

COMPLIANCE UPDATE

HSA Guidance

IRS NOTICE 2008-59: HSA GUIDANCE

On June 25, 2008, the Internal Revenue Service released Notice 2008-59, which provides guidance on Health Savings Accounts (HSAs). The guidance is a question and answer format with the IRS answering 42 questions regarding eligibility, qualifying High Deductible Health Plans (HDHPs), contributions, distributions, prohibited transactions, establishing an HSA, and administration.

While the Notice does not present a change to the existing HSA regulations, it does serve to clarify situations and issues that were previously unclear. Highlights of the Notice are provided below.

- » An individual is still considered HSA eligible if he/she is covered by a limited purpose Health Reimbursement Arrangement (HRA) that reimburses expenses for vision, dental, and preventive care in addition to reimbursing health insurance premiums.
- » A post-deductible Flexible Spending Arrangement (FSA) or HRA must not reimburse medical expenses until after the individual's eligible expenses have met the minimum HDHP deductible. This is based on the statutory limit, not the policy's deductible amounts.
- » An individual is ineligible for an HSA if he/she is covered by a mini-med or other similar policy that provides coverage for certain expenses such as a fixed benefit amount per physician office visit or ambulance use before the minimum HDHP deductible is satisfied.
- » A qualified HDHP may include an embedded individual deductible as long as the embedded individual deductible is no less than the statutory minimum HDHP family deductible (\$2,200 for 2008).
- » An individual who is eligible for, but not enrolled in Medicare is HSA eligible.
- » An individual who has access to free health care at an employer's onsite clinic is HSA eligible as long as the care provided consists of insignificant medical care benefits such as physicals, immunizations, dispensing of pain relievers, and treatment for work related incidents.
- » An individual with family HDHP coverage is eligible to contribute up to the statutory maximum HDHP family contribution (\$5,800 for 2008) even if one of the family members (other than the HSA account owner) is covered by a non-HDHP or Medicare.
- » An employer who contributes to the HSA of an employee's spouse must include that amount in the employee's gross income as taxable wages.
- » Premiums for Medicare Parts A, B, and D are a qualified medical expense and may be reimbursed through an HSA but only for account beneficiaries who are age 65 or older.

A complete copy of Notice 2008-59 is available at <http://www.treas.gov/press/releases/reports/notice200859.pdf>. Please contact your advisor with any questions or to discuss further.

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