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I. Group Health Insurance… 6 items

A. Characteristics of group Insurance start with the fact that the coverage is for a group rather than an individual. Since this is a group, someone needs to be in charge of the plan, the premium, who pays and how much, signing up, signing off, COBRA benefits if the group qualifies, etc. Where most groups are employer sponsored, that is not strictly necessary. In order to qualify for group insurance, ***the group of individuals must NOT have come together for the sole purpose of securing group insurance.*** The most common type of group coverage is called an employee group or an employer sponsored group.

1. **The contract is a master policy.** In group insurance the contract is between a policyholder and the insurance company. The covered persons are those who have a specialized relationship with the group, i.e. employees of an employee or members of a labor union. The employer is the master policyholder and is responsible for all administration duties, enrolling employees, collecting premiums, and informing the employees of benefits.

2. **ERISA** is the Employee Retirement Income Security Act of 1974. The main purpose of ERISA is to protect the interests of employees (and their beneficiaries) who are enrolled in employee benefit plans, and to ensure that employees receive the pensions and group-sponsored welfare benefits that have been promised by their employers. It is a federal law that sets minimum standards for most voluntarily established pension and **health plans** in private industry to provide protection for individuals in these plans. ERISA explains the fiduciary responsibility of employers regarding health plans. e.g. *if an employer was late paying the premium for a health plan, the employer could be responsible for the medical costs incurred that would have otherwise been paid by the insurance company, they have the fiduciary responsibility.*

3. **Certificates of Insurance…** The enrollee will receive an individual certificate of insurance regarding their insurance benefits, rights, and conditions under the plan.

4. **Eligible Groups…** A key point is that the group of individuals must not have come together for the sole purpose of securing group insurance. Beyond that, acceptable groups include employers, labor unions, associations, creditors, etc.

5. Contributary vs. non-contributary:

A ***contributory*** (a.k.a. participating) ***group*** is where the employee contributes some of the premium. With this type of group, the insurance company requires that at least ***75%*** of eligible employees and their dependents be enrolled in the group plan.

A ***noncontributory*** (a.k.a. nonparticipating) ***group*** is where the employer pays all of the premiums. With this type of group, the insurer requires that ***100%*** of eligible employees and their dependents enroll in the plan.

B. Employer Group Health Insurance is considered non-occupational coverage since an employee injured at work is covered by worker's compensation. (All employees are covered by workers compensation, but not everyone is an employee so individual plans are available.) Worker's compensation covers all the medical costs that are caused by a workplace injury. There are no deductibles or other out of pocket expenses to the injured employee. Disability income is also offered if the worker will be unable to work for a period of time.

Occupational coverage would cover the insured on or off the job and is found in individual policies.

a) Underwriting Criteria The group product is underwritten on group averages: average age and gender (ratio of men to women), occupation, general physical and moral status of the group as a whole. An employer provides coverage for his employees. Since group policies are issued on a ***non-medical*** basis, adverse selection could be a problem. The following are steps taken to reduce or avoid adverse selection:

b) Employment Probationary Period (usually 60 days) is nothing more than a period of time established by the employer for all new employees before the employee will be eligible for any group benefits. It is an employer-imposed deductible measured in days rather than dollars. Once the probation period is over, the employee is eligible to enroll for benefits and must do so within the eligibility period. If they choose to not enroll immediately, they must wait for the open enrollment period, usually in November. If they choose to not apply immediately, the insurer has the right to ask for proof of eligibility.

c) Eligibility Period is a specified period of time, usually 31 days, following the end of the "probation" period during which the employee is entitled to enroll in the group plan if they haven't signed up yet. The eligibility period is the same as a grace period. If a loss occurs during the eligibility period and the enrollee has not signed up for a plan, the minimum coverage available under the Master Policy will be provided.

d) Open Enrollment is a period of time, usually in November, where an employee may sign up for or change their benefit plans. Group plans are annual and so in order for everyone to have the proper benefits from January 1 through December 31, sign up occurs in November.

e) Coordination of Benefits Provision (COB)…It is common for family members to be covered by more than one health care plan. This often happens when a husband and wife both work and choose to have family coverage through both employers, or when both employers offer non-contributory health plans.

The Coordination of Benefits Provision designates one insurer as **primary carrier** and the other insurer as **secondary** (excess) **carrier,** when a family is covered under two group plans. ***This provision prevents over insurance***.

- With a husband and wife, ***the primary insurer is the one that covers the claimant as an employee.*** The other spouse's insurer will be secondary or excess. This gives an insured 100% coverage.
    - ***The primary coverage for children that have duplicate coverage will be the plan of the parent whose birthday occurs first in the year***. (a.k.a. the "Birthday Rule")

f) Conversion of Coverage… If a person loses their coverage due to death or divorce or the child reaching the limiting age (currently 26), that person is eligible to convert to an individual policy.

