

Brownstein

Employee Benefits-Related Limits For 2023

BROWNSTEIN CLIENT ALERT, October 24, 2022

This chart sets forth some of the annually adjusted dollar limits that impact employee benefits, as published by the Internal Revenue Service, the Social Security Administration and the Pension Benefit Guaranty Corporation.

ADJUSTED ITEM	2023	2022	Notes
Elective Deferrals (Pre-Tax and Roth) 401(k), 403(b), 457(b) and SEPs (IRC §§402(g)(1) and 457(e)(15)) SIMPLE Plans (IRC §408(p)(2)(E))	\$22,500 \$15,500	\$20,500 \$14,000	(a)
Catch-up Contributions (IRC §§414(v)(2)(B)(i) and (ii)) 401(k), 403(b), Governmental 457(b) and SEPs SIMPLE Plans	\$7,500 \$3,500	\$6,500 \$3,000	(a)
Annual Compensation Limit Generally (IRC §§401(a)(17), 404(l), 408(k)(3)(C) and 408(k)(6)) Certain Governmental Plans in effect on July 1, 1993	\$330,000 \$490,000	\$305,000 \$450,000	(b)
Annual Additions Defined Contribution Plan (IRC §415(c)(1)(A)) Defined Benefit Plan (IRC §415(b)(1)(A))	\$66,000 \$265,000	\$61,000 \$245,000	(c) (b)
Highly Compensated Employee (IRC §414(q)(1)(B))	\$150,000	\$135,000	(b)
Key Employee Officer for Top-Heavy Plans (IRC §416(i)(1)(A)(i))	\$215,000	\$200,000	(b)
PBGC Guaranteed Benefit (monthly, straight life annuity; age 65; rounded)	TBD	\$6,205	(d)
Tax Credit ESOP (IRC §409(o)(1)(C)) 5 Year Maximum Balance Additional 1 Year Limit	\$1,330,000 \$265,000	\$1,230,000 \$245,000	(b)
SEP (IRC 408(k)) Minimum Compensation (for coverage) (IRC §408(k)(2)(C)) Maximum Compensation (IRC §408(k)(3)(C))	\$750 \$330,000	\$650 \$305,000	(e) (b)
Health Savings Accounts (HSAs) (IRC §§ 223(b) and (c)) Maximum Annual HSA Contribution Self-only Coverage Family Coverage Age 55 Additional HSA Contribution (Maximum) HDHP Minimum Annual Deductible (amount cannot be less to have an HSA) Self-only Coverage (not less than) Family Coverage (not less than) HDHP Maximum Annual Out-of-Pocket Expense (cannot exceed to have HSA) Self-only Coverage Family Coverage Excise Tax for Non-Medical Distributions from HSA	\$3,850 \$7,750 \$1,000 \$1,500 \$3,000 \$7,500 \$15,000 20%	\$3,650 \$7,300 \$1,000 \$1,400 \$2,800 \$7,050 \$14,100 20%	(f)
Health FSA Maximum Annual Contribution (IRC §125(i)) Maximum Carryover of Unused Amounts	\$3,050 \$610	\$2,850 \$570	(e)
Qualified Small Employer Health Reimbursement Account (QSEHRA) (IRC §9831)) Maximum Employer Contribution for Individual Coverage Maximum Employer Contribution for Family Coverage	\$5,850 \$11,800	\$5,450 \$11,050	(g)
Excepted Benefit HRA Maximum Annual Amount (26 CFR §54.9831-1(c)(3)(viii))	\$1,950	\$1,800	(gg)

ADJUSTED ITEM	2023	2022	Notes
Qualified Transportation Fringe (IRC §132(f)(2))			
Employer-provided Parking (monthly)	\$300	\$280	(h)
Mass Transit Pass and Van Pool (monthly)	\$300	\$280	(hh)
Bicycle Commuting (monthly)	\$20	\$20	(hhh)
Dependent Care Assistance Maximum Gross Income Exclusion (IRC §129(a)(2)(A))	\$10,500	\$10,500	(i)
Adoption Assistance Programs (IRC §137(a)(2))			(j)
Dollar Limit on Benefits Excludable from Gross Income (IRC §137(b)(1))	\$15,950	\$14,890	
Phase-Out Income Threshold (IRC §137(b)(2))			
Floor	\$239,230	\$223,410	
Ceiling	\$279,230	\$263,410	
Long-Term Care Premiums as medical care expenses (IRC §213(d)(10))			(k)
Taxpayer age 40 and younger	\$480	\$450	
Taxpayer over age 40 but not more than age 50	\$890	\$850	
Taxpayer over age 50 but not more than age 60	\$1,790	\$1,690	
Taxpayer over age 60 but not more than age 70	\$4,770	\$4,510	
Taxpayer over age 70	\$5,960	\$5,640	
Social Security OASDI Taxable Wage Base	\$160,200	\$147,000	(l)

