MAY 30, 2012

Health FSA Guidance Released

This afternoon the IRS released Notice 2012-40, which provides guidance relating to the $2,500 limit for health flexible spending accounts. The $2,500 limit begins January 1, 2013. In general, the new IRS notice provides the following guidance –

· For non-calendar year plans, the $2,500 limit does not apply for plan years that begin before 2013.

· In the case of a plan providing the 2 – ½ month grace period, unused salary reduction contributions to the health FSA that are carried over into the grace period for that plan year will not count against the $2,500 limit for the subsequent plan year.

· Correction procedures are provided for certain salary reduction contributions exceeding the $2,500 limit that are timely corrected by an employer.

· The $2,500 limit applies only to salary reduction contributions under a health FSA, and does not apply to employer contributions to the health FSA. Further, the $2,500 limit does not apply to dependent care FSAs, health savings accounts, health reimbursement arrangements, or to health coverage premiums or contributions paid pre-tax under a cafeteria plan.

Finally, in an interesting move, the IRS has asked for comments regarding the removal of the "use or lose" requirement for health FSAs. However, the IRS cautioned that taxpayers cannot rely on this aspect of the Notice, and that this was merely a request for comments.

More information about the Notice is available here: http://www.irs.gov/pub/irs-drop/n-12-40.pdf