- To obtain the conversion policy, a person must ***submit a written application*** and the first premium payment not later than **31 days** after the date the person's coverage ends. The conversion policy will become effective, without lapse of coverage, following termination of coverage under the previous policy.
- The insurer determines the premium for the conversion policy in accordance with the insurer's table of premium rates applicable to the age and class of risk of each person to be covered under the policy, and the type and amount of benefits.

C. COBRA, the Consolidated Omnibus Budget Reconciliation Act of '85, is a Federal Regulation that **requires** that group plans (of ***20 or more employees***) **give continuation privileges** (with the same insurance company) to those who lose their health coverage.

It is not the same as conversion (above) where you start an individual policy. You remain in the group plan although you are not in the group any longer. Of course, the company is not going to pay any of your premium so you need to pay your portion and the portion they have been covering. It is for a limited period of time.

1. Eligibility for Insurance

COBRA, the Consolidated Omnibus Budget Reconciliation Act of '85, is a Federal Regulation that **requires** that group plans (of ***20 or more employees***) **give continuation privileges** (with the same insurance company) to those who lose their group health coverage for limited periods of time under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events.

- **Continuation rights** must be requested within ***60 days*** from the date of the qualifying event.
- COBRA **does not** apply if the employee is fired due to ***gross misconduct***, hasn't met his or her ***employment probationary period, or qualifies for other group health insurance.***

2. Duration of Coverage

- **Continuation** of benefits is **18 for loss due to termination of employment, *Being fired, resigning, or being laid-off would qualify an insured for 18 months of continued coverage*.**
- **Continuation of benefits is 36 months** if the **qualifying event** is:
    - the death or divorce of an employee,
    - the employee signs up for Medicare and the spouse does not yet qualify,
    - a child ages off the dependent status.
- COBRA **does not** apply if the employee is fired due to ***gross misconduct***, hasn't met his or her ***employment probationary period, or qualifies for other group health insurance or Medicare.***

3. **Premium** The employer keeps the employee and/or dependents on the group enrollment and pays the premium to the insurance company. The employer usually bills 100% of the premium to the enrollee. Premiums ***may not be increased*** except that an extra 2% administrative fee may be charged to cover the employer's costs.

II. Federal Taxation of Benefits

4 items

1. Health Insurance Premiums and Benefits

Individuals Policies.....

	Tax Deductible?	Taxable?
	Premium	**Benefit**
Dividends	n/a	no
Disability Income. Personal	no	no
Disability Income. Employer paid	yes	yes
Medical Insurance. Personal	no	no
Medical Insurance. Employer paid	yes to employer	no
Medical Insurance. Employee paid	over 10% of AGI*	no
Medical expenses not covered by insurance	over 10% of AGI*	no

Business Owner Policies.....

	Tax Deductible?	Taxable?
	Premium	**Benefit**
Medical Insurance. Personal (business owner)	yes	no
Business Overhead Expense	yes	yes
Key Person/ Partner	no	no
Disability Income for a Buy/Sell	no	no

Savings Plans for Health Care Usage/ Consumer Driven Health Plans...

	Tax Deductible?	Taxable?

	Contribution	Withdrawal
Health Savings Account (HSA)	yes	No, if used for a qualified medical expense as defined by the IRS. Yes if used for other.
Health Reimbursement Account (HRA)	yes	
Flexible Spending Arrangement (FSA)	yes	

*AGI - Adjusted Gross Income

*amounts over 10% of the individuals AGI in 2019, 7.5% previous years

Dividends are not taxed when paid by a Mutual, Reciprocal or Fraternal company, they are a refund of excess premium.

Individuals Plans

Disability Income Benefits received by an insured are *not taxable* if the insured pays his/her own premiums.

Disability Income Insurance individual policy premiums are NOT tax deductible.

Disability Income Benefits premiums paid for by the employer are tax deductible to the employer.

Disability Income benefits, employer sponsored, will be taxed to *the employee*.

Medical Expense Premiums are not tax deductible to the individual.

Medical Expense Premiums are tax deductible to the employer.

Medical Expense Benefits (including dental) are not taxed as long as they do not exceed the expenses incurred. They are considered a reimbursement of expenses.

Medical expenses not covered by insurance are tax deductible to an individual if they exceed 10% of a persons AGI

Business Owners Policies

Medical Expense Premiums are tax deductible to the self-employed individual. Partnerships, S Corporations, and sole proprietors are self-employed individuals, not employees.