- (a) Indexed in \$500 increments. (b) Indexed in \$5,000 increments. (c) Indexed in \$1,000 increments.
- (d) See, <https://www.pbgc.gov/wr/benefits/guaranteed-benefits/maximum-guarantee>. For multiemployer plans, the PBGC maximum guarantees a maximum monthly payment equal to: 100% of the first \$11 of the monthly benefit rate, plus 75% of the next \$33 of the monthly benefit rate, times the participant's years of credited service. The guaranteed monthly benefit, therefore, is limited to \$35.75 per month ($(\$11 \times 100\%) + (\$33 \times 75\%) = \35.75) times a participant's year of credited service, and disregards any benefit amount greater than \$44/month. The multiemployer plan guaranteed benefit is not adjusted for inflation or cost-of-living increases. This limit has been in place since 2001 and is not indexed. See, <https://www.pbgc.gov/prac/multiemployer/multiemployer-benefit-guarantees>.
- (e) Indexed in \$50 increments.
- (f) Indexed in \$50 increments. IRC §223(g). See Rev. Proc. 2022-24 (Apr. 29, 2022), available at <https://www.irs.gov/pub/irs-drop/rp-22-24.pdf>.
- (g) Indexed in \$50 increments. The 21st Century Cures Act, Pub. L. 114-255 (Dec. 13, 2016), beginning Jan. 2017 amended IRC §9831, ERISA §733, and PHSIA §2791 to create QSEHRAs, which allow employer payment plans without creating a group health plan. Available for employers with fewer than 50 full-time employees or equivalents.
- (gg) Indexed in \$50 increments. Under 26 CFR 54.9831-1(c)(3), certain group health plans qualify as limited excepted benefits that are not subject to the requirements of IRC Chapter 100. See Rev. Proc. 2022-24 at <https://www.irs.gov/pub/irs-drop/rp-22-24.pdf>.
- (h) Indexed in \$5 increments. IRC §132(f).
- (hh) Section 105 of the Consolidated Appropriations Act of 2016, Pub. L. 114-113, created parity after Dec. 31, 2014 between (i) the transit benefit exclusion for the aggregate of transportation in a commuter highway vehicle and any transit pass and (ii) the exclusion for qualified parking. IRS Notice 2016-6, <https://www.irs.gov/pub/irs-drop/n-16-06.pdf>.
- (hhh) IRC §132(f), as amended by §211(a) of Division B of the Emergency Economic Stabilization Act of 2008. Cannot receive bicycle benefit in any month in which any other qualified transportation fringe benefit is received. **Not currently adjusted for inflation. The Tax Cuts and Jobs Act of 2017 ("TCJA") removed qualified bicycle commuting reimbursements from the definition of "qualified transportation fringe" for years beginning after 2017 and before 2026, thus these benefits are taxable for this 8 year period.** The TCJA also provides that no deduction is allowed for qualified transportation benefits (whether provided directly by an employer, through a bona fide reimbursement arrangement, or through a compensation reduction agreement) incurred or paid after 2017, with the exception of transportation for employee safety and qualified bicycle commuting benefits. Although employers may no longer take a deduction for its payments for qualified transportation benefits, the fringe benefit exclusion rules still apply and the payments may be excluded from employees' wages.
- (i) \$2,500 in the case of married filing separate return. **Not currently adjusted for inflation; amount is fixed by statute.** See, IRC §129(a)(2)(A). Section 9632 of the American Rescue Plan Act of 2021 ("ARPA") increased the dollar limit for the period after Dec. 31, 2020 and before Jan. 1, 2022 only (50% of this increased amount in the case of married filing a separate return).
- (j) Indexed in \$10 increments. IRC §137(f). Revised by Rev. Proc. 2018-18, IRB 2018-18 (Mar. 5, 2018).
- (k) Indexed in \$10 increments. IRC §213(d)(10)(B). Based on taxpayer's age before the close of the tax year.
- (l) Indexed in \$300 increments. For 2023, the FICA tax rate is 7.65% for employees and 15.30% for self-employed. The maximum 2023 OASDI portion of FICA tax payable by each employee is 6.2% of the applicable wage base. Employer contribution amount matches the employee amount. There is no wage base for the Medicare (HI) portion of FICA taxes and all wages earned are subject to the HI tax, which also is paid by employers and employees (each pays at a 1.45% rate, and self-employed pay 2.9%), although employees pay an additional 0.9% on wages greater than \$200,000 (\$250,000 for married, filing jointly). The OASDI tax rate for self-employment income in 2023 is 12.4%. See <https://www.ssa.gov/oact/cola/cbb.html>.

Sources: Notice 2022-55, "2023 Limitations Adjusted As Provided in Section 415(d), etc.", found at <https://www.irs.gov/pub/irs-drop/n-22-55.pdf> (Oct. 21, 2022) and Rev. Proc. 2022-38, found at <https://www.irs.gov/pub/irs-drop/rp-22-38.pdf> (Oct. 18, 2022).

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