Cafeteria Plan Basics April 2018 Q&A – the following questions were asked during the two webinar sessions in (month, Year)

Q: Can HSA accounts be used to pay for Short Term Recovery plans?

A: Assuming that what is meant by this is Short Term Disability (STD) and assuming also that what is being paid is premiums: There are very few types of insurance premiums that are eligible expenses under the HSA. HSA eligible expenses are the same 213(d) expenses allowed under the HCFSA. HSA allows for two premium expenses not allowed by the HCFSA. Those are Medicare (not Med Supp) and Long Term Care premiums.

Q: Is the Plan Document the same as the SPD?

A: No. Both are ERISA documents necessary to run any health plan. The Plan Document is the employer facing legal document that represents how the plan will be administered. An employee may request a copy of the Plan Document but it is not necessary to do more than make it available upon request.

The Summary Plan Description is the employee directed document that, in laymen's terms, explains how the plan operates. The SPD is delivered to each participant, and must be renewed as the plan changes. It must be made available at the employee's request. It must be rewritten every 5 years, and distributed.

Q: If employees set up their own HSA accounts anywhere they want, how can the employer make sure the account is in the employee's name and therefore eligible for S125 plan?

A: The employer may ask for verification. This would come in the form of a bank statement with the employee's name on it.

Q: How can someone elect the $2,650 at two different jobs in the same year if $2,650 is the single max per year?

A: The $2650 is a **per plan** maximum. An employer may only sponsor one Cafeteria Plan. The employee may be working multiple jobs, and be eligible for benefits at each job, therefore is eligible for multiple FSA accounts. As well, there is not a "single" or "family" maximum under the Section 125, but simple a per participant maximum.

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Q: What is the benefit for the employer to contribute to FSA or HSA?

A: There are several reasons an employer may wish to contribute to an FSA or HSA.

Primarily, as premiums and out of pockets expenses sky rocket for employees, the monetary assist from employers allows for a bit of relief to very tight budgets.

Contributions also encourage employees to participate in the §125. As well as developing a more robust plan, it helps to achieve a positive outcome of Nondiscrimination Testing.

As to the HSA, a HDHP (high deductible health plan) is just that – a large out of pocket. An employer who contributes to the HSA is helping to fund the HSA for the employee out of concern for the employees' welfare.

These contributions are tax favored to the employer. It is a way for the employer to both contribute to their employee's bottom line and lessen the employer's tax load.

Q: What advantages do FSA's have over HSA's?

A: FSAs and HSAs are used for different purposes.

The FSA is useful in a benefits package where the employer is not focused on HDHP (high deductible health plan), when drug copays and office visit copays are a part of the health insurance plan design. The FSA has multiple pretax components (Health Care FSA, Dependent Care FSA, Premium, Individual Premiums) allowing for a tax favored purchase of all the above listed benefits. The funds in the FSA account, once deducted from the employee payroll, belong to the employer. In the case of forfeiture the employee loses the balance of the account. If an employer contributes to the FSA, the contribution may be used in full, but if not the employer regains the funds.

The HSA may only be contributed to when the employee has a HDHP. As premiums increase, it is not uncommon for health insurance deductibles and out of pockets to also increase. The HSA does not have the multiple FSA components, but is an effective way to save for 213(d) expenses. An employee can grow this account similarly to an IRA or other tax advantaged savings vehicle. An HSA is an employee account; all funds in the account are owned by the employee. Once an employer contributes to the HSA, those funds belong wholly to the employee.

Q: I didn't think an employer could give cash in lieu of a group medical plan. Am I wrong?

A: An employer can give cash-in-lieu of a group medical plan. It would impact the affordability calculation under the ACA (which we will go into briefly in the Advanced Cafeteria Plan webinar) but it is not prohibited.

Q: Why would an employee choose to not have their premiums taken pre-tax?

A: The most common reason is to increase Social Security income. Some employees feel that decreasing their taxable income while they are employed will impact what they receive in SSI when they retire. Where it is certainly true that there might some impact, it is minor. Keep in mind the tax advantage to participating is that the employee's net, or taxable, pay is lowered for each year they elect.

Q: Do you offer wrap document services for small companies?

A: 5500s need only be filed for employers who have 100 or more participants in their health plans. The EBC services for creating wrap plans are aligned with that benchmark.

Q: Can you further explain real-life examples of what an Individual Premium FSA looks like? What kinds of things are they used for?

A: Individual Premiums include plans such as voluntary dental, vision. specific disease coverage (such as cancer – pays a set amount should an individual be diagnosed), disability, critical illness (usually a list of specific conditions such as a heart attack), out of pocket indemnity (such as hospital insurance). This coverage could be for them self or include family members. The account is set up to reimburse premiums paid for this coverage. It may not be reimbursed for

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group health insurance products or individual health insurance (such as marketplace). Some insurance carriers that provide this type of coverage are AFLAC, UNUM, Guardian, Cigna.

Q: Can an employer make a contribution to a medical FSA even if the employee decides not to contribute?

A: Yes, the employer may contribute to employees' HCFSA accounts. This is considered a non-elective contribution. Two major reasons an employer might wish to do this is to 1) funding an employee's account to assist in paying for out of pocket expenses in a way that is tax advantaged (as opposed to a pay increase) and 2) ensure the FSA passes Nondiscrimination Testing. Typically this could occur in a few different methods: Seeding, Contingent, and Matching, Flex Credits. Seeding – putting an equal amount in all eligible employees' accounts. Matching – matching the amount the employee puts in to encourage employees to participate. Contingent – making the employer amount (generally an equal amount for all participants) contingent upon the employee participating. Flex Credits – fixing an annual or monthly amount that the employer pays for benefits, the employee determines which benefits to purchase, often leaving health insurance out of the equation. VERY IMPORTANT NOTE: If an employer contributes more than $500 to employee accounts the FSA becomes non-excepted. A non-excepted FSA is subject to full COBRA, ACA mandates and HIPAA special enrollment.

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