Business Overhead Policies Premium is tax deductible since it is a business expense.

Business Overhead Policies benefit is taxable.

Key Person/ Partner Policy premium is not tax deductible.

Key Person/ Partner Policy benefit is not taxable.

Disability Income Policy to fund a Buy/Sell agreement Premium is tax deductible since it is a business expense.

Disability Income Policy to fund a Buy/Sell agreement benefit is taxable.

a) **Disability Income Benefits** received by an insured are ***not taxable*** if the insured pays his/her own premiums, because individual policy premiums are **NOT tax deductible**. This does not relate to Social Security disability income benefits. In general, benefits received under Social Security are NOT taxable to the recipient.

b) **Disability Income benefits** received by an insured ARE taxable if the employer pays the premium, the premium is tax deductible for the employer.

c) **Medical Expense Benefits** (including dental) are not taxed as long as they do not exceed the expenses incurred. They are considered a reimbursement of expenses.

d) **Deductibility of Premiums…** Premiums paid by *employers* are deductible to the business to the extent that they pay for employees' benefits.

e) **Premiums paid by *employees*** for group medical care may be deducted by the insured if they exceed 10% of the insured's adjusted gross income.

f) **Deductibility of Premiums for the Self-Employed** Partnerships, S Corporations and sole proprietors are self-employed individuals, not employees. The self-employed may deduct 100% of the premiums paid for insurance during a taxable year which provides **medical care** for the self-employed individual, his spouse and dependents.

- Premiums paid by individuals for disability income insurance are **not tax deductible**.

2. Consumer Driven Health Plans...

A CDHP is a plan that allows people to put money aside for medical costs in a tax deductible savings plan and marry that to a health plan that has a high deductible. Ideally the high deductible has a lower premium and that allows the consumer to put the savings that are there compared to a lower deductible plan into the tax deferred savings account. Then, use that money to pay for qualified medical expenses without being taxed on it.

The following items are under the broad category of consumer driven health plan when in fact, they are tax deferred or tax free savings accounts.. The idea is to make the consumer aware of the costs and aid in the savings by offering tax advantages to those putting moneys into these plans. The main advantage is the money placed in the plans is tax deductible and remains tax free if, when taken out, the money is used for a qualifying medical expense according to the IRS. The benefit of savings plans that are tax deductible include lowering your taxable income thereby lowering your taxes. In addition, this may put you in to a lower tax bracket saving you even more.

a) Flexible Spending Accounts (FSAs) allow employees to be reimbursed for medical expenses. *FSAs are usually funded through voluntary salary reduction agreements with an employer*. No federal income taxes are deducted from the employee's contribution. The employer may also contribute.

The benefits of the FSA are:

- No employment or federal income taxes are deducted from the contribution.
- Withdrawals may be tax free if you pay qualified medical expenses.

Self-employed individuals are **NOT** eligible for a flexible spending arrangement.

"Use It or Lose It" Rule: Distributions from the FSA are paid only to reimburse for qualified medical expenses incurred during the period of coverage. This means that amounts in the account at the end of the plan year *cannot be carried over to the next year*. You must use the money in the calendar year and submit the claims by the annual deadline, **or the money remaining in the account goes back to the employer,** so, *use it or lose it*.

So where does that money go? *It remains in the general account to be used the following year. I cannot access, for credit, the money I did not spend last year. I can utilize any moneys in the account up to the limits of what I will contribute early, i.e. prior to putting the money in. A benefit of the FSA is an individual can use funds they have not yet put in. e.g. I can pay for new glasses or braces in January and fund my FSA the rest of the year. Basically an interest free loan.*

The "use it or lose it" rule is why a person should plan carefully, and conservatively, when making contributions into an FSA.

b) Health Savings Account (HSA)… A Health Savings Account lets qualifying individuals save and pay for medical expenses using money that is tax deductible. As long as it is used for qualified medical expenses, the money also stays tax free when it is withdrawn. There are annual contribution limits.

A health savings account (HSA) is a tax-exempt trust or custodial account you set up with a qualified HSA trustee to pay or reimburse certain medical expenses you incur. You must be an eligible individual to qualify for an HSA. No permission or authorization from the IRS is necessary to establish an HSA. You set up an HSA with a trustee. A qualified HSA trustee can be a bank, an insurance company, or anyone already approved by the IRS to be a trustee of individual retirement arrangements (IRAs) or Archer MSAs. The HSA can be established through a trustee that is different from your health plan provider.

What are the benefits of an HSA? You may enjoy several benefits from having an HSA.

