

Landmark Notice Allows Carryover of Unused Funds

Earlier today, the U.S. Department of the Treasury and the IRS issued a notice modifying the longstanding “use-it-or lose it” rule for health flexible spending arrangements (health FSAs).

The key changes are as follows:

- Effective in plan year 2014, employers that offer health FSAs will have the option of allowing participants to roll over up to \$500 of unused funds at the end of the plan year;
- Effective immediately, employers that offer health FSAs that do not include a grace period will have the option of allowing employees to roll over up to \$500 of unused funds at the end of the current 2013 plan year;
- The carryover option is an alternative to the grace period rule;
- Carryover of up to \$500 does not affect the maximum amount of salary reduction contributions that the participant is permitted to make to a health FSA (\$2500 adjusted for inflation after 2012); and
- To utilize the new carryover option, a plan offering a health FSA must be amended to set forth the carryover provision. The amendment must be adopted on or before the last day of the plan year from which amounts may be carried over and may be effective retroactively to the first day of that plan year.

Modification of “Use-or-Lose” Rule For Health Flexible Spending Arrangements (FSAs) and Clarification Regarding 2013-2014 Non-Calendar Year Salary Reduction Elections Under § 125 Cafeteria Plans. Visit www.learnwageworks.com/documents/useitorloseit.pdf.