



COMPLIANCE SNAPSHOT

Section 125 Mid-year Election Changes

Employees' Section 125 cafeteria plan elections are generally irrevocable until the beginning of the next plan year. This means that participants ordinarily cannot make changes to their cafeteria plan elections during a plan year. However, the IRS recognizes three broad categories of mid-year election changes (also referred to as "permitted election changes"):

- **Change in status events**, such as a change in marital status, number of dependents, residency, or employment status;
- **Changes in cost or coverage** for the plan's qualified benefits (e.g., cost changes for the benefit package option, a significant curtailment of coverage, changes in coverage under another employer plan, or an addition or significant improvement of a benefit package option); and
- **Other laws or court orders** (e.g., COBRA qualifying events, HIPAA special enrollment rights, entitlement to Medicare or Medicaid, FMLA leave, and Health Insurance Exchange enrollment).

Although a Section 125 cafeteria plan may not be more generous than the IRS permits, it may choose to **limit to a greater extent** the election change events that it will recognize. An employer that recognizes one or more mid-year election change events allowed by the IRS should:

- ☑ Review its plan document to confirm that it addresses the permitted election changes (employers with fully insured plans should also confirm that any permitted election change events are consistent with the rules of the underlying insurance policy); and
- ☑ Be aware that some mid-year election change events only apply to certain qualified benefits. For example, not all of the IRS' mid-year election change events apply to elections for health flexible spending accounts (FSAs).

General Rules

For an employee to be eligible to change their cafeteria plan election during a plan year, the following general rules apply:

- The employee must experience a mid-year election change event recognized by the IRS;
- The cafeteria plan must permit mid-year election changes for that event; and
- The employee's requested change must be consistent with the mid-year election change event.

Key Concept

- ☑ If a cafeteria plan incorporates one or more of the mid-year election change events, an employee who experiences one of these events may revoke an existing election and make a new election, consistent with the event, for the remaining portion of the period of coverage—but only with respect to cash or other taxable benefits that are not yet currently available.

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