- You can claim a tax deduction for contributions you, or someone other than your employer, make to your HSA even if you do not itemize your deductions on Form 1040.
- Contributions to your HSA made by your employer (including contributions made through a cafeteria plan) may be excluded from your gross income.
- The contributions remain in your account until you use them.
- The interest or other earnings on the assets in the account are tax free.
- Distributions may be tax free if you pay qualified medical expenses.
- ***An HSA is "portable." It stays with you if you change employers or leave the work force.***

The HSA is simply a tax-free savings account that is designed to work together with a high-deductible health plan. The HSA covers routine medical expenses while the accompanying insurance policy protects against major medical or catastrophic events. *Should you choose to use the money in your HSA for an expense that is not considered a qualified medical expense as defined by the IRS, that amount spent on that item will be added to your gross income for the year and a 10% penalty may be imposed*.

c) Health Reimbursement Account (HRA)… This account is also referred to as a personal savings account, personal care account, defined contribution plan or consumer driven health care plan. A Health Reimbursement Arrangement (HRA) is an **employer-funded** account that helps employees pay for qualified medical expenses. HRAs are compatible with all types of health insurance plans and they are owned by the employer. A qualified expense can include the premium for an individual health

insurance plan. If an employer wished to let the employees choose their own plan they can reimburse that premium through an HRA rather than run a group plan of their own.

Contributions to an HRA

HRAs are funded solely through employer contributions and may not be funded through employee salary deferrals under a cafeteria plan. These contributions are not included in the employee's income. You do not pay federal income taxes or employment taxes on amounts your employer contributes to the HRA.

Amount of Contribution

There is no limit on the amount of money your employer can contribute to the accounts. Additionally, the maximum reimbursement amount credited under the HRA in the future may be increased or decreased by amounts not previously used.

If any distribution is, or can be, made for other than the reimbursement of qualified medical expenses, any distribution (including reimbursement of qualified medical expenses) made in the current tax year is included in gross income. For example, if an unused reimbursement is payable to you in cash at the end of the year, or upon termination of your employment, any distribution from the HRA is included in your income. This also applies if any unused amount upon your death is payable in cash to your beneficiary or estate, or if the HRA provides an option for you to transfer any unused reimbursement at the end of the year to a retirement plan.

A health reimbursement arrangement (HRA) must be ***funded solely by an employer*** and not by an employee. The most common use of the HRA is in combination with a High Deductible Health Coverage (HDHC) Plan. ***Reimbursements from the HRA are not taxed to the employee, and are deductible by the employer***.

The benefits of the HSA and HRA are:

- **Tax deduction** for contributions made to your account.
- The contributions **remain in your account from year to year** until you use them.
- The interest or other earnings on the assets in the account are **tax free,** as long as the distributions are used to pay for **qualified medical expenses**.

Quick Comparison Chart	Health Reimbursement Account (HRA)	Health Savings Account (HSA)	Flexible Spending Arrangement (FSA)
Tax Deductible	Yes, for the employer	Yes. Including deductions for contributions someone other than an employer put in through a cafeteria plan	Yes, money is taken out of gross income pre tax.
Contributors?	Employer only	Insured or anyone	Employee and/ or employer(optional)
Annual limit	No	Yes	Yes
Must have an HDHP	Should	**Yes**	No
Rollover to next year	Yes, but owned by the employer	Yes, owned by the covered individual	No, use it or lose it.
Tax on growth?	Only if used for something other than a qualified medical expense as defined by the IRS, otherwise it grows tax free		

Extras

FSA, can spend funds not yet put in account. For example, I need glasses in February, buy them and pay into the FSA the rest of the year to cover the cost. However, if I put money in to save for Lasik surgery and am laid off in July, I may get nothing back - that is up to the employer.

HSA, withdrawals for something other than a qualified medical expense results in that item amount being added to my gross income at the end of the year and a 10% penalty. For example, I go to the doctor, the pharmacy, and buy some ice cream ($5.99) with my HSA money because ice cream always makes me feel better. At the end of the year, $5.99 +10% will be added to my gross income because the IRS does not consider that to be an eligible medical expense.

HRA, withdrawals for something other than a qualified medical expense results in that item amount as well as any other moneys taken out to cover qualified medical expenses being added to my gross income at the end of the year and a 10% penalty. For example, I go to the doctor, the pharmacy, and buy some ice cream ($5.99) with my HRA money because ice cream always makes me feel better. At the end of the year, all the doctor's office visits totaling $15,000, the medications totaling $856.00 as well as the $5.99 for ice cream +10% will be added to my gross income because the IRS does not consider ice cream to be an eligible medical expense.