



COMPLIANCE ALERT



EMPLOYEE BENEFITS | OCTOBER 27, 2020

IRS Maintains Health FSA Contribution Limit for 2021, Adjusts Other Benefit Limits

On October 26, 2020, the Internal Revenue Service (IRS) released [Revenue Procedure 2020-45](#), which maintains the health flexible spending account (FSA) salary reduction contribution limit from 2020, which is **\$2,750**, for plan years beginning in 2021. Thus, for health FSAs with a carryover feature, the maximum carryover amount is \$550 (20% of the \$2,750 salary reduction limit) for plan years beginning or ending in 2021. The Revenue Procedure also contains the cost-of-living adjustments that apply to dollar limitations in certain sections of the Internal Revenue Code.

Qualified Commuter Parking and Mass Transit Pass Monthly Limit Increase

For 2021, the monthly limits for qualified parking and mass transit are \$270 each (which remain the same from 2020).

Adoption Assistance Tax Credit Increase

For 2021, the credit allowed for adoption of a child is \$14,440 (up \$100 from 2020). The credit begins to phase out for taxpayers with modified adjusted gross income in excess of \$216,660 (up \$2,140 from 2020) and is completely phased out for taxpayers with modified adjusted gross income of \$256,660 or more (up \$2,140 from 2020).

Qualified Small Employer Health Reimbursement Arrangement (QSEHRA) Increase

For 2021, reimbursements under a QSEHRA cannot exceed \$5,300 (single) / \$10,700 (family), an increase of \$50 (single) / \$100 (family) from 2020.

Reminder: 2021 HSA Contribution Limits and HDHP Deductible and Out-of-Pocket Limits

Earlier this year, the IRS **announced** the inflation adjusted amounts for HSAs and high deductible health plans (HDHPs).

	2021 (single/family)	2020 (single/family)
Annual HSA Contribution Limit	\$3,600 / \$7,200	\$3,550 / \$7,100
Minimum Annual HDHP Deductible	\$1,400 / \$2,800	\$1,400 / \$2,800
Maximum Out-of-Pocket for HDHP	\$7,000 / \$14,000	\$6,900 / \$13,800

The ACA's out-of-pocket limits for in-network essential health benefits have also increased for 2021. Note that all non-grandfathered group health plans must contain an embedded individual out-of-pocket limit if the family out-of-pocket limit is above \$8,550 (2021 plan years). Exceptions to the ACA's out-of-pocket limit rule are also available for certain small group plans

eligible for transition relief (referred to as “Grandmothered” plans). Unless **extended**, relief for Grandmothered plans ends December 31, 2021.

	2021 (single/family)	2020 (single/family)
ACA Maximum Out-of-Pocket	\$8,550 / \$17,100	\$8,150 / \$16,300

ACA Reporting Penalties (Forms 1094-B, 1095-B, 1094-C, 1095-C)

The table below describes late filing penalties for ACA reporting. The 2021 penalty is for returns filed in 2021 for calendar year 2020, and the 2022 penalty is for returns filed in 2022 for calendar year 2021. Note that failure to issue a Form 1095-C when required may result in two penalties, as the IRS and the employee are each entitled to receive a copy.

Penalty Description	2022 Penalty	2021 Penalty
Failure to file an information return or provide a payee statement	\$280 for each return with respect to which a failure occurs	\$280 for each return with respect to which a failure occurs
Annual penalty limit for non-willful failures	\$3,426,000	\$3,392,000
Lower limit for entities with gross receipts not exceeding \$5M	\$1,142,000	\$1,130,500
Failures corrected within 30 days of required filing date	\$50	\$50
Annual penalty limit when corrected within 30 days	\$571,000	\$565,000
Lower limit for entities with gross receipts not exceeding \$5M when corrected within 30 days	\$199,500	\$197,500
Failures corrected by August 1	\$110	\$110
Annual penalty limit when corrected by August 1	\$1,713,000	\$1,696,000

Penalty Description	2022 Penalty	2021 Penalty
Lower limit for entities with gross receipts not exceeding \$5M when corrected by August 1	\$571,000	\$565,000
Failure to file an information return or provide a payee statement due to intentional disregard	\$570 for each return with respect to which a failure occurs (no cap)	\$560 for each return with respect to which a failure occurs (no cap)

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