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# IRS Reduces HSA Limits and Continues Sending ACA Penalty Letters

By Charles M. Russman / Mar 16, 2018

The IRS recently announced a reduction in the family contribution rate to \$6,850 (from \$6,900). For those who may have already contributed the full amount or those scheduled to do so, it is important to correct or prevent the situation. On a related front, the IRS has continued to send 226J Letters to employees assessing the Employee Shared Responsibility Penalty (ESRP) under the Affordable Care Act (ACA). These letters often come without warning and carry a hefty price tag (regularly in the hundreds of thousands of dollars). With quick and careful review, some employers are successfully reducing or eliminating the liability proposed in the letter.

HSA Contribution Limit and Adoption Assistance Program Limit Reduced.

In an unusual turn of events, the IRS announced a midyear reduction to the HSA contribution limits. This change, while minor, is retroactive to January 1, 2018. The changes were minor, \$50 for HSAs (now \$6,850, previously \$6,900) and \$30 for Adoption Assistance (now \$13,810 can be excluded for certain adoption related expenses, previously \$13,840). However, some employees may have already reached the limit and have now overcontributed (for example, employees who choose to contribute some or all of a bonus to their HSA). Contact us to discuss how to best resolve this concern based on your particular circumstances. More commonly, employees will have elected to save the maximum amount and contributions from each paycheck will need to be reduced to reflect previous funding and the lower limit for the year. The decrease for HSAs was only in the amount for families. Individuals who were contributing on an individual basis (rather than by family) will not experience any change.

ACA Penalty Letters Continue to Arrive.

The IRS has continued to issue ESRP Letters, also referred to as the 226J Letters or Form 14764 or 14765. These letters are being sent to companies the IRS believes are subject to a penalty under the ACA. Penalties arise when at least one employee who should have been offered minimum essential coverage at an affordable rate (but did not), obtains insurance through a marketplace or exchange and receives government assistance. A large number of coding errors, incorrect information or individuals misunderstanding the exchanges are among the several ways in which penalties can and are being assessed, but may not actually be due. However, if you and your business do not timely respond, you risk having to pay a possibly avoidable penalty. If you receive a ESRP letter from the IRS, promptly contact legal counsel and whoever helped you prepare your 2015 Form 1095s to provide you with the best opportunity to favorably resolve the penalty assessment.

Next Steps

1. Determine if the change in HSA limits requires action by you or your employees to avoid excess contributions.
2. If you receive an ESRP Letter from the IRS, contact your tax professional and legal team immediately.

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