



HSA DISCLOSURE STATEMENT

OVERVIEW – Section 223 of the IRS Code permit eligible individuals to establish a Health Savings Account for taxable years. A Health Savings Account (“HSA”) is an individually owned account maintained at a financial institution where tax-favored contributions can be made on behalf of individuals covered under certain High Deductible Health Plans (“HDHPs”) with tax-free distributions allowed for qualified medical expenses. An HSA is portable, which means that the Account Holder can use the HSA after termination of employment or retirement.

GENERAL REQUIREMENTS OF AN HSA – Your contributions must be made in the form of cash or as an Electronic Funds Transfer (EFT). Your regular annual contributions for any taxable year may be deposited at any time during that taxable year and up to the due date for the filing of your federal income tax return for that taxable year, no extensions. This generally means April 15th of the following year.

An HSA can be established under a properly designed cafeteria plan under Section 125 of the Code. This allows you to make a salary reduction of the contribution amount to your HSA. This results in a contribution to the HSA that is deducted from your paycheck before taxes are calculated.

The Custodian of your HSA must be a bank, insurance company or any other entity that is approved to act in such a capacity by the Secretary of the Treasury.

No portion of your HSA funds may be invested in life insurance contracts.

The assets in your HSA may not be commingled with other property except in a common trust fund or common investment fund.

You may not invest HSA assets in collectibles (as described in Section 408(m) of the Code). A collectible is defined as any work of art, rug or antique, metal or gem, stamp or coin, alcoholic beverage, or any other tangible personal property specified by the IRS. The assets of your HSA remain tax-exempt while the funds are in your account.

ELIGIBILITY FOR AN HSA – You are permitted to make a regular contribution to your HSA for any taxable year if you are an “Eligible Individual.” An eligible individual means, with respect to any month, any individual who: (1) is covered under a High Deductible Health Plan (HDHP) on the first day of such month; (2) is not also covered by any other health plan that is not an HDHP; (3) is not enrolled in benefits under Medicare; and (4) may not be claimed as a dependent on another person’s tax return.

An HDHP is defined as a High Deductible Health Plan with an annual deductible and out-of-pocket limits that are updated annually for Cost of Living adjustments (visit [irs.gov](https://www.irs.gov) or contact your HSA administrator for current limits). The deductible is not required to apply to charges relating to “Preventive Care” expenses.

An individual is not disqualified from being an Eligible Individual solely because he or she has any of the coverage listed below in addition to the HDHP. This coverage is classified as Permitted Insurance and includes insurance if substantially all of the coverage provided under such insurance relates to:

- Liabilities incurred under worker's compensation laws;
- Tort liabilities;
- Liabilities relating to ownership or use of property; or
- Insurance for a specified disease or illness (e.g., cancer insurance);
- Insurance paying a fixed amount per day (or other period) of hospitalization; and
- Insurance for Dental, Vision, or Long-Term Care.

An individual is not disqualified from establishing and contributing to an HSA solely because he or she is a participant in a Health FSA with a grace period, provided the individual either has a zero balance on the last day of the plan year or the individual transfers the entire balance to the HSA as of the last day of the plan year (subject to the FSA one-time rollover rules set forth below).

CONTRIBUTIONS TO AN HSA – The maximum contribution permitted for an Eligible Individual with self-only coverage of an HDHP is the statutory maximum that is updated annually for Cost-of-Living adjustments (visit irs.gov or contact your HSA administrator for current limits). The maximum contribution permitted for an Eligible Individual with family coverage of an HDHP is the statutory maximum that is updated annually for Cost-of-Living adjustments (visit irs.gov or contact your HSA administrator for current limits). The annual contribution limit is the sum of the limits determined separately for each month based on the individual's status and health plan coverage as of the first day of the month. HSA rules are applied without regard to community property laws.

An individual who first becomes an eligible individual anytime on or before the first day of December of any year is treated as though they are an eligible individual for the entire year so long as they continue to be an eligible individual for 12 months beginning with the last month in the year in which the individual became an eligible individual.

If an individual fails to be an eligible individual during that 12-month period, all contributions attributable to months for which the individual was not an eligible individual during the year are included in gross income for the year in which the individual ceases to be an eligible individual (except for failure to maintain eligible individual status due to disability or death) and such amounts are subject to a 20% excise tax.

