FILCO GUIDEBOOK HSA'S 2018 & BEYOND

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WHAT IS AN H.S.A?

An HSA (health savings account) is a trust

A trust is a fiduciary relationship where a bank, corporation or other entity acting as a trustee holds legal title with a legal obligation to keep and use the trust for the benefit of the equitable owner.

It is important to recognize that while an HSA is a pre-tax savings account under federal income tax laws, it may not qualify for tax breaks under state or local income tax laws, or under the state component of the tax that finances unemployment benefits.

State tax law and state estate law may also affect how HSA's are treated. Federal regulations have confirmed that employers' contributions to HSA's will positively affect the AV calculation by counting toward the 60 percent requirement (Section 1302(d)(2)(B) of the Affordable Care Act, 45 CFR 156.140(c)).

WHOSE EXPENSES CAN YOUR HSA COVER?

Under the law, HSA distributions are tax-free if used for qualified medical expenses for:

- You and your spouse
- Any dependents you claim on your tax return
- Any person you could have claimed as a dependent

Special rule for HSA: An individual can be treated as a dependent for qualified medical expenses even if:

- The person filed a joint return
- The person had a gross income of $4,000 or more
- You or your spouse if filing jointly can be claimed as a dependent on someone else's return

(IRC Sec. 223(d)(2)(A), IRS Notice 2008-59 Q&A 33, IRS Pub 969)

HSA ADVANTAGES

- You decide how much money to set aside for health care costs
- You control how your HSA money is spent
- You can shop around for care based on quality and cost
- Your employer may contribute to your HSA, but you own the account and the money is yours even if you change jobs
- Any unused money at the end of the year rolls over (stays in your account) to the next year
- You don't pay federal taxes on money going into your HSA

DISADVANTAGES

- Illness can be unpredictable, making it hard to accurately budget for health care expenses
- Information about the cost and quality of medical care can be difficult to find
- Some people find it challenging to set aside money to put into their HSA's. People who are older and sicker may not be able to save as much as younger, healthier people
- Pressure to save the money in your HSA might lead you to not seek medical care when you need it
- If you take money out of your HSA for nonmedical expenses, you'll have to pay taxes on it

HOW HSA'S ARE REGULATED

Two government agencies share most of the federal regulation of private employer benefit plans: the **US Department of Labor** and the **IRS**.

ERISA is the federal law that established legal guidelines for private employer benefit plan administration and investment practices. ERISA generally preempts state laws as they apply to private-sector employee benefit plans. For instance, state laws cannot be enforced against an employee benefit plan, even if the state law sets higher standards of benefits than available in the plan (ERISA Section 514, with the exception for HI's health care law enacted before 1974).

The Department of Labor enforces participants' benefit rights under ERISA, and the IRS makes sure employers meet the tax code rules that allow them to sponsor and deduct the costs of benefit plans.

COMPARABILITY OF CONTRIBUTIONS – BE COMPLIANT!

(IRC Section 4980G and the regulations thereunder at Treas. Reg. Sec. 54.4980G) Employer contributions to employees' HSA's must be comparable for all employees participating in the HSA. Comparability under IRS regulation requires the same dollar amount or the same percentage of the annual deductible amount for the HSA contribution. However, it is only necessary to count employees who are eligible individuals and have the same category of coverage (such as self-only or family) (Treas. Reg. Sec. 54.4980G-1 Q&A 2). Part-time employees (customarily those who are employed fewer than 30 hours per week) are tested separately (Treas. Reg. Sec. 54.4980G-3 Q&A 5). If the employer contributions fail the comparability test, an excise tax will be imposed on the employer equal to 35 percent of the amount the employer contributed to the HSA.

There is an exception to the comparability rule. Employers may contribute more to the HSA's of non-highly compensated employees. The IRS uses the same definition of highly compensated employees for HSA's that it uses for other retirement accounts (IRC Sec. 4980G(e), Treas. Reg. Sec. 54.4980G-6).

