



Introduction to Health Savings Accounts (HSA)

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HSA Basics - Overview

- HSA account is established in the individual's name - not the employer's
- Owned by the accountholder
- **HSA account must be with an IRS approved trustee to hold HSA dollars**
 - Banks
 - Investment companies
- Account balance is non-forfeitable, interest earned is tax free
- **Portable with the individual – not tied to employer**
- Not a group health plan – not subject to COBRA, FMLA, HIPAA, etc.

HSA Basics - Overview

- **Medicare Prescription Drug, Improvement, and Modernization Act of 2003**
- **HSAs authorized under §223**
- Eligibility criteria is multifaceted
- **Contribution limits easily misunderstood**
- Distributions are self-substantiated
- **Contribution and Distribution reporting required**
- Many compliance issues can arise
- **We can answer your questions about HSAs**



Today's Agenda

- HSA Eligibility
- HSA Contributions
- HSA Distributions
- HSA Reporting
- Common HSA Compliance Issues
- Legislative Updates



HSA Eligibility

Eligible Individual

Eligible to make or receive HSA contributions*

- Not another individual's tax dependent
- Not entitled to (enrolled in) Medicare
- **Covered by a qualified High Deductible Health Plan (HDHP)**
- Not covered by any disqualifying coverage

*HSA contribution can be made if Eligible Individual has HDHP coverage as of the 1st day of the month

Eligible Individual

Not another individual's tax dependent

– Income tax dependent means that you can claim that individual for income tax filing purposes

Note: Adult children can remain on parents HDHP until age 26

- Adult children are HSA eligible based upon the family coverage they are enrolled in and can establish and can separately contribute to their own HSA at the family level.

Eligible Individual

Not entitled to (enrolled in) Medicare

- **Refers to status of accountholder, not spouse or dependent**
 - ✓ Accountholder entitled to Medicare can no longer contribute into HSA but can use the HSA dollars for expenses
 - ✓ Spouse who is entitled to Medicare cannot contribute into own or other spouse's HSA account
- **Worker over age 65 (eligible for Medicare) not in receipt of Social Security income benefits can postpone enrollment in Medicare (is not entitled to Medicare)**
 - ✓ Can make or receive HSA contributions

Eligible Individual

- **Worker age 62 or older in receipt of Social Security income benefits is automatically enrolled in Medicare Parts A & B at age 65**
 - ✓ Is entitled to Medicare, can waive Part B, cannot waive Part A
 - **Cannot make or receive HSA contributions**
 - **Can continue to use existing HSA for eligible medical expenses**

Eligible Individual

Covered by qualified high deductible health plan (HDHP)

- All expenses, except preventive care, apply to the deductible
- Minimum annual deductible
 - ✓ \$1,300 for single coverage and \$2,600 for other than single coverage (e.g., limited family, family, etc.) (2017)
 - ✓ \$1,350 for single coverage and \$2,700 for other than single coverage (e.g. limited family, family, etc.) (2018)
- Maximum out of pocket amounts under the HDHP
 - ✓ \$6,550/single and \$13,100/family (2017)
 - ✓ \$6,650/single and \$13,300/family (2018)
- Amounts are indexed – can be adjusted annually
 - ✓ New amounts are announced by June 1st for next calendar year

Eligible Individual

Covered by HDHP

- Example of qualified HDHP – satisfies minimum deductible, maximum out-of-pocket
 - ✓ Single: \$2,000 deductible, 100% thereafter
 - ✓ Family: \$4,000 deductible, 100% thereafter
- Example of non-HDHP – does not satisfy minimum deductible, maximum out-of-pocket
 - ✓ Single: \$8,000 deductible, 100% thereafter
 - ✓ Family: \$16,000 deductible, 100% thereafter

Eligible Individual

No disqualifying coverage

- **Coverage that reimburses expenses prior to satisfying HDHP minimum deductible = disqualifying coverage**
- Examples of disqualifying coverage
 - ✓ HRA that reimburses prior to satisfying minimum HDHP deductible
 - ✓ Health Care FSA (own, spouse's or parent's)
 - ✓ Health insurance that has first dollar coverage or a lower deductible than HDHP minimums
 - ✓ Prescription drug coverage prior to satisfying HDHP deductible (e.g., drugs covered after a co-pay prior to satisfying deductible)
 - ✓ Health plans that have Office Visit Copay prior to satisfying deductible

Eligible Individual

Permitted coverage

- **Coverage allowed to reimburse expenses prior to satisfying HDHP minimums**
 - ✓ Specified disease (e.g., accident, cancer insurance)
 - ✓ Preventive care
 - ✓ Stand-alone dental and/or vision coverage
 - ✓ Insurance paying a fixed amount per day for hospitalization
 - ✓ Workers' compensation, tort liability or property insurance
 - ✓ Limited Health Care FSA or Post-deductible Health Care FSA

