

# Legal Update

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## Health FSA Limit Will Increase for 2023

On Oct. 18, 2022, the IRS released [Revenue Procedure 2022-38](#) (Rev. Proc. 22-38), which includes the inflation-adjusted limit for 2023 on employee salary reduction contributions to health flexible spending accounts (FSAs). The Affordable Care Act (ACA) imposes a dollar limit on employees' salary reduction contributions to health FSAs. This dollar limit is indexed for cost-of-living adjustments and often increases from year-to-year.

For plan years beginning in 2023, the ACA's adjusted dollar limit on employees' salary reduction contributions to health FSAs **increases to \$3,050**. This is a \$200 increase from the 2022 health FSA limit of \$2,850. Rev. Proc. 22-38 also increases the maximum carryover limit for a health FSA to **\$610** for 2023 (from \$570 for 2022).

Employers should ensure that their health FSAs will not allow employees to make pre-tax contributions in excess of \$3,050 for the 2023 plan year and communicate the 2023 limit to their employees as part of the open enrollment process.

## Employer Limits

An employer may continue to impose its own dollar limit on employees' salary reduction contributions to health FSAs as long as the employer's limit does not exceed the ACA's maximum limit in effect for the plan year. For example, an employer may decide to limit employee health FSA contributions for the 2023 plan year to \$2,500.

### Per Employee Limit

The health FSA limit applies on an employee-by-employee basis. Each employee may only elect up to \$3,050 in salary reductions in 2023, regardless of whether he or she has family members who benefit from the funds in that FSA. However, each family member who is eligible to participate in his or her own health FSA will have a separate limit. For example, a husband and wife who have their own health FSAs can both make salary reductions of up to \$3,050 per year, subject to any lower employer limits.

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## Highlights

- The IRS announced that the health FSA dollar limit will increase to \$3,050 for 2023.
- Employers may continue to impose their own dollar limit on employee salary reduction contributions to health FSAs, up to the ACA's maximum.
- Employers should communicate their 2023 limit to their employees as part of the open enrollment process.

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***The health FSA dollar limit on employee salary reduction contributions will increase to \$3,050 for plan years beginning in 2023.***