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## HEALTH CARE REFORM Limit on Contributions to Health Flexible Spending Accounts

Effective January 1, 2013, the annual limit on employee contributions to health flexible spending accounts ("FSAs") will be reduced to \$2,500.

**Impact on Non-Calendar Year Health FSAs:** Currently, it is not clear how the new \$2,500 will apply. Unless the IRS issues transitional relief for non-calendar year health FSAs, it appears that the calendar year limitation for health FSAs will apply same way as the contribution limit for dependent care FSAs. Thus, health FSA contributions made in the 2013 *calendar year* will be subject to the limit, even if an employee's contributions are made in two separate plan years.

For example, assume a health care FSA has May 1<sup>st</sup> through April 30<sup>th</sup> plan year. Employees would only be permitted to contribute a total of \$2,500 to their health care FSA during the last 4 months of the 2012 plan year (January to April 2013) and the first 8 months of the 2013 plan year (May to December 2013).

Although the IRS has stated that it intends to issue additional guidance on the FSA contribution limits, it is unclear if this guidance will contain relief for non-calendar year plans. Thus, plan sponsors of non-calendar year plans may want to take steps now to reduce administrative difficulties in 2013.

**Next Steps:** Plan sponsors will need to (i) amend their health FSA plans before January 1, 2013, to limit salary reduction contributions so that contributions made in the 2013 calendar year do not exceed \$2,500, and (ii) communicate this change to employees. Plan sponsors of non-calendar year plans may also want to consider implementing the new \$2,500 limit on the first day of their 2012 non-calendar year plan year rather than waiting until January 1, 2013.

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