Health Savings Account
Disclosure Statement
Use with Form 5305-B (Trust) or 5305-C (Custodial)

This Disclosure Statement provides a general review of the terms, conditions and federal laws associated with your Health Savings Account (HSA). It is not intended to replace the advice of your own tax and legal advisors. You are encouraged to consult with your tax advisor and/or state taxing authorities concerning any tax and/or compliance questions. You are responsible for complying with the laws that apply to your HSA. The HSA Trustee or Custodian does not act as your advisor. In addition to the transactions outlined in this Health Savings Account Disclosure Statement, the federal government may authorize permissible transactions from time to time. Unless expressly prohibited by the Trustee or Custodian's policies, such additional federally authorized transactions are hereby incorporated by this reference.

Additional information on HSAs may be found in several IRS sources including IRS Publication 969, *Health Savings Accounts and Other Tax-Favored Health Plans*; IRS Publication 502, *Medical and Dental Expenses*; IRS Notice 2004-50, Notice 2004-2; and Notice 2007-22.

General Information

What is an HSA?

An HSA is a savings product that offers you a different way to pay for health care. HSAs are established in conjunction with a High Deductible Health Plan (HDHP) and enable you to pay qualifying medical expenses for yourself, your spouse and your dependents on a *tax-free* basis.
In general, insurance premiums on an HDHP will be substantially lower than premiums paid for traditional health care coverage. By investing the premium savings in an HSA, you may accumulate significant savings that you own and control and that may be used to pay for current and future qualifying medical expenses.

What are Qualified Medical Expenses?

Qualified Medical Expenses are those incurred by you, your spouse and your dependents that would generally be eligible to deduct if you itemized deductions on your tax return. IRS Publication 502, *Medical and Dental Expenses,* further explains what expenses qualify. For expenses to be qualified, they must be incurred after you establish an HSA and must not be covered by insurance or otherwise.

Who is an HSA eligible individual?

Eligibility is determined on the first day of each month. To be an eligible individual you must meet the following criteria.

HDHP- You must be covered under an HDHP that meets certain requirements concerning the deductible and out-of-pocket expenses.
No other coverage- You may not be covered under an insurance plan that is not an HDHP (with certain exceptions for plans providing certain limited types of coverage).
Not enrolled in Medicare- You may not be enrolled in Medicare.
Not claimed as a dependent- You may not be eligible to be claimed as a dependent on someone else's tax return.

If you are not an eligible individual for all 12 months of a year, the annual contribution limit may be prorated. For assistance in determining your eligible contribution amount, consult your tax advisor.

What is a High Deductible Health Plan (HDHP)?

Generally, an HDHP is a health plan often referred to as a "catastrophic" health insurance plan. As compared to traditional health insurance coverage, the premiums for an HDHP are less expensive, and the HDHP will not generally pay for health care expenses until the deductible is satisfied. Once the deductible is satisfied, the plan will generally cover the medical expenses.

For purposes of determining eligibility for an HSA, an HDHP must satisfy certain requirements regarding deductibles and out-of-pocket expenses. There are two types of HDHPs for purposes of determining HSA eligibility.

HDHP Self-Only Coverage- Self-only coverage is an HDHP that covers only one eligible individual. The annual deductible must be at least $1,000 and annual out-of-pocket expenses (deductibles, co-payments and other amounts, *excluding* premiums) required to be paid may not exceed $5,000. These amounts are adjusted for cost-of-living increases.

HDHP Family Coverage- Family coverage is an HDHP that covers one eligible individual and at least one other person (even if the other person is not eligible for an HSA). The annual deductible must be at least $2,000 and annual out-of-pocket expenses (deductibles, co-payments and other amounts, *excluding* premiums) required to be paid may not exceed $10,000. These amounts are adjusted for cost-of-living increases.

Note: a plan does not fail to qualify as an HDHP merely because it does not have a deductible (or has a small deductible) for preventive care.

In addition to HDHP coverage, what other types of health coverage may an individual have and remain eligible for an HSA?

In addition to an HDHP, you may be covered by permitted insurance. Permitted insurance is insurance where substantially all of the coverage provided relates to liabilities incurred under workers' compensation laws, tort liabilities, liabilities relating to ownership or use of property (e.g., automobile insurance), insurance for a specified disease or illness, and insurance that pays a fixed amount per day (or other period) of hospitalization.

In addition, you may have coverage for accidents, disability, dental care, vision care, long-term care or other coverage types allowed under the Internal Revenue Code and Regulations.

How many HSAs may an individual have?
There is no limit on the number of HSAs you may have. However, contributions made to all of your HSAs (and Archer Medical Savings Accounts (MSAs)) for any tax year may not exceed the contribution limit described below.