FINANCIAL ASPECT OF HSA'S

HSA's can be invested in the same investments approved for IRA's—i.e. bank accounts, annuities, certificates of deposit (CDs), stocks, mutual funds or bonds. However, no part of the HSA trust assets can be invested in life insurance contracts, collectibles (art, antiques etc.—other tangible personal property that the IRS specifies), and HSA assets may not be co-mingled with other property except for investment purposes.

Above-the-line deduction. A deduction that can be taken from gross income before arriving at adjusted gross income (AGI). Examples include IRA contributions, HSA contributions, half of the self-employment tax, the self-employed health insurance deduction and alimony. The term is derived from a solid bold line on form 1040 and 1040A above the line for adjusted gross income. A taxpayer can take deductions above the line and still choose whether to claim the standard deduction or itemize deductions.

INDIVIDUAL TAX BENEFITS WITH AN HSA

HSA's have the best tax benefits of any savings accounts, including traditional IRA's, 401(k)s and Roth IRAs. Only an HSA lets the owner make tax-deductible deposits, enjoy tax-free growth through interest or investments, and spend the money on qualified health-related services and products without paying taxes.

GOOD TO KNOW!

Allowed Expenses in an HSA

Automobile, dental, vision, and long-term care insurance

- Coverage for a specific disease or illness as long as it pays a specific dollar amount when the policy is triggered; or indemnity plans that pay a fixed amount per day or other period of hospitalization
- Wellness programs offered by employers, if they do not pay significant medical benefits
- FSAs or HRAs that are limited purpose (limited to dental, vision, or preventive care) or post-deductible (pay for medical expenses after the plan deductible is met) (Rev. Rul. 2004-45)
- An employer-sponsored HRA that can only be used when you retire or after you meet your annual deductible
- A high-deductible, non-HDHP (PPO, HMO), if the deductible meets or exceeds the HDHP required minimum
- An embedded individual deductible in your family HDHP coverage, if it is not less than the minimum required family HDHP deductible (IRS Notice 2004-50 Q&A 20)
- Worker's compensation insurance
- Tort liability payments
- Prescription or other discount programs that are not insurance

GOOD TO KNOW!

Single adult children who have coverage under a parent's family HDHP can open their own HSA's and contribute up to the yearly family maximum - $6,750 for 2017, and $6,900 for 2018 as long as the adult children are not claimed on another person's tax return (IRC Sec. 223(b)(6), IRS notice 2004-2 Q&A 18).

Paying for a medical expense covered by more than one account

You cannot be reimbursed for the same medical expense from more than one account or arrangement. However, if you have an HSA, a health care FSA, and an HRA that pay or reimburse the same medical expense, the health care FSA or the HRA may pay or reimburse the medical expense.*

*Subject to the rules in IRS Notice 2004-50 regarding the order in which distributions were made

GOOD TO KNOW!

Medicare recipients should realize that Medigap insurance—a private insurance that covers out-of-pocket costs not covered by Medicare—is not a qualified expense that can be paid with your HSA. Medigap is not the same thing as retiree health insurance; you buy a Medigap policy from a private insurer, while your employer provides retiree health insurance. If you have retiree health insurance, you will generally not need Medigap coverage.

If you decide to delay your enrollment in Medicare, you can continue to make contributions past the age of 65, as long as you are still covered by an HSA qualified HDHP. In addition, you can also continue to make $1,000 yearly catch-up contributions (IRS Notice 2004-50 Q&A 2).

HSA 2017 GUIDELINES

Minimum deductible amounts	$1,300 self only plans $2,600 for family plans /$2,600 for embedded individual deductible family plans.	
Maximum out-of-pocket limits	$6,550 for self only plans	$13,100 for family plans. Change due to ACA, no individual in the family can have an out-of-pocket maximum (OOPM) greater than $7,150 (2017).
HSA contribution limits	Consumers can contribute up to the annual maximum amount as determined by the IRS. Maximum contribution amounts for 2017 are $3,400 for self only and $6,750 for families.	
Prorating of contribution limits	Enrolled by Dec. 1 and stay enrolled for the 13-month test period. OR Proration applies which means dividing the contribution limit by 12 and contribute that amount each month you are enrolled in a HDHP.	