Ineligible Individual Example

Bob and Betty are married. Both carry single health plan coverage through their employers. Bob has an HDHP and Betty has an HMO and Health Care FSA

- ✓ Bob cannot contribute to an HSA because Bob is eligible for first dollar reimbursement from Betty's Health Care FSA – doesn't matter whether he turns in any claims for the Health Care FSA
- ✓ If Betty participated in a Limited or Post Deductible Health Care FSA, Bob could contribute to an HSA

HSA Contributions

- **Anyone can contribute to a HSA**
- **By individual or family member as post-tax contributions**
 - ✓ Tax deduction at year-end
 - ✓ Is a \$ for \$ adjustment to gross income
- **By accountholder as pre-tax contributions in cafeteria plan**
 - ✓ Tax deduction occurs at time of payroll deduction
 - ✓ Is a \$ for \$ adjustment to gross pay
 - ✓ HSA Contributions **are not subject** to Permitted Election Change Rules
- **By employer**
 - ✓ employer's contribution reduces the maximum the individual can contribute

HSA Contributions

Pre-tax vs. Post-tax

- **Pre-tax through cafeteria plan**
 - ✓ Immediate tax savings
 - ✓ Automatic contributions
 - ✓ Could affect future Social Security Benefit
 - ✓ Employer and employee contributions subject included in §125 nondiscrimination testing
 - ✓ **Note:** Sole Proprietors, Partners, LLC Members, 2% of great shareholder in S Corp and family members cannot contribute pre-tax through a cafeteria plan.
- **Post-tax outside cafeteria plan**
 - ✓ Line item adjustment on year-end tax return
 - ✓ No effect on future Social Security benefit
 - ✓ Any employer contribution subject to Comparability rules of §223
 - ✓ No effect on §125 nondiscrimination testing

HSA Contributions

Employer contributions

- Are included in the annual maximum for the accountholder
- Through a cafeteria plan
 - ✓ If employees can make pre-tax contributions, employer contributions are considered made through the cafeteria plan (Treasury Reg. §54.4980G-5)
 - ✓ Employer contributions and any employee pre-tax contributions are included in the IRC §125 nondiscrimination testing
- Outside a cafeteria plan
 - ✓ Subject to Comparability rules of § 223
 - Comparable contributions for comparable participating employees (e.g., same dollar amount for all enrolled in single plan coverage, % of HDHP deductible, etc.)
 - Cannot be based on age, years of service or compensation
 - Cannot be matching contributions

HSA Contributions

If employer offers pre-tax HSA contributions or makes employer contributions to HSAs, employer responsible to*:

- Amend cafeteria plan to include pre-tax employee and employer contributions
- Know that employee is covered by an HDHP offered by the employer
- Know that the employee does not have disqualifying coverage offered by the employer
- Know whether the employee is eligible for “catch up” HSA contributions

* Employer not responsible to know what other coverage the employee might have through a spouse

HSA Contributions

Self Substantiating/Self Reporting

Employee is responsible to monitor that:

- Employee is an eligible individual
- Employee is not covered by any disqualifying coverage
- Employee does not over-contribute*
- Employee only seeks HSA distributions for qualified medical care expenses*

* Reported through IRS Forms 8889 (contributions and distributions) and 5329 (taxes on excess contributions)

HSA Contributions

HSA contribution limits – any combination of pre-tax, post-tax or employer contributions

- \$3,400 for single coverage and \$6,750 for family coverage (2017)
- \$3,450 for single coverage and \$6,900 for family coverage (2018)
- Additional “catch up” contribution up to \$1,000 allowed for individuals 55 or older during the year
- **Joint limit applies to married individuals if both spouses have an HSA account**
 - ✓ Limited to family maximum split between the spouses if either or both have family HDHP coverage
 - ✓ Assume 50%/50% split unless agreed upon differently

HSA Contributions

- Annual maximum contribution is the sum of the monthly contribution limits (annual/12) for the months the individual was eligible to make contributions (IRS Publication 969)
 - ✓ e.g., 2017 single maximum of \$3,400 equates to \$283.33 per month
- **\$1,000 catch-up contribution pro-rated for year turning 65**
- Excess contributions need to be removed, as taxable income, prior to tax filing; otherwise taxed as regular income plus excise tax of 6%
- **Full Contribution rule* for mid-year HDHP enrollees or coverage change allowed**
 - * also referred to as the last-month rule

HSA Contributions

Annual maximum example:

- **Bill was covered by a single plan HDHP for the first 4 months of 2017, only**
- The monthly maximum for each month is \$283.33 ($\$3,400/12$)
- **Bill's maximum annual contribution amount is $\$283.33 \times 4$ months, or $\$1,133.32$**
- If he contributes more than \$1,133.32, the excess contributions need to be removed, as taxable income, prior to filing 2017 taxes; otherwise taxed as regular income plus excise tax of 6%

