IRS Adjusts HSA Contribution Limit, Provides Transition Relief for Certain Non-Compliant HDHPs

In Rev. Proc. 2018-18, the IRS has released adjusted contribution limits for health savings accounts (HSAs) due to changes made by the Tax Cuts and Jobs Act (TCJA). As shown below, the new HSA contribution limit for individuals with family high deductible health plan (HDHP) coverage is $6,850, ***a $50 reduction*** from the previously announced inflation-adjusted amount for 2018. Other HSA/HDHP figures remain unchanged.

2018 HDHP and HSA Limits	Single / Family
Annual HSA Contribution Limit	$3,450 / $6,850
Minimum Annual HDHP Deductible	$1,350 / $2,700
Maximum Out-of-Pocket for HDHP	$6,650 / $13,300

HSA Contributions in Excess of $6,850

While most employees with family HDHP coverage will not have contributed more than $6,850 through salary reductions at this point in 2018, employers will need to communicate the reduction to employees and reduce elections for employees who have elected $6,900 (and who will not be age 55 by the end of 2018). If an employer has already funded $6,900 on a non-taxable basis, they should include the additional $50 in the employee's income and the employee may take a corrective distribution to avoid excess contribution penalties.

In most cases, the only task for employers will be to inform employees of the adjustment and, specifically, inform those who elected $6,900 (or $7,900 for employees who will be age 55+ at the end of 2018) that their election will be capped at $6,850 (as adjusted for the $1,000 catch-up).

Adoption Assistance Adjustment

The TCJA also ***reduces*** the amount that can be excluded from an employee's gross income for the adoption of a child with special needs from $13,840 to $13,810. The phase-out also begins at a lower level than previously expected – $207,140 (reduced from $207,580) and is completely phased out for taxpayers with modified adjusted gross income of $247,140 (reduced from $247,580).

Transition Relief for Certain Non-Compliant HDHPs

In separate guidance (Notice 2018-12), the IRS provided transition relief for an issue that threatened to disrupt HSA-eligibility for individuals in states that require certain health insurance policies to provide benefits for male sterilization or male contraceptives without cost sharing (reportedly, California, Illinois, Maryland and Vermont). Under IRS rules, such coverage does not qualify as preventive when provided to males because they are not preventive care under the Social Security Act, and no applicable guidance issued by the Treasury and the IRS provides for the treatment of those benefits as preventive care. Thus, the IRS concluded that under current guidance, a health plan isn't an HDHP if it provides benefits for male sterilization or contraceptives before the minimum deductible for an HDHP is met, regardless of whether the coverage of those benefits is required by state law. An individual who is not covered by an HDHP isn't HSA-eligible and cannot contribute or receive employer contributions to a HSA on a tax-free basis.

The IRS understands that states may wish to change their laws in light of the Notice; however, they may be unable to do so in 2018 because of limitations on their legislative calendars or other reasons. Without relief, residents of these states would be unable to establish or contribute to an HSA on a tax-free basis unless their plan is exempt from the state mandate (e.g., they are covered under a self-insured ERISA plan). Therefore, the Notice provides transition relief for 2018 and 2019 to participants in an HDHP that provides benefits for male sterilization or male contraceptives without a deductible, or with a deductible below the minimum deductible for an HDHP. Until 2020, these individuals won't be treated as failing to qualify as HSA-eligible individuals merely because they are covered by such an HDHP.

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