

Cafeteria Plans



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The Guidebook for Employers, Administrators, and Advisors

EBIA

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What's New and Filing Instructions

Enclosed is the 2nd Qtr. 2021 Update Package for our *Cafeteria Plans* manual—the authoritative guidebook for employers, administrators, and advisors.

This quarterly update package includes replacement pages for the Outline and Appendix. Please see the filing instructions at the end of this letter for a detailed explanation of what pages to remove and replace in your manual.

Subscription Information

EBIA's *Cafeteria Plans* manual is updated quarterly.

Before you file this update, please be sure that your book is current. The box at the top of the title page in your binder should say "1st Qtr. 2021 Edition." Once you have determined that the 1st Qtr. 2021 update is in your manual, begin filing the 2nd Qtr. 2021 update, following the instructions in the table below.

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We have made numerous changes to the Outline and Appendix. Here are some highlights:

- **Cafeteria Plans**
 - We have updated our discussion of temporary COVID-related relief for cafeteria plans for new developments and expanded it to address more issues (see Section XVI). In addition, we have added a sample amendment adopting the temporary COVID-related relief for cafeteria plans provided under the CAA, 2021, IRS Notice 2021-15, and ARPA, as well as a related sample summary of material modifications (SMM). A guide to these documents provides important background information. We have also updated Sections XXIX and XXXII for IRS guidance indicating that amounts available for use in a subsequent plan year pursuant to COVID-related extended grace periods or enhanced carryovers are not considered when applying the Code's nondiscrimination testing rules.
- **Health FSAs**
 - We discuss IRS guidance regarding the medical care expense status of COVID-19-related personal protective equipment (PPE) and various in vitro fertilization (IVF) costs (see Section XX). In addition, we explain that the temporary COBRA premium subsidy under ARPA does not apply to health FSAs (see Section XXII). The discussion of TPA agreements has also been expanded to address new ERISA requirements for determining whether a contract between an ERISA-covered group health plan (such as a health FSA) and a service provider is considered reasonable that apply to certain contracts entered into, extended, or renewed on or after December 27, 2021 (see Section XXXVI).
- **DCAPs**
 - We have updated for ARPA's temporary increase in the maximum amount excludable from employees' incomes for DCAP benefits to \$10,500 (up from \$5,000) for taxable years beginning in 2021. For a detailed discussion of this development, see Section XVI. (Other updates have been made throughout the manual.) And in Section XXIII, we address ARPA's temporary changes to the dependent care tax credit (DCTC) and other credits that may be relevant when determining whether participating in a DCAP or claiming the DCTC will produce greater tax benefits.

(over, please)

Filing Instruction for Outline (Volume I):

Take Out & Toss	Insert These Pages	Take Out & Toss	Insert These Pages
Volume I Title Page, dated 1st Qtr. 2021	Volume I Title Page, dated 2nd Qtr. 2021	Outline: pages 1351-1428	pages 1351-1428
Intro Pages/ Table of Contents: pages i-xii	pages i-xii	Outline: pages 1433-1434	pages 1433-1434
Outline: pages 37-38	pages 37-38	Outline: pages 1441-1442	pages 1441-1442
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Outline: pages 425-426	pages 425-426	Outline: pages 1535-1540	pages 1535-1540
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Outline: pages 1301-1302	pages 1301-1302	Outline: pages 2203-2206	pages 2203-2206
		Outline: pages 2209-2210	pages 2209-2210
		Index & Glossary Tab: pages 1-16	New Index & Glossary pages 1-16

Filing Instructions for Appendix (Volume II):

Take Out & Toss	Insert These Pages
Volume II Title Page , dated 1st Qtr. 2021	Volume II Title Page, dated 2nd Qtr. 2021
Tab 5: pages 1-8	pages 1-10 [Updated TOC; updated Code sections]
Tab 10: pages 1-2	pages 1-4 [Updated TOC]

Take Out & Toss	Insert These Pages
Tab 10: pages 61-62	pages 61-62 [Minor change]
Tab 10: pages 377-378	pages 377-408 [Added new sample documents]
Tab 11: pages 1-22B	pages 1-22B [Updated TOC; updated Table of Limits]

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