A Summary of 2021 Health and Welfare Plan Limits and Other Annual Adjustments

The Internal Revenue Service (IRS) released Revenue Procedure 2020-45 on October 26, 2020, which contains the 2021 inflation adjustments for various employee benefit plans, including health care flexible spending accounts, qualified transportation fringe benefits, and adoption assistance programs. This Alert also summarizes other health and welfare benefit plan limits announced earlier this year, and provides a brief summary of changes to the employer shared responsibility penalties under the Affordable Care Act (ACA).

If you have any questions or need further details about the tax limits and how they will affect your employee benefit programs, please contact your account team.

Health & Welfare Plan Inflation Adjustments from Revenue Procedure 2020-45

Each of the limits described below are applicable for taxable years beginning in 2021.

Health Care Flexible Spending Accounts (HCFSAs)

The 2021 HCFSA employee contribution limit is unchanged from 2020, and employees can continue contribute up to **$2,750** for plan years beginning on or after January 1, 2021. Employer contributions, if any, do not count against this $2,750 limit.

> **Note:** Earlier this year, IRS Notice 2020-33 adjusted the permitted maximum HCFSA carryover amount to 20% of the current plan year HCFSA annual contribution limit. This replaced the prior fixed $500 maximum carryover limit and means the maximum carryover amount for plan years beginning in 2020 or 2021 is **$550** (20% x $2,750).

Qualified Transportation Fringe Benefits

The monthly dollar limit for employee contributions remains **$270** per month for the value of transportation benefits provided to an employee for qualified parking. The combined transit pass and vanpooling expense limit also remain **$270** per month.

Adoption Credit/Adoption Assistance Programs

In the case of an adoption of a child with special needs, the maximum credit allowed under Code Section 23 increases to **$14,400**. The income threshold at which the credit begins to phase out increases to **$216,660**. Similarly, the maximum amount that an employer can exclude under Code Section 137 from an employee's income for adoption assistance benefits increases to **$14,400**.

Other Health and Welfare Plan Limits

In May, the U.S. Department of Health & Human Services (HHS) released its Notice of Benefit and Payment Parameters for 2021, and the IRS released Revenue Procedure 2020-32. These two releases contain the 2021 inflation adjustments for non-grandfathered health plans subject to the ACA, high-deductible health plans (HDHPs), and health savings accounts (HSAs). For comparison purposes, the 2020 and 2021 limits are below:

ACA Limits		
Item	**2020 Self-Only / Family**	**2021 Self-Only / Family**
Out-of-Pocket Maximum Limit[1]	$8,150 / $16,300	$8,550 / $17,100

HDHP and HSA Annual Limits		
Item	**2020 Self-Only / Family**	**2021 Self-Only / Family**
HDHP Minimum Statutory Deductible	$1,400 / $2,800	$1,400 / $2,800
HDHP Out-of-Pocket Maximum Limit	$6,900 / $13,800	$7,000 / $14,000
HSA Annual Maximum Contribution	$3,550 / $7,100	$3,600 / $7,200
HSA Catch-Up Contribution (≥ age 55)	$1,000	$1,000

Increases to ACA Employer Mandate Penalties

Section 4980H Penalties

The ACA's employer shared responsibility mandate requires Applicable Large Employers (ALEs) to offer medical coverage to their full-time (FT) employees[2] in order to avoid potential penalties.

- The Section 4980H(a) penalty (the "no offer" penalty) – This penalty is triggered when an ALE fails to offer minimum essential coverage to at least 95% of its FT employees, and at least one FT employee receives a subsidy in the Public Health Insurance Marketplace. The no offer penalty calculation is:

  (The ALE's total number of FT employees – 30) × the 4980H(a) penalty amount[3]

[1] This limit does not apply to plans that remain grandfathered under the ACA.
[2] The offer must also include the full-time employee's natural and adopted children under age 26.
[3] If the ALE is a member of a group of closely related employers, the members do not each get to exclude 30 FT employees from the penalty calculation. Instead, each member is allocated a share of the exclusion based on its proportion of FT employees relative to the entire group.

- The Section 4980H(b) penalty (the "inadequate offer" penalty) – This penalty is triggered when an ALE offers minimum essential coverage to at least 95% of its FT employees but fails to offer affordable and/or minimum value coverage to a FT employee who receives a subsidy in the Public Health Insurance Marketplace. The inadequate offer penalty is limited to the FT employees actually receiving subsidies.

The IRS announced the 2021 penalty amounts in its Employer Mandate FAQs, Q/A #55. For comparison purposes, the 2020 and 2021 affordability safe harbor percentages and penalties are below.

Plan year beginning on or after	Section 4980H(a) Penalty	Section 4980H(b) Penalty	Affordability Safe Harbor %
January 1, 2020	$214.17/month $2,570/year	$321.67/month $3,860/year	9.78 %
January 1, 2021	$225.00/month $2,700/year	$338.33/month $4,060/year	9.83 %

Failure to Report Penalties
Revenue Procedure 2020-45 also includes small increases to the penalties for failing to timely file Forms 1094/1095 with the IRS and/or deliver Forms 1095 to required individuals.

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