

Winter 2022 - Employee Benefits Alert

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This winter 2022 edition of **Employee Benefits Alert** focuses on the following topics:

- Fringe Benefits – Transportation
- Fringe Benefits – Other
- 2022 Determination Letter Request Updates from IRS
- Defined Contribution Groups of Plans and the Form 5500
- PCORI Fee Updated for 2022

The information presented is up-to-date, and we hope you find it useful. Don't hesitate to contact us if you have any questions or need guidance.

Fringe Benefits – Transportation

The Internal Revenue Service (IRS) issued an information letter to provide guidance regarding the taxation of a cash refund of any unused transportation benefit.

An employer provided “qualified transportation fringe benefits” under Section 132 of the Internal Revenue Code (IRC) is operated via a payroll process involving an election by the employee of a salary reduction. The amount is deducted on a pre-tax basis and can only be disbursed for qualified expenses. The deferred funds can be used for transportation in a commuter highway vehicle, qualified parking expenses, or transit passes.

If an employee were to receive the unused transportation funds via a cash refund, the law treats those benefits as being received by the employee and tax would be owed on the full value. Even when the employee is terminated, the unused accrued funds are only distributable to the employee as reimbursement for qualified travel expenses incurred *during employment*.

Fringe Benefits – Other

The PKFOD Employee Benefit Services Group has reviewed employer fringe benefit practices. Types of fringe benefits comprise: group term life insurance, cafeteria plans and flexible spending accounts including dependent care benefits, certain types of legal assistance plans, value of the personal use of business vehicles, and other non-retirement and welfare benefits. The reviews were used by the employer to determine that the proper communication (to employees), withholding (from payroll) reporting (e.g., Form W-2) and taxation (if imputed income was needed) was consistently and correctly performed.

Fringe benefits encompass:

- Life, disability, and health insurance, tuition reimbursement, and education assistance, as well as retirement benefits.
- Other perks include fitness center or discounts, employee meals, cafeteria plans, and dependent care assistance.

2022 Determination Letter Request Updates from IRS

The IRS issued the annual [Revenue Procedure \(Rev. Proc.\) 2022-04](#) which provides updates regarding procedures for employee benefit plan determination requests. This Rev. Proc. updated Rev. Proc. 2021-4

regarding determination letter requests and ruling procedures, and made other minor changes to dates, citations, etc.

Some of the more pertinent changes include:

- Provides updates to the procedures for submitting a Form 5300 and 5310, Application for Determination for Employee Benefit Plan and Application for Determination for Terminating Plan, respectively. Starting July 1, 2022, these applications must be submitted electronically, including the payment of the applicable User Fee.
- Indicates that procedures regarding the 403(b) second remedial amendment cycle (Cycle 2) that began July 1, 2020 are outlined in Rev. Proc. 2021-37.
- Trust Documents are no longer needed as required documents for determination letter applications.
- User fees related to letter ruling requests and opinion letter requests on pre-approved plans were updated as well.

Defined Contribution Group of Plans and the Form 5500

In 2021, the Department of Labor (DOL), IRS, and Pension Benefit Guaranty Corporation (PBGC) issued proposed revisions to the Form 5500. These revisions are needed to accommodate the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019's introduction of a type of direct filing entity called a Defined Contribution Group (DCG) Reporting Arrangement and a new Schedule DCG. This type of reporting would start with the 2022 plan year.

To be eligible to file a single Form 5500, all plans in the group must meet certain criteria. All plans in the group must:

- be defined contribution plans;
- use the same plan year;
- have the same trustee and named fiduciary;
- have the same Plan Administrator (as defined in ERISA and the Internal Revenue Code); and
- have the same investments or investment options.

There are specific instructions pertaining to the additional schedules and reporting requirements for a DCG, and the DOL and IRS are seeking comments with regard to other reporting options and auditing requirements.

PCORI Fees Updated for 2022

The IRS has announced that the Patient-Centered Outcomes Research Institute (PCORI) fee paid by self-insured health plan sponsors has been increased for 2022. For policy years that end between October 1, 2021 and October 1, 2022 the per capita fee has increased to **\$2.79** per participant. The PCORI fee was increased .13 cents from last year.

The Form 720 is used to report the PCORI fee and is due no later than July 31 of the calendar year immediately following the last day of the policy/plan year to which the fee applies.

The PKFOD Employee Benefit Services Group has assisted several clients with this annual filing requirement as well as evaluating the optional methods available for reporting.

Contact Us

The Employee Benefit Services Group at PKF O'Connor Davies is available to assist plan sponsors in meeting the various compliance requirements applicable to their plans. We also provide a full spectrum of compliance services for qualified retirement plans, nonqualified deferred compensation plans, and welfare plans. For more information, please contact your client services partner or any of the following:

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