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IRS Releases 2023 Cost-of-Living Adjustments for Health FSAs, Transportation Benefits, Adoption Assistance, and More (10/20/2022)

IRS Releases 2023 Cost-of-Living Adjustments for Health FSAs, Transportation Benefits, Adoption Assistance, and More

Topic(s): Cafeteria Plans; Fringe Benefits; Consumer-Driven Health Care; Health Care Reform for Employers and Advisors

Rev. Proc. 2022-38 (Oct. 18, 2022); IRS News Release IR-2022-182 (Oct. 18, 2022)

Rev. Proc. 2022-38

News Release

The IRS has released the 2023 cost-of-living adjustments (COLAs) for a wide variety of tax-related limits, including limits relating to health FSAs, qualified transportation fringe benefits, qualified small employer health reimbursement arrangements (QSEHRAs), adoption assistance, DCAPs, the small business health care tax credit, the premium tax credit, and Archer MSAs.

- *Health FSAs.* For 2023, the dollar limit on employee salary reduction contributions to health FSAs will be \$3,050 (up from \$2,850). If the cafeteria plan permits health FSA carryovers, the maximum amount that can be carried over to the 2024 plan year is \$610 (up from \$570).
- *Qualified Transportation Fringe Benefits.* For 2023, the monthly limit on the amount that may be excluded from an employee's income for qualified parking benefits will be \$300 (up from \$280). The combined monthly limit for transit passes and vanpooling expenses for 2023 will be \$300 (up from \$280).

- *QSEHRAs*. For 2023, the maximum amount of payments and reimbursements under a QSEHRA will be \$5,850 for self-only coverage and \$11,800 for family coverage (up from \$5,450 and \$11,050, respectively).
- *Adoption Assistance Exclusion and Adoption Credit*. The maximum amount that may be excluded from an employee's gross income under an employer-provided adoption assistance program for the adoption of a child will be \$15,950 for 2023 (up from \$14,890). In addition, the maximum adoption credit allowed to an individual for the adoption of a child will be \$15,950 for 2023 (up from \$14,890). Both the exclusion and the credit will begin to be phased out for individuals with modified adjusted gross incomes greater than \$239,230 and will be entirely phased out for individuals with modified adjusted gross incomes of \$279,230 or more.
- *DCAPs*. The maximum amount of DCAP benefits that can be excluded from income has not been adjusted for cost-of-living changes (it is a non-indexed limit). That amount will remain at \$5,000/\$2,500 for 2023 and future years unless extended or otherwise changed by Congress. Nevertheless, there are adjustments to certain general tax limits that are relevant to the federal income tax savings under a DCAP. These include the 2023 tax rate tables, earned income credit amounts, and standard deduction amounts.
- *Small Business Health Care Tax Credit*. For 2023, the average annual wage level at which the tax credit begins to phase out for eligible small employers will be \$30,700 (up from \$28,700). The maximum average annual wages to qualify for the credit as an "eligible small employer" for 2023 will be twice this amount, i.e., \$61,400.
- *Premium Tax Credit*. For taxable years beginning in 2023, the following limitations on the tax for excess advance credit payments will apply: For unmarried individuals (other than surviving spouses and heads of household), \$350 for household income less than 200% of the federal poverty line (FPL); \$900 for household income at least 200% but less than 300% of FPL; and \$1,500 for household income at least 300% but less than 400% of FPL. For all other taxpayers, \$700 for household income less than 200% of FPL; \$1,800 for household income at least 200% but less than 300% of FPL; and \$3,000 for household income at least 300% but less than 400% of FPL. This tax is imposed if a taxpayer's advance premium tax credit payments for health insurance purchased through an Exchange for a year exceed the allowed credit.
- *Archer MSAs*. For Archer MSA-compatible high-deductible health coverage, the 2023 annual deductible for self-only coverage must not be less than \$2,650 (up from \$2,450) or more than \$3,950 (up from \$3,700), with an out-of-pocket maximum of \$5,300 (up from \$4,950). For family coverage, the 2023 annual deductible must not be less than \$5,300 (up from \$4,950) or more than \$7,900 (up from \$7,400), with an out-of-pocket maximum of \$9,650 (up from \$9,050).

Other limits with benefit implications include the limits on the long-term care premiums that will be considered medical care under Code § 213(d) (adjusted upward) and the penalty amounts applicable to information returns and individual statements (including Forms 1094 and 1095) (adjusted upward).

EBIA Comment: Sponsors and administrators of benefits with limits that are changing will need to determine whether their plans automatically apply the latest limits or must be amended (if desired) to recognize the changes. Any changes in limits should also be communicated to employees. Note that the Archer MSA pilot program expired at the end of 2007, which means that no new Archer MSAs can be established after that date. Many who previously had Archer MSAs have switched to HSAs, which are generally more favorable. (For the 2023 COLAs for HSAs and EBHRAs, see our article.) For more information, see EBIA's Cafeteria Plans manual at Sections XIX.F ("Limitation on Health FSA Salary Reductions") and XXIII.C ("DCAP Participation vs. Claiming the Dependent Care Tax Credit"); EBIA's Fringe Benefits manual at Sections III ("Qualified Adoption Assistance Programs") and XX ("Qualified Transportation Plans"); EBIA's Consumer-Driven Health Care manual at Sections XXVII.C ("QSEHRA Reimbursements, Benefit Limits, and Funding") and XXXI ("Archer MSAs"); and EBIA's Health Care Reform manual at Sections XXVI ("Small Business Health Care Tax Credit") and XXI.G ("Premium Tax Credits").

Contributing Editors: EBIA Staff.

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