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Federal Legislation And Flexible Spending Accounts

When the 2012 *Internal Revenue Code* book arrived on my desk, I must admit there was a feeling of job security that washed over me once again. This latest edition is almost three inches thick and printed on tissue paper with a font that requires a magnifying glass.

Although it seems as if Congress takes forever to act on even the simplest of matters, once they do, it's up to the Internal Revenue Service to create tax guidance for all of us. This book outlines all pending legislation that will affect flexible benefits.

Two casualties of the Patient Protection and Affordable Care Act (as amended) (PPACA) affecting participants in flexible spending accounts (FSAs) are:

- ✓ The need for a doctor's prescription in order to purchase over-the-counter (OTC) drugs and medicines through an FSA, health reimbursement arrangement (HRA) or health savings account (HSA), which began January 1, 2011.

- ✓ The \$2,500 salary reduction contribution limit for FSAs scheduled for January 1, 2013.

Both casualties have a chance to "heal" in several pending bills in both the House of Representatives (HR) and the Senate (S).

This list, though certainly not comprehensive, contains a brief discussion of what's going on in Congress related to FSAs, HRAs and HSAs, plus other pending legislation.

Health Savings and Affordability Act of

2011 (HR 369). This bill proposes to:

- ✓ Allow taxpayers a tax deduction from gross income for the cost of health insurance coverage for themselves, their spouses and dependents.

- ✓ Permit HSA contributors and their spouses who are age 55 or older to make additional catch-up contributions to a joint HSA.

- ✓ Increase the tax deductible limit for HSAs.

- ✓ Combine individual and family deductibles under high-deductible health plans (HDHPs).

- ✓ Allow for increased rollovers from FSAs or HRAs to HSAs.

- ✓ Introduce the payment of premiums from HSAs for HDHPs.

- ✓ Treat expenses such as exercise equipment and fees for gyms as deductible medical expenses.

Restoring Assistance for Families' and Seniors' Health Expenses (HR 450). The purpose of this bill is to repeal certain provisions of PPACA.

- ✓ Remove the increase from 7.5 percent to 10 percent of adjusted gross income limit for claiming the tax deduction of medical expenses on taxpayers' Form 1040 filing.

- ✓ Repeal the requirement for a doctor's prescription for OTC drugs.

- ✓ Reduce penalty for distributions from HSAs or medical savings accounts (MSAs) not used for medical expenses from 20 percent to 10 percent.

✓ Repeal the health FSA annual salary reduction contribution limit to \$2,500.

Restoring Consumer-Driven Health Care Act of 2011 (HR 524), plus S 1368 and HR 2529 propose to repeal the requirement for prescriptions for OTC drugs and medicines and reduce penalty for distributions from HSAs or MSAs not used for medical expenses from 20 to 10 percent.

Patients' Freedom to Choose Act (HR 605), with more than 110 cosponsors, calls for the repeal of the requirement for a doctor's prescription for certain OTC drugs and of the health FSA annual salary reduction contribution limit of \$2,500.

HR 682 would amend the Internal Revenue Code to increase the contribution limits of dependent care FSAs to \$3,750 for an individual and \$7,500 for joint tax return filers, plus a carryover of unused funds.

There is plenty of bi-partisan support

for HR 791 and S 387, which would amend current tax code to provide FSAs to members of the uniformed services.

The Child and Dependent Care FSA Enhancement Act (S 435) would increase the dependent care annual limit to \$7,500 and provide for inflation adjustments in the future.

Several transportation and parking bills are before Congress, including HR 1825, S 1034, HR 2412 and HR 1680. These provide for a range of improvements such as general improvement of the parking and transit benefits through a permanent parity of annual limits. Currently, the parking monthly limit is \$240 and the transportation monthly limit is set at \$125. Hoped-for legislation would make both benefits the same each year and provide for an annual cost-of-living adjustment.

Many of these house and senate bills

have been in Congress for six months to a year. Many have been referred to the house ways and means committee or senate finance committee, and along the way they have picked up cosponsors that make them stronger.

I hope someday to find a few of these bills wedged into my great code book of "All the Income, Estate and Gift, Employment, Excise, Procedure and Administrative Provisions"—even if it becomes a four-inch thick book.

Hey, at least the prescription eyeglasses I need to read it are an eligible health care expense under my health FSA! ☺

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