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Norman M. Golden, EA
1900 South Norfolk Street, Suite 218
San Mateo, CA 94403-1172
(650) 212-1040
Norman@GoldenTax.com

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HSA Inflation Adjusted Amounts

Cross References

- IRC §223
- Rev. Proc. 2021-25
- Rev. Proc. 2020-32
- Rev. Proc. 2019-25

The IRS recently announced inflation adjusted amounts for Health Savings Accounts (HSAs) for 2022. These amounts are reflected in the chart below in comparison to previous years.

HSA Limitations

Annual contribution is limited to:	2022	2021	2020
Self-only coverage, under age 55	$3,650	$3,600	$3,550
Self-only coverage, age 55 or older	$4,650	$4,600	$4,550
Family coverage, under age 55	$7,300	$7,200	$7,100
*Family coverage, age 55 or older	$8,300	$8,200	$8,100
Minimum annual deductibles:			
Self-only coverage	$1,400	$1,400	$1,400
Family coverage	$2,800	$2,800	$2,800
Maximum annual deductible and out-of-pocket expense limits:			
Self-only coverage	$7,050	$7,000	$6,900
Family coverage	$14,100	$14,000	$13,800

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HSA Limitations continued

*Assumes only one spouse has an HSA. See IRS Pub 969. if both spouses have separate HSAs.

Advance Payments of Child Tax Credit to Begin July 15

Cross References

- IR-2021-113

The IRS has announced that the first monthly payment of the expanded and newly-advanceable Child Tax Credit from the American Rescue Plan will be made on July 15. Roughly 39 million households, covering 88% of children in the United States, are slated to begin receiving monthly payments without any further action required.

The IRS has also announced the increased Child Tax Credit payments will be made on the 15th of each month unless the 15th falls on a weekend or holiday. Families who receive the credit by direct deposit can plan their budgets around receipt of the benefit. Eligible families will receive a payment of up to $300 per month for each child under age 6 and up to $250 per month for each child age 6 and above. These payments are projected to lift more than five million children out of poverty this year, cutting child poverty by more than half.

Households covering more than 65 million children will receive the monthly Child Tax Credit payments through direct deposit, paper check, or debit cards.

While most taxpayers will not be required to take any action to receive their payments, the IRS will continue outreach efforts with partner organizations over the coming months to make more families aware of their eligibility.

Advance Child Tax Credit payments in 2021. The American Rescue Plan Act of 2021 expands the Child Tax Credit for tax year 2021 only. Under prior law, the amount of the Child Tax Credit was up to $2,000 per qualifying child under the age of 17 at the end of the year. The new law expands the credit as follows.

- The credit amounts are increased to $3,000 per qualifying child between the ages of 6 and 17 at the end of 2021, and $3,600 per qualifying child under age 6 at the end of 2021,
- The credit for qualifying children is fully refundable,
- The credit will include children who turn age 17 in 2021,
- Taxpayers may receive part of their credit in 2021 before filing their 2021 tax return.

The increased amounts are reduced (phased out), for incomes over $150,000 for married taxpayers filing a joint return and qualifying widows or widowers, $112,500 for heads of household, and $75,000 for all other taxpayers.

Advance payments of the 2021 Child Tax Credit will be made regularly starting July 15, 2021 through December of 2021 to eligible taxpayers who have a main home in the United States for more than half the year. The total of the advance payments will be up to 50 percent of the Child Tax Credit. Advance payments will be estimated from information included in eligible taxpayers' 2020 tax returns (or their 2019 returns if the 2020 returns are not filed and processed yet).

Eligible taxpayers do not need to take any action now other than to file their 2020 tax return if they have not done so.

Eligible taxpayers who do not want to receive advance payment of the 2021 Child Tax Credit will have the opportunity to decline receiving advance payments. This will be done through an on-line portal which allows taxpayers to elect out, or to provide updated information which would be relevant to a modification of the annual advance amount, such as a change in the number of qualifying children, a change in marital status, a change in income, etc. More details on how to take these steps will be announced later.

Note: Unlike the stimulus checks, if the advance payments exceed the allowable Child Tax Credit when filing the 2021 return, the excess will increase the tax liability on the return. A safe harbor, however, might help to reduce the excess that needs to be paid back. Taxpayers who expect their income to increase above the AGI phase-outs for 2021 should consider electing out of receiving advance payments.