HSA Contributions

Full Contribution rule

- **Contribution maximum is the greater of**
 - ✓ The annual maximum for coverage in effect December 1, or
 - ✓ The sum of the monthly maximums for the HDHP coverage that was actually in effect for each month of the year

HSA Contributions

Full Contribution rule (continued)

- **13 month testing period applies**
- Individual must remain HSA eligible from December 1 of the year the full contribution rule is used until the end of December of the following year
- **If not, any additional contributions in excess of the sum of the monthly maximums are treated as taxable income plus additional tax of 10 %**
 - ✓ Treated differently than excess contributions made during the year

HSA Contributions

Full Contribution example #1

- John enrolled in family HDHP coverage 7/1/17 (no HDHP coverage prior) and uses the full-contribution rule
- John makes the full \$6,750 contribution for 2017 even though he only had HDHP coverage for 6 months
- John must remain HSA eligible until 12/31/18
- **If not, he is taxed on the additional contributions of \$3,375 plus an additional tax of \$337.50**
- John's additional contributions are \$3,375 (1/2 of \$6,750) because he only had HDHP coverage for 6 months in 2017 and did not remain HSA eligible through 12/31/18

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HSA Contributions

Full Contribution example #2

- Mary was enrolled in single HDHP coverage from January through August (8 months) in 2017
- Mary enrolls in family HDHP September 1
- **The sum of her monthly maximums is \$4,516.72 ($\$3,400/12 \text{ mo} \times 8 \text{ mo}$) + ($\$6,750/12 \text{ mo} \times 4 \text{ mo}$)**
- Family HDHP contribution maximum is \$6,750
- **Mary contributes \$6,750 using the full contribution rule**
- Mary's additional contributions = \$2,233.28 (subject to taxation if she doesn't remain HSA eligible through 12/31/18)

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HSA Contributions

Transfer from IRA

- **Once-in-a-lifetime, tax-free, direct trustee-to-trustee transfer**
- Must be from IRA maintained by HSA accountholder
- **Transfer included in annual maximum contribution for tax year transfer occurs in**

HDHP & HSA Limits*

* min= minimum deductible, max = out-of-pocket maximum

- | | |
|----------------------------------|----------------------------------|
| • 2018 min/max | • 2017 min/max |
| – Single \$1,350/\$6,650 | – Single \$1,300/\$6,550 |
| – Family \$2,700/\$13,300 | – Family \$2,600/\$13,100 |
| • 2018 contribution limit | • 2017 contribution limit |
| – Single \$3,450 | – Single \$3,400 |
| – Family \$6,900 | – Family \$6,750 |

HSA Contributions

Life events can affect HSA eligibility and contributions

- Spouse's employer implements non-HDHP
- Spouse takes job with employer that has non-HDHP coverage
- **Spouse takes job with employer that has HDHP with HSA coverage**
- Participant marries
- **Participant's spouse loses job and HDHP with HSA coverage**
- Participant's spouse loses job and non-HDHP coverage

HSA Contributions

Life events - issues to consider:

- **Does participant have HDHP coverage after the event?**
- Does participant have any disqualifying coverage after the event?
- **What effect does the event have on the participant's future HSA contributions?**



HSA Distributions

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HSA Distributions

- **Distributions are withdrawals from the HSA account**
- Distributions are tax free for qualified medical expenses incurred after HSA account is established (opened)
 - ✓ Non-medical distribution is taxed plus 20% additional tax (if over 65 or upon death, taxed as regular income)
- **Distributions act as payment of expenses by the accountholder**

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HSA Distributions

- For medical expenses of accountholder, spouse or tax dependents (eligible child rule to age 26 does not apply) incurred after HSA account was established
- Expense is self-substantiated by accountholder
- Qualified medical expenses the same as for a Health Care FSA (IRC § 213(d)) with exception for some premiums

HSA Distributions

Premiums eligible from HSA

- Qualified long term care insurance (LTC)
- COBRA or USERRA leave premiums
- To pay any health plan premiums during period receiving unemployment compensation
- If over 65, accountholder's health coverage other than Medicare supplement (e.g., premiums for retiree coverage, Medicare Part B or D or Medicare Advantage, etc.)