Contributions

Who may make contributions to HSAs?
Contributions to your HSA may be made by you, your employer, or any other person. The total amount for the year from all sources may not exceed your annual contribution limit.

Are there any compensation or income requirements that affect how much may be contributed to an HSA?
No. Eligibility for an HSA does not depend on your earnings.

How must contributions be made?
Except for certain rollovers and transfers, all contributions must be made in the form of money (e.g., cash, check or money order).

What is the contribution limit for individuals whose HDHP is "self-only" coverage?
The maximum annual contribution limit for an individual with self-only coverage is $2,850 for 2007, with possible cost-of-living adjustments for later years. If the individual is not an eligible individual for all 12 months of a year, the contribution limit may be prorated. For example, if the individual was an eligible individual for only three months of the year, the annual limit is multiplied by 3/12 to determine the prorated maximum contribution amount for that partial year. For more information about prorated contributions for partial year eligibility, please see "When is the maximum annual contribution limit not prorated for partial year eligibility?" below. Prior to January 1, 2007, the maximum contribution amount may have been limited by the amount of the individual's deductible.

What is the contribution limit for individuals whose HDHP is family coverage?
The maximum annual contribution limit for an individual with family coverage is $5,650 for 2007, with possible cost-of-living adjustments for later years. If the individual is not an eligible individual for all 12 months of a year, the contribution limit may be prorated. For example, if the individual was an eligible individual for only three months of the year, the annual limit is multiplied by 3/12 to determine the prorated maximum contribution amount for that partial year. For more information about prorated contributions for partial year eligibility, please see "When is the maximum annual contribution limit not prorated for partial year eligibility?" below. Prior to January 1, 2007, the maximum contribution amount may have been limited by the amount of the individual's deductible.

Are additional contributions permitted for individuals age 55 and older?
Yes, in addition to the annual contribution limit, additional "catch up" contributions are permitted if the individual is age 55 (or older) before the close of the tax year. The additional amounts are $700 for 2006; $800 for 2007; $900 for 2008, and $1,000 for 2009 and thereafter. If the individual is not an eligible individual for all 12 months of a year, the contribution limit may be prorated. For more information about prorated contributions for partial year eligibility, please see "When is the maximum annual contribution limit not prorated for partial year eligibility?" below.

When is the maximum annual contribution limit not prorated for partial year eligibility?
An individual who is an HSA eligible individual as of the last month of a year will be treated as eligible as long as the individual remains HSA eligible for the "testing period". The "testing period" begins with the last month of the year in which the individual first becomes HSA eligible and runs for a full 12 months. For example, if an individual is HSA eligible in December 2007 that individual is treated as an HSA eligible individual for all of 2007 for purposes of HSA contribution limits if that individual remains eligible through December 31, 2008.

If the individual does not remain HSA eligible during the "testing period", the individual may be subject to tax and penalty on the amount that could not have been made but for this "testing period" rule.

May both spouses of a married couple contribute to an HSA?
Yes, if they are both eligible for an HSA, however, special contribution limits may apply.

How do contributions to Archer Medical Savings Accounts (MSAs) affect HSA contributions?
Any contributions made to an Archer MSA reduce the contribution limit permitted to your HSA for the year.

How do qualified HSA funding distributions from Traditional and Roth IRAs affect HSA contributions?
Qualified HSA funding distributions (distributions from Traditional or Roth IRAs which are contributed as a direct trustee-to-trustee transfers to HSAs) made by the HSA Owner are taken into account in applying the annual limit for HSA contributions. For additional information on qualified HSA funding distributions, please see "May Traditional and Roth IRAs be directly transferred to HSAs?" below.

How do qualified HSA distributions from health flexible spending arrangements (FSAs) and health reimbursement arrangement (HRAs) affect HSA contributions?
Qualified HSA distributions (distributions from health FSAs and HRAs which are directly rolled over by the HSA Owner's employer to an HSA) are not taken into account in applying the annual limit for HSA contributions. For additional information on qualified HSA distributions, please see "May health flexible spending arrangements (FSAs) and health reimbursement arrangements (HRAs) be directly rolled over to HSAs?" below.

When is the deadline for making HSA contributions?
Contributions may be made to your HSA during the tax year and up until the due date for filing your federal income tax return, not including extensions. For most people, the tax return due date is April 15.

Are carryback contributions allowed?
If you make a contribution between January 1 and April 15, tell the Trustee or Custodian which tax year the contribution is for. If you do not indicate otherwise, the Trustee or Custodian will report it to the IRS as a current year contribution (the year received).