Dependent Care Benefits

Cross References

- Notice 2021-26

Under IRC section 129, an employee may exclude from gross income dependent care assistance program (DCAP) benefits. For 2020, the exclusion is limited to $5,000 per year ($2,500 MFS). Under IRC section 125, DCAPs may be provided through a flexible spending arrangement (FSA). Thus, an employee may contribute to the DCAP through salary reduction, and the DCAP may reimburse the employee for dependent care expenses incurred during the year with pre-tax earnings. Unused benefits in a DCAP at the end of the year may be used during a 2½ month grace period.

Under the Consolidated Appropriations Act, 2021, unused benefits from a plan year ending in 2020 may be carried over to a plan year ending in 2021, and unused benefits from a plan year ending in 2021 may be carried over to a plan year ending in 2022. Alternatively, the new law allows a DCAP to extend its claims period for a plan year ending in 2020 or 2021 to 12 months after the end of the plan year with respect to unused benefits remaining in the DCAP.

Under prior IRS guidance (Notice 2021-15), if an employer adopts the carryover or the extended period for incurring claims, the annual limits apply to amounts contributed to a health FSA or dependent care assistance program for a particular year, and not to amounts reimbursed or otherwise available for reimbursement in a particular plan or calendar year. Thus, unused amounts carried over from prior years or available during an extended period are not taken into account in determining the annual limit applicable for the following year.

The American Rescue Plan Act of 2021 increased the benefit limit to $10,500 for tax years beginning after December 31, 2020, and before January 1, 2022 ($5,250 MFS). In the case of a DCAP offered by an FSA with a non-calendar plan year beginning in 2021 and ending in 2022, the increased exclusion amount will not apply to reimbursement of expenses incurred during the 2022 portion of the plan year. Unused DCAP benefits from one tax year of the participant (typically the calendar year) used to reimburse expenses incurred in the immediately following tax year, where the expenses are incurred during the same non-calendar plan year spanning those two tax years, are not carryover benefits or benefits made available under an extended claims period.

Notice 2021-26. The IRS has issued new guidance to clarify the application of the rules for the carryover or extended claims period. DCAP benefits that would have been excluded from income if used during the tax year ending in 2020 or 2021 remain eligible for exclusion from the participant's gross income and are disregarded for purposes of application of the limits for the subsequent tax years of the employee when they are carried over from a plan year ending in 2020 or 2021 or permitted to be used pursuant to an extended claims period.

The notice provides the following examples to illustrate these rules.

Example #1: *An employee is covered by a calendar year FSA plan that offers a DCAP benefit. The employee elects no DCAP benefits for the 2019 plan year. The employee elects to contribute $5,000 for DCAP benefits for the 2020 plan year but incurs no dependent care expenses during the plan year. Pursuant to the new law, the FSA allows the employee to carry over the unused $5,000 of DCAP benefits to the 2021 plan year. The employee elects to contribute $10,500 for DCAP benefits for the 2021 plan year. The employee incurs $15,500 in dependent care expenses in 2021 and is reimbursed $15,500 by the DCAP. The $15,500 is excluded from the employee's gross income and wages because $10,500 is excluded as 2021 benefits and the remaining $5,000 is attributable to a carryover permitted under the new law.*

Example #2: *An employee is covered by a non-calendar year FSA plan that offers a DCAP benefit. The FSA has a July 1 to June 30 plan year. The employee elects no DCAP benefits for the plan year beginning July 1, 2019. For the plan year beginning July 1, 2020, the employee elects to contribute $5,000 for DCAP benefits, but the employee incurs no dependent care expenses during the plan year. Pursuant to the new law, the FSA allows the employee to carry over the unused $5,000 of DCAP benefits to the plan year beginning July 1, 2021. Pursuant to the new law, the employee elects to contribute $10,500 for DCAP benefits for the plan year beginning July 1, 2021. The employee has $15,500 available for dependent care expenses for the plan year beginning July 1, 2021. The employee incurs no dependent care expenses during the period from July 1, 2021, to December 31, 2021, and has $15,500 of DCAP benefits available as of January 1, 2022. For the 2021 tax year, the employee did not receive any DCAP benefits because no dependent care expenses eligible for reimbursement were incurred in 2021. For the 2022 tax year, the exclusion for DCAP benefits is $5,000. The employee incurs $7,000 in dependent care expenses during the period from January 1, 2022, through June 30, 2022, and is reimbursed $7,000 by the DCAP. The FSA adopts a 2½ month grace period that is added to the end of the plan year beginning July 1, 2021, which allows the employee to use the unused $8,500 of DCAP benefits until September 15, 2022. The employee elects to contribute $5,000 for DCAP benefits for the plan year beginning July 1, 2022. The employee incurs $8,500 in dependent care expenses during the period from July 1, 2022, through September 15, 2022, and incurs $2,500 in dependent care expenses during the period from September 15, 2022 through December 31, 2022. The employee is reimbursed $11,000 by the DCAP ($8,500 plus $2,500). The employee therefore receives $18,000 ($7,000 plus $11,000) in reimbursements of dependent care expenses during the 2022 taxable year. Of the $18,000 received in calendar year 2022, $10,000 is excluded from the employee's gross income and wages because $5,000 is excluded under the exclusion for DCAP benefits for the 2022 tax year, and $5,000 of the $7,000 received from January 1, 2022, to June 30, 2022, is excluded because it is attributable to carryovers permitted under the new law that would have been excluded from gross income if used in the preceding tax year (that is, attributable to carryovers to plan years ending before 2023). The remaining $8,000 is included in the employee's gross income and wages because it is not attributable to carryovers permitted under the new law.*

