

Compliance Alert



2017 Health FSA Limit Increases to \$2,600 (+ SF HCSO Increases)

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Hot off the presses: Today the IRS released [Revenue Procedure 2016-55](#) confirming a \$50 increase in the health FSA salary reduction contribution limit to \$2,600, as well as a number of other inflation adjustments.

- **2017 Maximum Health FSA Salary Reduction Contribution Increased to \$2,600**

Prior to the ACA limitation on health FSA salary reduction contributions, it was common for plans to allow contributions up to \$5,000 (or higher). Since 2013, we have all adjusted to the new ACA landscape for health FSAs that initially limited employee contributions at \$2,500 per plan year.

The ACA included a cost-of-living adjustment provision to increase the \$2,500 maximum over time by \$50 increments in relation to an annual inflation measure (CPI). We saw the first \$50 increase to \$2,550 in 2015.

Now, for health FSA plan years beginning on or after January 1, 2017, we have a new increase in the salary reduction contribution limit to \$2,600. Double-check your Section 125 cafeteria plan document to confirm that it automatically incorporates these health FSA cost-of-living increases.

Keep in mind that the \$2,600 limit applies only to employee salary reduction contributions. Employer contributions (including non-cashable flex credits) cannot exceed \$500 per plan year for the health FSA to maintain excepted benefit status. Non-excepted health FSAs generally cannot comply with the ACA market reform mandates. So in almost all cases, the maximum health FSA amount available to an employee will be limited to \$2,600 (max employee salary contribution) + \$500 (max employer contribution, if offered) = \$3,100 (combined).

Also remember that your health FSA eligibility will need to be no broader than your major medical plan eligibility in order to maintain excepted benefit status. In other words, the health FSA should never be available to an employee who is not also eligible (regardless of enrollment) for your major medical plan.

- **Qualified Commuter Parking and Mass Transit Pass Limits Remain at \$255**

The bad news is that there's no increase to the \$255 limit for the 2017 tax year. The good news is that we have [permanent parity in the parking and transit pass limits!](#) Gone are the days of the parking limit at roughly double the transit pass limit.

- **Reminder: HSA Self-Only Coverage Contribution Limit Increases to \$3,400**

Earlier this year, the IRS announced the inflation adjusted amounts for 2017 HSA contributions in [Revenue Procedure 2016-28](#). For individuals in self-only coverage, the 2017 contribution limit will increase to \$3,400 (up from \$3,350). The family coverage contribution limit remains at \$6,750 again in 2017.

2017 San Francisco Health Care Security Ordinance (HCSO) Expenditure Rates

The San Francisco Office of Labor Standards Enforcement (OLSE) also [recently released](#) the updated 2017 HCSO required health expenditure rates.

- **Background:** Under the HCSO, employers with 20 or more employees (50 or more for non-profits) are required to make a minimum level of health care expenditures for certain employees performing work in San Francisco.

- **The new 2017 rates:**

Employer Size	2016 Rate	2017 Rate
Large: 100 + Employees	\$2.53/hour payable	\$2.64/hour payable
Medium: Business w/ 20-99 Nonprofit w/ 50-99	\$1.68/hour payable	\$1.76/hour payable
Small: Business w/ 0-19 Nonprofit w/ 0-49	Exempt	Exempt

- **A Reminder re HRAs:** As of January 1, 2017, the three-year phase-in process will be complete to provide that only irrevocable health care expenditures will be counted toward the employer spending requirement. This means that HRA contributions will no longer count toward any percentage of the health care expenditure in 2017 (except in the unusual circumstances where the HRA contributions are structured to be irrevocable—even after the employee terminates). This change, combined with the ACA's prohibition of stand-alone HRAs, creates a more daunting landscape for employers to comply with the HCSO.

Examples of qualifying irrevocable health care expenditures include:

- Employer payments to an insurance carrier for medical, dental, or visions premiums
- Contributions to the City Option (i.e., a Medical Reimbursement Account (MRA) or Healthy San Francisco)
- Contributions to an HSA

More information on all of these requirements is available on the [OLSE's HCSO website](#). Also, see our ABD Office Hours webinar [The Health Care Security Ordinance: A Refresher Course in the HCSO Basics for SF Employers](#) (full recording link on the title slide) for a complete overview of the HCSO requirements for employers.

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