Health Savings Account
IMPORTANT GUIDELINES

For Plans Effective or Amended on or after January 1, 2016

ELIGIBILITY

WHO IS HSA ELIGIBLE?

An eligible individual is:

- Covered under a qualified High Deductible Health Plan (HDHP)
- Not covered by any other plan that isn’t a qualified HDHP (some exceptions called permitted coverage may apply)
- Not enrolled in Medicare
- Not receiving VA Medical benefits (at any time over the preceding 3 months), and
- Not a dependent on another's tax return

CAN AN INDIVIDUAL HAVE OTHER MEDICAL INSURANCE?

- An individual with coverage under a spouse or dependent's plan that is not qualified HDHP coverage is ineligible
- An individual covered under a major medical plan that is not qualified HDHP coverage is ineligible
- TRICARE coverage is not permitted

IS ANY OTHER COVERAGE PERMITTED THAT DOES NOT IMPACT AN HSA?

Coverage under the following are permitted if they do not provide significant benefits in the nature of medical care or treatment.

- Disability
- Dental
- Vision
- Long-term care
- Workers' compensation
- Disease management program
- Wellness program
- Employee Assistance Program
- Auto insurance or other tort liability insurance
- Insurance for a specific disease (ex. cancer insurance)*
- Insurance providing a fixed benefit (ex. hospital indemnity)*

** Must be commercial insurance - not self-insured*

CONTRIBUTIONS

CONTRIBUTION SOURCES

- Individual
- Employer
- Any other person may contribute on behalf of an individual that is eligible to have an HSA (the tax deduction would follow the HSA owner)
- Contributions must be made in cash
- One-time FSA, HRA, or IRA rollover. Certain restrictions and tax consequences apply.

Individual Contributions

- Individual may write a check directly to an HSA trust (no employer involvement), any time up to April 15th of the next year
- Pre-tax payroll may be withheld through a cafeteria plan or through after-tax payroll withholding

Employer Contributions

- May be made directly to the HSA
- Employer gets tax deduction and the employee pays no tax depending on how the contribution is used
- Subject to Comparability Rule
- Once the contribution is in the HSA it belongs to the employee
- Employers may make HSA contributions by using a cafeteria plan

CAFETERIA PLAN RULES

The IRS does not require employee contributions to HSAs made through a cafeteria plan to be subject to restrictive cafeteria plan rules such as:

- The use-or-lose rule
- The universal availability rule
- Restrictions on mid-year changes

Employer will likely need to amend their cafeteria plan documents.

If the employer does make an HSA contribution through its cafeteria plan, the contributions will need to pass the following cafeteria plan nondiscrimination rules:

- Eligibility test
- Contributions and benefits test
- Key employee concentration test

Passing these tests may be a problem in two situations:

- Smaller plans
- Plans that are designed to provide benefits to a select group of employees

Additional HSA enrollment options are available if the employer offers a grace period associated with an FSA. Certain restrictions and tax consequences apply.

HSA COMPARABILITY TESTING

If an employer makes HSA contributions for employees, these contributions must be comparably made on behalf of all participating employees. Comparable means either in the same amount or same percentage of the qualifed HDHP deductible.

Note: Employers do not have to offer comparable benefits to individuals not in the qualified HDHP.

Comparability Rules

- Does not apply to employee contributions made through a cafeteria plan (although, this type of contribution is otherwise considered an employer contribution)
- Does not apply to rollovers
- Comparability testing is done on an annual basis
- Employers that fail the Comparability Rule will be subject to a 35% excise tax on all contributions the employer makes for that year

CONTRIBUTIONS *(continued)*

MATCHING CONTRIBUTIONS

- Generally, matching contributions would not be permitted because of the Comparability Rule
- Contributions made through a cafeteria plan are not subject to the Comparability Rule
- Employer matching contributions made through a cafeteria plan would be subject to nondiscrimination rules (eligibility tests, contributions and benefits tests and key employee concentration tests)

TIMING OF CONTRIBUTIONS

- Can be made anytime before April 15th of the subsequent year like an IRA
- Can be made in lump sum or made periodically through payroll deduction
- If an individual makes the contribution early and later becomes ineligible to make that amount of contribution the excess will need to be taken out of the trust by April 15th of the subsequent year

CONTRIBUTION LIMITS

- Up to $3,350 for those with individual coverage as amended from time to time
- Up to $6,750 for those with family coverage as amended from time to time
- A full year's contribution is permitted for a partial-year enrollee. Certain restrictions and tax consequences apply if the enrollee does not remain HSA eligible.
- Limits are indexed for future years
- Eligible individuals and their spouses over age 55 may make an additional catch-up contribution to their HSA
- The catch-up limit is $1,000
- Spouses covered by a family qualified HDHP can split an HSA contribution limit
- Embedded deductibles and multiple coverage arrangements in a family can complicate the maximum HSA calculation
- HSA administrative fees paid directly by the HSA holder or by an employer do not count against the contribution limit
- Contributions made in excess of the annual limit must be taken out by April 15th of the following year or it is subject to a 6% excise tax
- Excess contribution refunds must include net income earned in the individual's gross income

CONTRIBUTIONS TAX BREAK

- Can benefit anyone who pays taxes
- If contributions are made through a cafeteria plan, then the employee can get tax-savings without having to wait for a refund (This may also result in FICA savings)
- Using a cafeteria plan can also result in FICA and FUTA savings for the employer
- Tax-free build up of earnings in the HSA

DISTRIBUTIONS

- May be used to pay the deductible portion of premiums on long-term care insurance, COBRA continuation payments, Medicare premiums or health insurance payments for people receiving unemployment benefits
- Cannot be used for Medigap policies
- Funds withdrawn for non-medical purposes will be included in the account holder's gross income and taxed accordingly
- If a distribution is made for reasons other than a medical purpose, a penalty of 20% will apply--except in cases where the account holder has died, become disabled, or become eligible for Medicare
- Trustee is required to report contributions and distributions, but the tax obligation reporting is all on the taxpayer
- Fees to pay for the HSA trust administration can be paid without incurring a taxable distribution
- Funds may be withdrawn tax-free to pay qualified medical expenses as defined under IRC 213(d) (except health insurance premiums)
- May be used to pay qualified medical expenses of a dependent covered by an insurance plan other than a qualified HDHP

ERISA/COBRA

IS AN HSA AN ERISA PLAN?

No, as long as the employer does not:

- Require that employees establish an HSA
- Limit employees ability to a one-time FSA, HRA or IRA rollover, if applicable
- Impose conditions on the use of an HSA
- Make or influence investment decisions
- Represent that the HSAs are an employee welfare benefit plan
- Receive any payment or compensation in connection with an HSA

ARE HSAs SUBJECT TO COBRA?

No, HSAs are not subject to COBRA continuation rules. However, the HDHP associated with the HSA is subject to COBRA.