Example #3: *An employee is covered by a non-calendar year FSA plan that offers a DCAP benefit. The FSA has a July 1 to June 30 plan year. The employee elects no DCAP benefits for the plan year beginning July 1, 2020, and there are no unused amounts from prior plan years available. Pursuant to the new law, the employee elects to contribute $10,500 for DCAP benefits for the plan year beginning July 1, 2021. The employee incurs $5,000 in dependent care expenses during the period from July 1, 2021, to December 31, 2021, and receives $5,000 in reimbursements during 2021. The $5,000 is excluded from the employee's gross income and wages. The employee has $5,500 of DCAP benefits available as of January 1, 2022. For the 2022 tax year, the exclusion for DCAP benefits is $5,000. The employee incurs $5,500 in dependent care expenses during the period from January 1, 2022 through June 30, 2022, and is reimbursed $5,500 by the DCAP. The employee elects to contribute $5,000 for DCAP benefits for the plan year beginning July 1, 2022. The employee incurs $2,500 in dependent care expenses during the period from July 1, 2022, to December 31, 2022, and is reimbursed $2,500 by the DCAP. The employee receives a total of $8,000 in reimbursements for DCAP benefits during 2022. Of the $8,000 received in the 2022 tax year, $5,000 is excluded from the employee's gross income and wages. The remaining $3,000 received by the employee is included in the employee's gross income and wages.*

PPP Safe Harbor for Certain Expenses

Cross References

- Rev. Proc. 2021-20

Prior to the Consolidated Appropriations Act, 2021, a taxpayer was eligible to receive forgiveness of the full principal amount of a Paycheck Protection Program (PPP) loan up to an amount equal to the following costs incurred and payments made during the original PPP covered period.

1) Payroll costs,
2) Interest on a covered mortgage obligation,
3) Any covered rent obligation payment, and
4) Any covered utility payment.

If loan forgiveness was the result of the above expenses, then the loan forgiveness is excluded from gross income. Prior to the Consolidated Appropriations Act, 2021, the IRS issued guidance stating that excludable amounts were considered a category of tax-exempt income and as a result, no deduction was allowed for any otherwise deductible expenses if the payment of the expense resulted in forgiveness of an original PPP covered loan.

The Consolidated Appropriations Act, 2021, reversed the IRS position by stating: "no amount shall be included in the gross income of the eligible recipient by reason of forgiveness of indebtedness [on an original PPP covered loan]," and "no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of [that] exclusion from gross income."

Safe harbor to deduct original eligible expenses in immediately subsequent tax year. As a result of this new law, the IRS has issued a safe harbor which allows a taxpayer to elect to deduct otherwise deductible original eligible expenses on the taxpayer's timely filed, including extensions, original federal income tax return or information return for the taxpayer's immediately subsequent tax year, rather than on an amended return or administrative adjustment request for the taxpayer's 2020 tax year in which the expenses were paid or incurred, if the taxpayer:

1) Is a "covered taxpayer," and
2) Satisfies all of the requirements described in Revenue Procedure 2021-20.

A covered taxpayer is a taxpayer that satisfies all of the following.

1) The taxpayer received an original PPP covered loan,
2) The taxpayer paid or incurred original eligible expenses during the taxpayer's 2020 tax year,
3) On or before December 27, 2020, the taxpayer timely filed (including extensions) a federal income tax return or information return for the taxpayer's 2020 tax year, and
4) On the taxpayer's federal income tax return or information return, the taxpayer did not deduct the original eligible expenses because:
   a) The expenses resulted in forgiveness of the original PPP covered loan, or
   b) The taxpayer reasonably expected at the end of the 2020 tax year that the expenses would result in such forgiveness.

Note: A fiscal year ending during any month in 2020 is considered a 2020 tax year even though it is filed on a 2019 tax form.

