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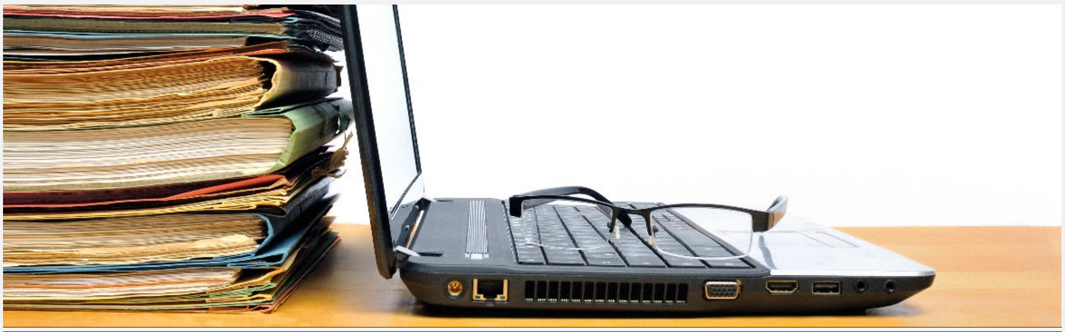

Rewards Policy Insider
2022-10

In this Issue:

IRS Announces Inflation-Adjusted HSA Limits for 2023

The IRS has issued Revenue Procedure 2022-24 to provide inflation-adjusted contribution and other limits relating to health savings accounts (HSAs) and high-deductible health plans (HDHPs). The Revenue Procedure also sets the maximum amount that can be made newly available in 2023 in an excepted benefit health reimbursement arrangement (HRA).

The updated HSA limits for 2023, as well as the limits in effect for 2022, are summarized in the following table:

	2022	2023
Maximum Contribution – Self Only	$3,650	**$3,850**
Maximum Contribution – Family	$7,300	**$7,750**
Age 55 Catch-up Contribution	$1,000	**$1,000**
HDHP Minimum Deductible – Self Only	$1,400	**$1,500**
HDHP Minimum Deductible – Family	$2,800	**$3,000**
HDHP Maximum Out of Pocket (OOP) – Self Only	$7,050	**$7,500**
HDHP Maximum OOP – Family	$14,100	**$15,000**

Note that the age 55 catch-up contribution limit is set by statute and is not subject to annual inflation adjustment.

Excepted Benefit HRAs

An excepted benefit HRA is a type of standalone HRA that can be used to reimburse certain out-of-pocket medical expenses, but not individual market health insurance premiums. Additionally, an excepted benefit HRA – unlike other HRAs – has a specific annual limit on how much employers can add to a participant's account.

For 2023, the annual limit will be $1,950. This is a significant increase compared to the $1,800 annual limit in effect for 2020 - 2022.

The full text of Rev. Proc. 2022-24 is available here.

Virginia Passes Law Allowing Employers to Purchase Family Leave Insurance

Virginia has passed a law to allow insurers to write family leave insurance and to allow employers to voluntarily purchase such insurance for their employees.

Background

Ten states plus the District of Columbia have passed laws requiring employers to provide paid family and medical leave to their employees. Proposals for a federal paid family and medical leave program have been put forward in the past—most recently as part of President Biden's Build Back Better Act package—but have stalled in Congress.

New Law

The new Virginia law does not require employers to offer a paid family leave benefit. Instead, it will permit insurers licensed in the state to write and sell family leave insurance to employers.

Specifically, the Virginia law permits employers to purchase insurance policies that provide benefits to pay for a portion of an employee's income loss due to: (1) the birth of a child or adoption of a child by the employee; (2) the placement of a child with the employee for foster care; (3) the care of the employee's family member who has a serious health condition; or (4) circumstances involving the employee's family member who is an active duty service member or has been notified of an impending call or order to active duty.

According to the new Virginia law, family leave insurance may be written as an amendment or rider to a group disability income policy, included in a group disability income policy, or written as a separate group insurance policy purchased by the employer.

Senators Introduce Bill Addressing Incidental Plan Expenses

A bipartisan bill now pending before the U.S. Senate would allow ERISA retirement plans to use plan assets to pay for incidental expenses for the benefit of participants and their beneficiaries.

On April 26, 2022, Senators Jacky Rosen (D-NV) and Tim Scott (R-SC) introduced the Increasing Small Business Retirement Plan Choices Act (S. 4086). The bill would allow plan assets to be used to pay for incidental expenses for the benefit of participants and their beneficiaries. In their respective press releases, both Senators framed the bill as a way to assist small business employers in particular with lowering the cost of providing retirement plans to their employees, although the proposal would be applicable to plans of all sizes.

Background

ERISA currently prohibits "plan assets" from being used to pay for "settlor" expenses, which include expenses relating to the establishment of the plan and costs related to plan design changes. This applies to all types of ERISA plans, including defined benefit pensions, defined contribution plans, and even health and welfare benefit plans.

Plan assets may be used to pay for expenses that directly benefit participants in their capacity as participants, such as an education campaign to increase participants' deferral rates and explain the value of diversification of plan assets.

However, plan assets may not be used to pay for expenses in connection with a plan design change itself. Once the plan sponsor amends the plan for the design change, the costs associated with implementing that amendment can be paid from the plan.

In addition, plan assets may not be used to benefit participants in their "non-participant" capacity. This restriction may cause plan consultants and advisers that are paid by plan assets to be hesitant to help a plan with a beneficial plan design change, such as adding automatic enrollment or automatic escalation.

Proposal

The bill would amend ERISA to provide that ERISA plan assets may be used for "incidental expenses solely for the benefit of the participants and their beneficiaries."

This amendment apparently would permit plan assets to be used to pay for optional plan features and programs that will increase retirement savings, such as the adoption of an automatic enrollment feature. The amendment apparently would also help advisers and consultants that would like to include plan design recommendations in their services without the plan sponsor needing to pay for such services out of pocket.

Outlook

On the day it was introduced, the bill was referred to the Senate Health, Education, Labor, and Pensions (HELP) Committee. Given that this proposal is bipartisan in nature, and that both Senator Rosen and Senator Scott are members of the Senate Special Committee on Aging, the Senate Committee on Small Business and Entrepreneurship, and the Senate HELP Committee, the bill may have some traction moving forward – especially as the Senate prepares to take up a comprehensive retirement reform bill.

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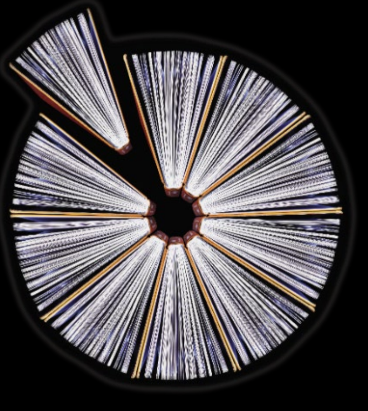

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