IRA to HSA transfer	Consumers are able to make a one-time, tax-free trustee-to-trustee transfer of IRA funds into an HSA. The individual must remain enrolled in high-deductible health plan and eligible for an HSA for a 13-month test period after the fund transfer. The funds transferred from the IRA apply to the annual HSA maximum contribution limit. The contribution must be made directly by the IRA trustee.
FSA 2 1/2 month grace period	Only Limited Purpose Flexible Spending Account may be offered alongside the HSA without impacting a member's eligibility for HSA contributions. Consumers in a full purpose FSA can contribute to an HSA if their FSA balance is zero at the end of the preceding year.
Comparable contributions	Employers may under certain conditions be eligible to make higher contributions for "non-highly compensated employees" without a cafeteria plan. Employer contributions to an HSA based on completion of wellness activities would still require funding through a cafeteria plan.

HSA 2018 GUIDELINES

Minimum deductible amounts	$1,350 self only plans $2,700 for family plans /$2,700 for embedded individual deductible family plans.	
Maximum out-of-pocket limits	$6,650 for self-only plans	$13,300 for family plans. Change due to ACA, no individual in the family can have an out-of-pocket maximum (OOPM) greater than $7,350 (2018).
HSA contribution limits	Consumers can contribute up to the annual maximum amount as determined by the IRS. Maximum contribution amounts for 2018 are $3,450 for self only and $6,900 for families.	
Prorating of contribution limits	Enrolled by Dec. 1 and stay enrolled for the 13-month test period. OR Proration applies which means dividing the contribution limit by 12 and contribute that amount each month you are enrolled in a HDHP.	

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Comparable contributions	Employers may under certain conditions be eligible to make higher contributions for "non-highly compensated employees" without a cafeteria plan. Employer contributions to an HSA based on completion of wellness activities would still require funding through a cafeteria plan.

THE AMERICAN HEALTH CARE ACT (AHCA) & HSA'S – WHAT YOU NEED TO KNOW

House republicans passed and amended the AHCA on May 4th, 2017. The AHCA now goes to the Senate and if it passes there it would then go to President Trump to be signed into law.

What changes potentially could happen under the AHCA to Health Savings Accounts?

Increase the maximum HSA contribution limit: The HSA contribution limit for 2017 is $3,400 for self only coverage and $6,750 for family coverage. Beginning in 2018, the AHCA would allow HSA contributions up to the maximum out-of-pocket limits allowed by law (at least $6,550 for self-only coverage and $13,100 for family coverage.)

Allow both spouses to make catch-up contributions to the same HSA: The AHCA would allow both spouses if a married couple to make catch-up contributions to one HSA, beginning in 2017, if both spouses are eligible for catch-up contributions and either HSA family coverage.

Address expenses incurred prior to establishment of an HSA: Under the AHCA, starting in 2018, if an HSA is established within 60 days after an individual's HDHP coverage begins, the HSA fund would be able to be used to [ay expenses incurred starting on the date the HDHPP coverage began.

Restrictions on using HSA's for over-the-counter (OTC) medications: The ACA prohibits taxpayers from using certain tax-advantaged HSA's to help pay for OTC medications. The AHCA would allow these accounts to be used for OTC purchases, beginning in 2017.

Increased tax from withdrawals from HSA's: Distributions from an HSA that are not used for qualified medical expenses are includible in income and are generally subject to an additional tax. The ACA increased the tax rate on distributions that are not used for qualified medical expenses to 20%. The AHCA would lower the rate to pre-ACA percentages beginning with distributions in 2017.