Expenses not covered by this safe harbor. Revenue Procedure 2021-20 does not apply to:

1) Any expense included in the expanded list of expenses eligible for PPP covered loan forgiveness (covered operations expenditures, covered property damage costs, covered supplier costs, or covered worker protection expenditures), or
2) Expenses used for loan forgiveness of PPP second draw loans.

Election. To make the safe harbor election in Revenue Procedure 2021-20, a covered taxpayer must satisfy the following conditions.

1) A statement must be attached to a timely filed (including extensions) federal income tax return or information return for the covered taxpayer's first tax year following the 2020 tax year in which the original eligible expenses were paid or incurred.
2) The statement must be titled "Revenue Procedure 2021-20 Statement" and include the following information.
   a) The covered taxpayer's name, address, and Social Security number or taxpayer identification number,
   b) A statement that the covered taxpayer is applying the safe harbor provided by section 3.01 of Revenue Procedure 2021-20,
   c) The amount and date of disbursement of the taxpayer's original PPP covered loan, and
   d) A list, including descriptions and amounts, of the original eligible expenses paid or incurred by the covered taxpayer during the 2020 tax year that are reported on the federal income tax return or information return for the first tax year following the 2020 tax year.

Paid Leave Tax Credit to Receive COVID-19 Vaccine

Cross References

- FS-2021-09

The IRS has released additional guidance in the form of a facts sheet on the employer credits for paid leave to allow employees to take time off from work to receive a COVID-19 vaccine. The American Rescue Plan Act of 2021 (ARP) allows eligible employers to claim refundable tax credits that reimburse them for the cost of providing paid sick and family leave to their employees.

Eligible employers. An eligible employer is any business, including a tax-exempt organization, with fewer than 500 employees. An eligible employer also includes a governmental employer, other than the federal government and any agency or instrumentality of the federal government that is not an organization described in IRC section 501(c)(1). Self-employed individuals are eligible for similar tax credits.

Paid sick and family leave for which tax credits can be claimed. Eligible employers are entitled to tax credits for wages paid for leave taken by employees who are not able to work or telework due to reasons related to COVID-19, including leave taken to receive COVID–19 vaccinations or to recover from any injury, disability, illness or condition related to the vaccinations. These tax credits are available for wages paid for leave from April 1, 2021, through September 30, 2021.

The amount of the tax credits and how they are calculated. The paid leave credits under the ARP are tax credits against the employer's share of the Medicare tax. The tax credits are refundable, which means that the employer is entitled to payment of the full amount of the credits if it exceeds the employer's share of the Medicare tax.

The tax credit for paid sick leave wages is equal to the sick leave wages paid for COVID-19 related reasons for up to two weeks (80 hours), limited to $511 per day and $5,110 in the aggregate, at 100% of the employee's regular rate of pay. The tax credit for paid family leave wages is equal to the family leave wages paid for up to twelve weeks, limited to $200 per day and $12,000 in the aggregate, at two-thirds of the employee's regular rate of pay. The amount of these tax credits is increased by allocable health plan expenses and contributions for certain collectively bargained benefits, as well as the employer's share of Social Security and Medicare taxes paid on the wages (up to the respective daily and total caps).

Claiming the credit. Eligible employers may claim tax credits for sick and family leave paid to employees, including leave taken to receive or recover from COVID-19 vaccinations, for leave from April 1, 2021, through September 30, 2021.

Eligible employers report their total paid sick and family leave wages (plus the eligible health plan expenses and collectively bargained contributions and the eligible employer's share of Social Security and Medicare taxes on the paid leave wages) for each quarter on their federal employment tax return, such as Form 941, *Employer's Quarterly Federal Tax Return.*

In anticipation of claiming the credits on the Form 941, eligible employers can keep the federal employment taxes that they otherwise would have deposited, including federal income tax withheld from employees, the employees' share of Social Security and Medicare taxes and the eligible employer's share of Social Security and Medicare taxes with respect to all employees up to the amount of credit for which they are eligible. The Form 941 instructions explain how to reflect the reduced liabilities for the quarter related to the deposit schedule.

If an eligible employer does not have enough federal employment taxes set aside for deposit to cover amounts provided as paid sick and family leave wages (plus the eligible health plan expenses and collectively bargained contributions and the eligible employer's share of Social Security and Medicare taxes on the paid leave wages), the eligible employer may request an advance of the credits by filing Form 7200, *Advance Payment of Employer Credits Due to COVID-19.* The eligible employer will account for the amounts received as an advance when it files its Form 941 for the relevant quarter.