May HSA contributions be made after age 65?
At age 65, individuals are generally entitled to enroll in Medicare. Individuals who enroll is Medicare are no longer eligible to make HSA contributions. However, any person age 65 or older who is not actually enrolled in Medicare may contribute to an HSA until the month he or she is enrolled in Medicare.

May self-employed individuals contribute to an HSA?
Yes, providing the HSA eligibility requirements are met. Contributions are made with after-tax dollars and the amounts are deducted as "above the line" deductions when filing their federal income taxes.

What if more than the allowable contribution amount is contributed to an HSA for a year?
The amount exceeding your allowable limit for a year is an excess contribution and must be removed by your tax return deadline (including extensions) along with the net income attributable to such excess contribution. Failure to remove the excess and earnings will subject you to a 6% penalty tax for each year the excess remains in your HSA. For assistance in determining the net income attributable to your excess HSA contribution, consult your tax advisor and/or Treasury Decision (TD) 9056.

How are HSA contributions reported?
Employer contributions made to your HSA are reported on your Form W-2. The Trustee or Custodian reports HSA contributions to the IRS on Form 5498-SA. You report all HSA contributions on IRS Form 8889, Health Savings Accounts (HSAs) when you file your federal income taxes.

Employer Contributions

May an employer make HSA contributions for eligible employees?
Yes. However, contributions from all sources must be aggregated and may not exceed your annual contribution limit. Any amounts exceeding the allowable limit will be an excess contribution and subject to penalties if not properly removed.

How do employer HSA contributions affect an employee's taxable income?
Employer contributions to your HSA are excluded from your income. The employer HSA contributions are not subject to income tax withholding, or subject to the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA) or the Railroad Retirement Tax Act.

HSA Deductibiltiy

Are HSA contributions tax deductible?
Yes, all contributions made to your HSA (except those, if any, made by your employer) are "above the line" tax deductions. An "above the line" deduction reduces your taxable income by the HSA contribution amount. You do not need to itemize deductions to benefit from the tax deduction. Note: you may not deduct any HSA contributions made by your employer.

Transfers and Rollovers

May HSAs receive rollovers from other HSAs or MSAs?
Your HSA Custodian may permit you to roll amounts withdrawn from another HSA or Archer MSA into this HSA. Rollovers are not subject to the annual contribution limits. Both the distribution and the rollover deposit are reported to the IRS. However, a rollover is a tax-free transaction when done properly.

You may make only one rollover contribution (or qualified HSA distribution) to an HSA during a 12-month period and any amount distributed from an HSA or Archer MSA must be rolled over within 60 days after the date of receipt of the distribution. For more information on qualified HSA distributions, see "May health flexible spending arrangements (FSAs) and health reimbursement arrangements (HRAs) be directly rolled over to HSAs?" below.

May HSAs be directly transferred from one Trustee/Custodian to another Trustee/Custodian?
Your HSA Trustee or Custodian may permit you to directly transfer all or a portion of another HSA or from your Archer MSA into this HSA. The direct transfer of assets from an HSA or Archer MSA to an HSA is not subject to the annual contribution limits and federal law does not limit the number of these transactions you may make during any year. A direct transfer is tax-free and not reportable to the IRS.

May Traditional and Roth IRAs be directly transferred to HSAs?
Your HSA Custodian may permit you to do a tax-free transfer of Traditional and Roth IRA assets to this HSA. This transfer, also known as a qualified HSA funding distribution, is subject to HSA contribution limits. You must irrevocably elect to treat such distribution as a qualified HSA funding distribution. Generally, you are limited to one qualified HSA funding distribution from any of your Traditional or Roth IRAs during your lifetime. If you do not remain HSA eligible during the applicable "testing period" as defined under the Internal Revenue Code, the amount of the qualified HSA funding distribution may be subject to tax and penalty. For assistance in determining to what extent you may be eligible to make a qualified HSA funding distribution, consult your tax advisor.

May health flexible spending arrangements (FSAs) and health reimbursement arrangements (HRAs) be directly rolled over to HSAs?
Your HSA Custodian may permit you to do a direct rollover from health FSAs and HRAs to this HSA. These tax-free rollovers, also known as qualified HSA distributions, must be handled as direct transactions. In addition, you must irrevocably elect to treat such distribution as a qualified HSA distribution. Qualified HSA distributions are limited to one per health FSA or HRA. Qualified HSA distributions are not taken into account in applying the annual limit for HSA contributions. However, the amount eligible for rollover is limited to the amount prescribed under the Internal Revenue Code, or by other guidance published by the Internal Revenue Service (IRS). You may make only one qualified HSA distribution or rollover contribution to an HSA during a 12-month period.

