



Benefits Compliance Update

November 15, 2018

2019 Cost of Living Adjustments

The IRS recently released cost of living adjustments for 2019 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 2019, the dollar limitation under Section 125 for voluntary employee salary reductions for contributions to health flexible spending arrangements increases to **\$2,700**.

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

QUALIFIED TRANSPORTATION FRINGE BENEFITS

For calendar year 2019,¹ 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 Section 132(f)(2)(B)) increases to **\$265**.

The Consolidated Appropriations Act of 2016 permanently changed the pre-tax transit and vanpool benefits to be at parity with parking benefits².

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.

¹ "Calendar year 2019" refers to January 1, 2019 – December 31, 2019 regardless of plan year.

² Section 105, Consolidated Appropriations Act, 2016, <https://www.congress.gov/114/bills/hr2029/BILLS-114hr2029enr.pdf>; for more information see IRS Notice 2016-6, <https://www.irs.gov/pub/irs-drop/n-16-06.pdf>

HIGHLY COMPENSATED

The compensation threshold for a highly compensated individual or participant (as defined by Code Section 414(q)(1)(B) for purposes of Section 125 nondiscrimination testing) again increases to **\$125,000** for 2019.

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 2019 increases to **\$180,000**.

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 2019 maximum annual out-of-pocket limits for all non-grandfathered (NGF) plans are **\$7,900** for individual coverage and **\$15,800** for family coverage.

These limits generally apply with respect to any essential health benefits (EHBs) offered under the group health plan. The final regulations established that starting in the 2016 plan year, the self-only annual limitation on cost sharing applies to each individual, regardless of whether the individual is enrolled in other than self-only coverage, including in a family HDHP.

QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENTS

For tax years beginning in 2019, to qualify as a qualified small employer health reimbursement arrangement (QSEHRA) under § 9831(d), the arrangement must provide that the total amount of payments and reimbursements for any year cannot exceed **\$5,150** (\$10,450 for family coverage).

HEALTH SAVINGS ACCOUNTS

As announced in May 2018, the inflation adjustments for health savings accounts (HSAs) for 2019 were provided by the IRS in *Rev. Proc. 2018-30*.

Annual contribution limitation.

For calendar year 2019, the limitation on deductions for an individual with **self-only coverage** under a high deductible health plan is **\$3,500**. For calendar year 2019, the limitation on deductions for an individual with **family coverage** under a high deductible health plan is **\$7,000**.

High deductible health plan.

For calendar year 2019, a “high deductible health plan” is defined as a health plan with an **annual deductible that is not less than \$1,350 for self-only coverage or \$2,700 for family coverage**,

and the **annual out-of-pocket expenses** (deductibles, co-payments, and other amounts, but not premiums) **do not exceed \$6,750 for self-only coverage or \$13,500 for family coverage.**³

Non-calendar year plans: In cases where the HDHP 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 qualified high deductible health plan may make additional catch-up 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.

RESOURCES

- Rev. Proc. 2018-57 – Inflation Adjusted Items for 2019, Nov. 15, 2018
 - <http://www.irs.gov/pub/irs-drop/rp-18-57.pdf>
 - Includes cost of living adjustment information for Cafeteria Plans (Health FSAs), Qualified Transportation Fringe Benefits and QSEHRAs.
- Notice 2018-83 – 2019 Pension Limitations, Nov. 1, 2018
 - <https://www.irs.gov/pub/irs-drop/n-18-83.pdf>
 - Includes cost of living adjustment information for the definitions of key employees and highly compensated employees
- Rev. Proc. 2018-30 – HSA Inflation Adjustments, May 10, 2018
 - <http://www.irs.gov/pub/irs-drop/rp-18-30.pdf>
 - Includes cost of living adjustment information for HSAs
- Federal Register, Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2019. Vol. 83, No. 746, April 17, 2018
 - <https://www.gpo.gov/fdsys/pkg/FR-2018-04-17/pdf/2018-07355.pdf>
 - Non-grandfathered plan cost-sharing limits

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³ Note, out-of-pocket maximum limits for high deductible health plans are generally below the applicable requirements for all non-grandfathered health plans.