Health Savings Accounts: Frequently Asked Questions

Health Savings Accounts (HSAs) are tax-favored accounts that can be established by individuals who are covered by high-deductible health plans (HDHPs), and the funds that are contributed to HSAs can be used to pay for certain medical expenses. Employees and employers alike utilize HSAs as a means of funding health care costs and advancing the role of the consumer.

Eligibility

Only an eligible individual can establish an HSA and make contributions – or have contributions made on their behalf. In general, any individual who has HDHP coverage is considered eligible so long as he/she has no other disqualifying coverage.

- **What kind of coverage is disqualifying for purposes of HSA eligibility?** Any plan that provides coverage below the statutory minimum HDHP deductible will be disqualifying. Coverage under a general purpose Health Reimbursement Arrangement (HRA) or Health Flexible Spending Account (FSA), Medicare, Medicaid, Tricare, and certain telemedicine programs are considered disqualifying.

H•S•A

• Health Savings Account •

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- **Can HRAs or Health FSAs be designed in a way so as to not be considered disqualifying?** HRAs and Health FSAs can be designed as "limited scope," meaning that only dental and vision expenses are reimbursable. Alternatively, these plans may be designed to provide for reimbursement only after the statutory minimum HDHP deductible is satisfied. Both designs will preserve HSA eligibility.

- **What happens to the HSA if the account-holder becomes an ineligible individual?** When an account-holder becomes ineligible, he/she cannot make or receive contributions to the HSA. However, the funds already in the HSA can continue to be used to pay for qualified medical expenses.

Funding

Contribution to an HSA can be made by the account holder or by any other person on their behalf, including an employer. The contributions for a year cannot exceed the total of the applicable monthly limitations in effect for each month in which the account holder was an eligible individual.

2020

$3,550
(Single)

$7,100
(Family)

- **What are the contribution limits applicable for 2020?** In 2020, the annual contribution limit for single coverage is $3,550 and $7,100 for family coverage.

- **How do contributions work for married couples?** The special rule for married individuals generally allows a married couple to divide the maximum HSA contribution between the spouses, so long as at least one spouse has family HDHP coverage. But if only one spouse is HSA-eligible, then only that spouse may make HSA contributions to his/her own account.

- **Can an individual who becomes HSA-eligible mid-year make a full annual contribution?** HSA eligibility and the applicable contribution limits are determined on a monthly basis. However, an individual who is HSA-eligible for only part of the year may nevertheless make the full year's worth of HSA contributions so long as the individual is HSA-eligible as of December 1 of that year and remains eligible for the following 13 months.

- **Are there consequences to contributing more than the annual limit?** Contributions in excess of the account-holder's applicable annual limit are subject to a 6% excise tax. To avoid this tax, the account-holder can take a curative distribution of the excess amount and include it in his/her taxable income prior to April 15.

Employer Contributions

An employer can make contributions to an employee's HSA, but the amount of the employer's contributions counts towards the individual's annual contribution limit. Employer contributions are treated as employer-provided coverage and are excludable from the employee's gross income.

- **Can an employer provide different contribution amounts to different classes of employees?** Under a cafeteria plan, an employer can provide HSA contributions of varying amounts to different classes of employees. However, Internal Revenue Code Section 125's nondiscrimination rules require that the employee classes be based on legitimate business-based criteria and prohibit an employer from providing a more favorable contribution to highly-compensated or key employees.

Contribution Mistakes

• Recoup Mistaken Contributions •

Once made, HSA contributions are nonforfeitable. An employer may only recover contributions made to an employee's HSA in ***limited circumstances***: where the employer made a mistake regarding the employee's eligibility to establish an HSA and where the employer erroneously contributes more than the annual maximum limit.

- **Should an employer front-load contributions or pro-rate contributions over the plan year?** Employers have some flexibility in deciding how to structure HSA contributions. However, HSA eligibility is determined monthly so an employer will often prefer to structure the contributions on a monthly basis. An employer can also choose to provide accelerated funding for employees whose incurred claims exceed the amount of funding available to date, so long as the feature is made available on a consistent basis to all employees.

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Qualified Medical Expenses

Distributions from an HSA are tax-free if used to pay for qualified medical expenses. Generally, a qualified medical expense is an expenditure for medical care that is not reimbursed by insurance.

- **Can HSA funds be used to pay for over-the-counter drugs and other items?** In order to be a qualified medical expense, all medicines and drugs must be prescribed – even those that are purchased over-the-counter. However, other over-the-counter items that are purchased for medical care may be considered eligible expenses. This includes sunscreen, cold and hot packs, shoe insoles or inserts, and cholesterol test kits.

• Medical Marijuana •

- **Is medical marijuana an eligible expense?** While medical marijuana is legal in most states, it remains illegal on the federal level. As a result, medical marijuana, even when prescribed, is not considered a qualified medical expense. The same is also true of CBD oil and other products.

- **When must expenses be incurred in order to be HSA-eligible?** Qualified medical expenses must be incurred on or after the date the HSA is established in order to be reimbursable.

- **Can funds be used to pay for expenses incurred by someone other than the account holder?** An HSA can be used to pay for qualified medical expenses incurred by the account holder's spouse and tax dependents, even if the spouse and tax dependents are not HSA-eligible. Funds cannot be used to pay for expenses incurred by a domestic partner unless the partner meets the definition of a tax dependent.

RESOURCES AND HELPFUL LINKS:

Health Savings Accounts and Other Tax-favored Health Plans:
IRS Publication 969

Federal Tax Law for HSAs:
Internal Revenue Code Section 223

Federal Notice Including Q&As on a Variety of HSA Topics:
IRS Notice 2004-50

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