If you do not remain HSA eligible during the applicable "testing period" as defined under the Internal Revenue Code, the amount of the qualified HSA distribution may be subject to tax and penalty. Further, failure to comply with complex eligibility and timing requirements may result in tax and penalty on amounts rolled over. For assistance in determining to what extent you may be eligible to make a qualified HSA distribution, consult your tax advisor.

Can HSAs be transferred as part of a valid divorce decree?
Yes, under a valid divorce decree, separate maintenance decree, or other valid court order, all or part of your HSA may be transferred to your ex-spouse or you may receive all or part of your ex-spouse's HSA.

Distributions

What is the tax treatment of an HSA distribution used to pay qualifying medical expenses?
All earnings in the HSA are tax-deferred until distributed. Distributions from your HSA used to pay qualifying medical expenses are tax-free.

When may distributions be taken from an HSA?
The money in your HSA is always yours and you may withdraw it at any time. However, any amounts not used to pay qualifying medical expenses are subject to income tax and an additional 10% IRS penalty (unless the distribution is on account of death, disability or made after reaching age 65 or older). In addition, the Trustee or Custodian may charge you distribution fees and, if you prematurely surrender time deposit(s), loss of earnings penalties.

The HSA may be used to cover those medical expenses that the HDHP does not cover (excluding the premiums for most HDHPs). Note, however, you are not required to take distributions from your HSA to cover those uncovered medical costs.

Is there a deadline for reimbursing current year medical expenses from an HSA?
No. As long as the medical expenses were incurred after you established an HSA, there is no time limit on when you must take a distribution from your HSA to reimburse Qualified Medical Expenses. You will want to make sure you keep proper records to show the distributions were used to reimburse Qualified Medical Expenses, that the expenses were not reimbursed by another source and that the medical expenses were not taken as an itemized tax deduction on a prior year's federal income tax return.

Are HSA distributions used to pay premiums for the HDHP considered qualified distributions?
Distributions from an HSA to pay for HDHP premiums are generally not qualified distributions, however, an exception exists for certain HSA owners over age 65.

What happens when the HSA owner dies?
When you die, if the primary designated beneficiary is your surviving spouse, your HSA becomes an HSA of your surviving spouse. If the primary designated beneficiary is someone other than your surviving spouse, the HSA ceases to be an HSA as of the date of your death and the fair market value of the assets in the HSA as of the date of your death are includible in such person's gross income for the year of your death. If you do not designate any beneficiaries for your HSA, the fair market value of your HSA as of your date of death is includable as income on your final tax return.

How are HSA distributions reported?
The Trustee or Custodian reports distributions from your HSA to the IRS on Form 1099-SA. You also report them on IRS Form 8889, Health Savings Accounts (HSAs) when you file your federal income taxes.

What is a prohibited transaction?
If you engage in a prohibited transaction with your HSA, the HSA will be disqualified and the entire HSA value (on the first day of the year in which the prohibited transaction occurs) is includable in income. This amount is also subject to an additional 10% IRS penalty unless an exception applies due to the HSA owner's death, disability or attainment of age 65 or older. Prohibited transactions are defined in Internal Revenue Code Section 4975. Examples include borrowing money from the HSA, selling property to the HSA, receiving unreasonable compensation for managing the HSA, or buying property with HSA funds for your personal use.

May an HSA be used as security for a loan?
No. If you pledge all or part of your HSA as security for a loan, the amount pledged is treated as a distribution and is includable in income. This amount is also subject to an additional 10% IRS penalty unless an exception applies due to the HSA owner's death, disability or attainment of age 65 or older.

Miscellaneous

Nonforfeitability-- Your interest in your HSA is nonforfeitable at all times.
Custodian or Trustee-- The Custodian or Trustee of your HSA must be a bank, savings and loan association or credit union as defined in Internal Revenue Code (IRC) section 408(n), a life insurance company as defined in IRC section 816, or another person or entity that has been approved as a nonbank Custodian or Trustee by the Treasury Department.
Investment Restrictions-- Money in your HSA may not be used to buy a life insurance policy or invested in collectibles. However, certain gold, silver and platinum coins, bullion and coins issued under state laws are allowable investments.
No Commingling-- Assets in your HSA may not be combined with other property, except in a common trust fund or common investment fund.
Beneficiary Designation-- You may designate a beneficiary for your HSA by completing a written designation in a form and manner acceptable to the Custodian or Trustee. If you do not designate a beneficiary, your HSA will be paid to your estate when you die.
Tax Filing-- You are responsible for filing the applicable IRS forms to report certain activities, taxable income and/or penalties associated with your HSA.
IRS Form-- This HSA uses the precise language of IRS Form 5305-B (Trust) and 5305-C (Custodial) and is therefore treated as approved by the IRS. Additional language has been included as permitted by such form. The IRS approval represents a determination as to form and not to the merits of the account.