**.

### ■ Qualified Transportation Fringe Benefits

For calendar year 2021, the monthly exclusion limitation for transportation in a commuter highway vehicle (vanpool) and any transit pass (under Code Section 132(f)(2)(A)) and the monthly exclusion limitation for qualified parking expenses (under Code Section 132(f)(2)(B)) remains unchanged at \$270.

The Consolidated Appropriations Act of 2016 permanently changed the pre-tax transit and vanpool benefits to be at parity with parking benefits.

Beginning with the 2018 calendar year, employers can no longer deduct qualified transportation fringe benefits; employees may still pay for these benefits on a tax-favored basis.

### ■ Highly Compensated

The compensation threshold for a highly compensated individual or participant (as defined by Code Section 414(q)(1)(B) for purposes of Code Section 125 nondiscrimination testing) remains unchanged at **\$130,000** for 2021.

Under the cafeteria plan rules, the term highly compensated means any individual or participant who for the preceding plan year (or the current plan year in the case of the first year of employment) had compensation in excess of the compensation amount as specified in Code Section 414(q)(1)(B). Prop. Treas. Reg. 1.125-7(a)(9).

## ■ Key Employee

The dollar limitation under Code Section 416(i)(1)(A)(i) concerning the definition of a key employee for calendar year 2021 remains unchanged at **\$185,000**.

For purposes of cafeteria plan nondiscrimination testing, a key employee is a participant who is a key employee within the meaning of Code Section 416(i)(1) at any time during the preceding plan year. Prop. Treas. Reg. 1.125-7(a)(10).

## ■ Non-Grandfathered Plan Out-Of-Pocket Cost-Sharing Limits

The 2021 maximum annual out-of-pocket limits for all non-grandfathered (NGF) group health plans are **\$8,550** for self-only coverage and **\$17,100** for family coverage.

These limits generally apply with respect to any essential health benefits (EHBs) offered under the group health plan. Federal guidance established that starting in the 2016 plan year, the self-only annual out-of-pocket limit applies to each individual, regardless of whether the individual is enrolled in other than self-only coverage, including in a family HDHP.

## ■ Health Reimbursement Arrangements

### Qualified Small Employer Health Reimbursement Arrangements

For tax years beginning in 2021, to qualify as a qualified small employer health reimbursement arrangement (QSEHRA) under Code Section 9831(d), the arrangement must provide that the total amount of payments and reimbursements for any year cannot exceed **\$5,300** (\$10,700 for family coverage).

### Excepted Benefit Health Reimbursement Arrangements

For plan years beginning in 2021, to qualify as an excepted benefit health reimbursement arrangement (EB HRA) under Code Section 54.9831-1(c)(3)(viii), the annual EB HRA contribution may not exceed **\$1,800**.

## ■ Health Savings Accounts

As announced in May 2020, the inflation adjustments for health savings accounts (HSAs) for 2021 were provided by the IRS in Rev. Proc. 2020-32.

### Annual contribution limitation

For calendar year 2021, the limitation on HSA contributions for an individual with **self-only coverage** under a high deductible health plan is **\$3,600**. For calendar year 2021, the limitation on HSA contributions for an individual with **family coverage** under a qualifying high deductible health plan is **\$7,200**.

### Qualifying high deductible health plan

For calendar year 2021, a “qualifying high deductible health plan” is defined as a health plan with an **annual deductible that is not less than \$1,400 for self-only coverage or \$2,800 for family coverage**, and the **annual out-of-pocket expenses** (deductibles, co-payments, and other amounts, but not premiums) **do not exceed \$7,000 for self-only coverage or \$14,000 for family coverage**.

Non-calendar year plans: In cases where the qualifying high deductible health plan renewal date is after the beginning of the calendar year, any required changes to the annual deductible or out-of-pocket maximum may be implemented as of the next renewal date. See IRS Notice 2004-50, 2004-33 I.R.B. 196, Q/A-86 (Aug.16, 2004).

### Catch-up contribution

Individuals who are age 55 or older and covered by a qualifying high deductible health plan may make additional catch-up HSA contributions each year until they enroll in Medicare. The additional contribution, as outlined in Code 223(b)(3)(B), is **\$1,000** for 2009 and thereafter.