Self-employed individuals may claim comparable tax credits on their individual Form 1040, *U.S. Individual Income Tax Return.*

Overpayment of 2020 Taxes Applied to 2021 Estimates

Cross References

- irs.gov

The IRS postponed to May 17, 2021, the date to file 2020 Forms 1040 and 1040-SR and to pay any related tax. The due dates for estimated tax payments for 2021 were not postponed. The first 2021 estimated tax installment was due April 15, 2021. If an individual taxpayer has a 2020 overpayment and elects to credit the 2020 overpayment against the 2021 estimated tax, the date on which the 2020 overpayment is applied against the 2021 estimated tax depends on:

a) The date(s) of payment, and
b) The extent to which an overpayment exists as of April 15, 2021.

An extension of time to file has no effect on either the date of payment or the date on which an overpayment exists.

To the extent an overpayment of the 2020 tax exists as of April 15, 2021 (because payments made on or before April 15, 2021, exceed the 2020 tax liability), and the taxpayer makes a valid election to apply the overpayment to 2021 estimated tax, the overpayment would be applied as of April 15, 2021, whether the 2020 return is filed on April 15, May 17, or October 15, 2021.

To the extent an overpayment of the 2020 tax is attributable to a payment made after April 15, 2021 (including any payment made after April 15, 2021, but on or before May 17, 2021), that overpayment would not be available for crediting as of April 15, 2021, and would be applied as of the payment received date, not as of April 15, 2021.

Example #1: *Assume that an individual taxpayer: (a) owes $40,000 in income tax for 2020; (b) made no payments toward that tax by April 15, 2021; (c) owes $10,000 for the first estimated tax installment for 2021 due on April 15, 2021; and (d) paid $50,000 toward the 2020 tax on May 17, 2021. As a result, the taxpayer has a $10,000 overpayment for 2020. Because the payment was not made by April 15, 2021, no overpayment existed as of April 15, 2021, and the overpayment would not be available for crediting on April 15, 2021. Instead, the overpayment would be credited against the 2021 estimated tax installment as of May 17, 2021, the date of payment. The taxpayer's $50,000 payment on May 17, 2021, caused the taxpayer's payments to exceed the taxpayer's liabilities. Therefore, the taxpayer became overpaid on May 17, 2021, and May 17, 2021 is the date the $10,000 overpayment is available for crediting, even if the $50,000 payment made on May 17, 2021, was paid with an application to automatically extend the due date to file the 2020 return to October 15, 2021. An extension of time to file has no effect on either the date of payment or the date on which an overpayment exists.*

Example #2: *Assume that an individual taxpayer: (a) owes $40,000 in income tax for 2020; (b) prepaid $40,000 of that 2020 tax during 2020; (c) owes $10,000 for the first estimated tax installment for 2021 due on April 15, 2021; and (d) paid $10,000 toward the 2020 tax on May 17, 2021. As a result, the taxpayer has a $10,000 overpayment for 2020. Because the taxpayer's payments as of April 15, 2021, did not exceed the taxpayer's liability, no overpayment exists as of April 15, 2021, and the overpayment is not available for crediting on April 15, 2021. The taxpayer's $10,000 payment on May 17, 2021, caused the taxpayer's payments to exceed the taxpayer's liabilities. Therefore, the taxpayer became overpaid on May 17, 2021, and May 17, 2021 is the date the $10,000 overpayment is available for crediting, even if the $10,000 payment made on May 17, 2021, was paid in conjunction with an application to automatically extend the due date to file the 2020 return to October 15, 2021. An extension of time to file has no effect on either the date of payment or the date on which an overpayment exists.*

Example #3: *Assume that an individual taxpayer: (a) owes $40,000 in income tax for 2020; (b) prepaid $45,000 of that 2020 tax during 2020; (c) owes $10,000 for the first estimated tax installment for 2021 due on April 15, 2021; and (d) paid $5,000 toward the 2020 tax on May 17, 2021. As a result, the taxpayer has a $10,000 overpayment for 2020. Because the taxpayer's payments as of April 15, 2021, exceeded the taxpayer's liability by $5,000, an overpayment of $5,000 existed on April 15, 2021, and that overpayment is applied against the first 2021 estimated tax installment as of April 15, 2021. The remaining $5,000 of the $10,000 overpayment is attributable to the payment made on May 17, 2021, which is when this amount would be credited against the first 2021 estimated tax installment, even if the $5,000 payment made on May 17, 2021, was paid with an application to automatically extend the due date to file the 2020 return to October 15, 2021. An extension of time to file has no effect on either the date of payment or the date on which an overpayment exists.*