HSA Reporting

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HSA Reporting

Reporting HSA Contributions

- **Trustee reports (to accountholder) and files (to IRS) HSA annual account contributions on Form 5498-SA**
- Employer reports HSA contributions on W-2, in box 12, using code W, including employer and pre-tax salary contributions
- **Accountholder reports all HSA contributions from any source on Form 8889**
 - ✓ Pre-tax salary deductions
 - ✓ Post-tax contributions
 - ✓ Employer contributions
 - ✓ Other sources (e.g., spouse, family member, etc.)
- **Accountholder reports excess or additional contributions using Form 5329**

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HSA Reporting

Reporting HSA distributions

- **Trustee provides Form 1099-SA to IRS and HSA accountholder with total of HSA distributions for the tax year**
 - ✓ For distributions regardless of whether for medical expenses or non-qualified expenses
- **For distributions after death or divorce of accountholder**
 - ✓ If beneficiary is accountholder's spouse/ex-spouse, the spouse/ex-spouse can open an HSA account so that the distribution is tax free (trustee to trustee transfer)
 - ✓ If beneficiary is any other individual, the distribution is taxable to the beneficiary
- **For distributions due to excess contributions and earnings on those contributions**

HSA Reporting

Reporting HSA Distributions

- **Accountholder reports distributions on Form 8889 as attachment to Form 1040**
 - ✓ Non-taxable distributions (i.e., qualified medical care distributions)
 - ✓ Taxable distributions (e.g., non-qualified distributions, excess contribution distribution)
 - ✓ Additional tax
 - **20% on non-qualified medical distributions**
 - **10% on excess contributions due to failing full contribution rule**
 - **6% on excess contributions not removed by tax filing date**



Common HSA Compliance Issues

Common HSA Compliance Issues

For Employees

- **Contributions for/by ineligible individuals**
 - ✓ Not covered by HDHP
 - ✓ Covered by disqualifying coverage
- **Not following all reporting procedures**
- **Inappropriate distributions - examples**
 - ✓ Non-medical expenses
 - ✓ Expenses incurred prior to HSA account being established
 - ✓ For child who is no longer a tax dependent (adult children)

Common HSA Compliance Issues

For Employers

- Not documenting pre-tax HSAs in the cafeteria plan
- Not documenting employer's contribution to HSAs in the cafeteria plan
- Contributions for/by ineligible individuals
 - ✓ Not covered by HDHP
 - ✓ Covered by disqualifying coverage

Common HSA Compliance Issues

For Employers (continued)

- Not following all reporting procedures
- Not performing due diligence on employee eligibility for HSA contributions
- Not including HSAs in cafeteria plan nondiscrimination testing



Legislative Updates

Legislative Updates

- **The Health Savings Act of 2017 (2/16/17)- NOT LAW YET**
 - Senate Finance Committee Chairman Orrin Hatch (R-Utah), Senator Marco Rubio (R-Fla.) and House Ways and Means Committee member Congressman Erik Paulsen (R-Minn.) today introduced the Health Savings Act of 2017.
 - Legislation to simplify and expand Health Savings Accounts (HSAs) and Flexible Spending Accounts (FSAs), health care accounts that provide Americans opportunities to save for medical costs through tax-deductible contributions.
 - **Renames HDHP to HSA qualified Health Plan**
 - **Both spouses can make catch up contributions to one account**

Legislative Updates

- **The Health Savings Act of 2017 (2/16/17) (cont.)**
 - Additional individuals eligible for HSA:
 - Medicare Part A
 - Indian Health Services plan
 - Health Care Sharing Ministries
 - Direct Primary Care Arrangements
 - Onsite Medical Treatment
 - Embedded deductible
 - HSA improvements
 - Reverse ACA OTC limitations for HSAs, FSAs and HRAs
 - Allows HDHP to be eligible expense
 - Fixes Establishment date
 - Expense eligible as long as HDHP is established within 60 days

Legislative Updates

- **The Health Savings Act of 2017 (2/16/17) (cont.)**
 - HSA improvements
 - Clarifies Preventive Care
 - Includes RX and OTC drugs and medicines which have the primary purpose of preventing the onset of, further deterioration from, or complications associated with chronic conditions, illnesses or diseases
 - Reinstates FSA and HRA rollovers to HSA
 - Elevates HSA status for bankruptcy
 - Corrections for erroneous distributions
 - Reauthorizes Medicaid Health Opportunity Accounts
 - Increases max HSA contribution to Deductible and OOP

Legislative Updates

- **The Health Savings Act of 2017 (2/16/17) (cont.)**
 - **IRS Code § 213**
 - Permit \$1,000 tax deduction for exercise equipment and fitness program fees
 - Permit \$1,000 tax deduction for certain nutritional and dietary supplements
 - Permit periodic provider fees for certain concierge medical plans

Summary

- **HSAs authorized under §223**
- Eligibility criteria is multifaceted
- **Contribution limits easily misunderstood**
- Distributions are self-substantiated
- **Contribution and Distribution reporting required**
- **Trump Administration looks favorably on HSAs, it remains to be seen if HSA improvements will happen as part of health care reform or a stand alone bill**
- **We can answer your questions about HSAs**

Questions?



Thank you for attending!!

Any questions can also be addressed by e-mail or phone:

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