

Legislative Update

Employee Benefits



Services offered through Mesirow Insurance Services, Inc.

June 9, 2008

IRS Releases HSA Index Figures for 2009 and Finalizes Rules on Employer HSA Comparable Contributions

2009 HSA Index Figures

The IRS released 2009 HSA index figures which have been adjusted to reflect cost of living increases. The new HSA limits were released earlier in the 2008 calendar year, following a rule under the Tax Relief and Health Care Act of 2006 requiring that figures be made available by June 1 of each year. The goal of the earlier release is to ensure that plan sponsors and their employees have ample time to weigh plan design options, create brochures and educational materials, and set up for the coming year in advance of open enrollment.

The 2009 HSA index figures are shown to the right in Table 1.

For more information, please visit <http://www.irs.gov/publications/p969/index.html> or contact your Mesirow Financial representative.

Employer HSA Comparable Contributions

Many of our clients that offer a high deductible health plan (HDHP) with a health savings account (HSA) option do not make comparable contributions to their employees' HSA accounts. In these cases, this new legislation does not apply. We offer the following information as a service to employers that do contribute.

Mesirow Financial has been a leader in serving the financial needs of individuals, businesses, institutional investors, public sector entities and correspondent broker-dealers since 1937. Our six divisions include: investment management, investment services, insurance services, investment banking, consulting and real estate.

Table 1: Health Savings Account (HSA)	2008	2009
Minimum deductible amounts for the qualifying high-deductible health plan (HDHP)		
Individual coverage	\$1,100	\$1,150
Family coverage	\$2,200	\$2,300
Maximum contribution levels		
Individual coverage	\$2,900	\$3,000
Family coverage	\$5,800	\$5,950
Catch up contribution allowed for those age 55 and over	\$900	\$1,000
Maximums for HDHP out-of-pocket expenses		
Individual coverage	\$5,600	\$5,800
Family coverage	\$11,200	\$11,600

On April 17, 2008, the IRS released its final regulations establishing how employers can make comparable contributions to their employees' HSAs in two situations:

- when an employee has not established an HSA, or has not notified the employer that an HSA was established, by December 31; and
- when the employee's medical expenses exceed the employer's year-to-date contribution

No HSA Established/No Notification by December 31

Per the IRS, when an eligible employee has not opened an HSA or fails to provide notice to the employer by December 31 that he/she has established an HSA, the employer must provide written notice to each such employee no later than the next January 15, stating that if the employee both opens an HSA and also notifies the employer of this fact by the last day of February, he/she will receive comparable contribution to the HSA for the prior year.

The notice may be sent electronically. The regulations include model language that employers may use for this notification.

The employer must then make the comparable contribution (plus reasonable interest defined by the 2006 Final Comparability Regulations as “the Federal short-term rate as determined by the Secretary [of Treasury]”), by April 15 of that year.

Acceleration of Employer Contributions

The new regulations also allow an employer to accelerate part or all of its contribution for any calendar year to the HSA of an eligible employee who has incurred qualified medical expenses during that year and has exceeded the employer’s cumulative year-to-date HSA contribution. Employers who accelerate contributions must do so on an equal and uniform basis for all eligible employees throughout the calendar year.

Employers need not worry about comparability related to mid-year employment terminations as Notice 2004-50 already provided employers with the ability to accelerate when it makes contributions through a cafeteria plan.

An employer is not required to contribute reasonable interest on either accelerated or non-accelerated HSA contributions.

Sources: *Infinisource*
Internal Revenue Service

This article is intended as an overview and should not be viewed as legal or tax advice. Please consult with your attorney or tax professional if you have any questions about this legislation.

These regulations apply to employer contributions made for calendar years beginning on or after January 1, 2009. Employers may begin relying on this guidance on or after the date of publication of these final regulations in the Federal Register. For more information, please visit: http://www.irs.gov/irb/2008-20_IRB/ar08.html or contact your Mesirow Financial representative.