Contributions must be made in the form of cash or as an EFT. Contributions can be made by you or by other individuals on your behalf. Your HSA contribution limit is reduced by any contributions made by others on your behalf. Contributions made to your HSA in the form of a Rollover, or transfer of asset, from an MSA or HSA must be in accordance with the Code and must be in the form of cash or as an EFT.

An Eligible Individual who is age 55 or older is allowed to make an additional "catch-up" contribution of \$1000 for tax year 2009 and thereafter.

If an Eligible Individual makes an HSA contribution, a deduction is permitted for the taxable year equal to an amount, which is the aggregate amount, paid in cash during such taxable year to an HSA. All HSA contributions must be made for a calendar year no later than the taxpayer's tax filing due date (generally April 15), not including extensions.

If a married couple is covered under separate HDHPs, then each spouse is eligible for his/her own HSA, in which case each spouse could contribute up to the maximum statutory amount for an individual into his/her own HSA. If a married couple is covered under the same high deductible health plan and each spouse makes contributions to a separate HSA account, then the maximum statutory amount for a family may be divided equally between them or they can agree to divide it in another fashion.

Employer contributions to an employee's HSA, within statutory limits under a cafeteria plan, are not included in compensation paid to the employee. Employers deduct the HSA contributions on their tax return and report the amount on the employee's W-2 form as non-taxable income.

EXCESS CONTRIBUTIONS – Generally, excess HSA contributions is any contribution that exceeds the contribution limits, and such excess contributions are subject to a 6% excise tax on the principal amount of the excess each year until the excess is corrected.

For Post-tax and Employer contributions, the 6% excise tax may be avoided if the excess amount plus the earnings attributable to the excess is distributed by your tax filing deadline including extensions for the year during which the excess contribution was made, and you do not take a deduction for such excess amount. If you decide to correct your excess in this manner, the principal amount of the excess returned is not taxable (but excess employer contributions would have been taxable when made). However, the earnings attributable to the excess are taxable to you in the year that the distribution occurred.

If you do not correct your excess contribution in the manner prescribed above by the due date for filing your tax return, then you may withdraw the principal amount of the excess (no earnings need be distributed). An excise tax will apply, however, first to the year in which the excess contribution was made and each subsequent year until it is withdrawn. The excise tax rate is currently 6% but is subject to change.

ROLLOVER HSAs – A rollover from another HSA/MSA is any amount you receive from one HSA/MSA and rollover into another HSA. You are not required to roll over the entire amount received from the first HSA/MSA. However, any amount you do not roll over will be taxed at ordinary income tax rates for Federal Income Tax purposes and may be subject to an additional excise tax if the distribution does not meet one of the exceptions. The excise tax will be 20% for the amount withdrawn from an HSA/MSA and not subsequently rolled to another HSA within the allotted timeframe. The following special rules also apply to rollovers between HSAs/MSAs:

- The rollover must be completed no later than the 60th day after the day the distribution was received by you.
- You may have only one HSA/MSA to HSA rollover during a 12 consecutive month period measured

from the date you received a distribution of an HSA/ MSA which was rolled over to another HSA.

- You are not required to receive a complete distribution from your HSA/MSA in order to make a rollover contribution into another HSA, nor are you required to roll over the entire amount you received from the first HSA.
- If you inherit an HSA/MSA due to the death of the account holder, you may not roll this HSA/MSA into your own HSA unless you are the spouse of the decedent.

In addition, an unlimited amount of direct HSA trustee-to-trustee transfers may occur.

ROLLOVER IRAs – A one-time rollover from trustee-to-trustee transfer of IRA funds to an HSA is permitted to the extent the transfer doesn't exceed the maximum annual HSA contribution amount updated annually for Cost-of-Living adjustments (visit irs.gov or contact your HSA administrator for current limits). The IRA transfer is not treated as a rollover contribution. Thus, any amounts transferred from the IRA to the HSA during the year reduce the maximum amount that may otherwise be contributed to the HSA during that year.

If an individual electing the one-time transfer does not remain an eligible individual for the 12 months following the month of the contribution, the transferred amount is included in the income and subject to a 20% additional tax.

DISTRIBUTIONS – Any amounts distributed from your HSA account for qualified medical expenses are not included in your gross income for the year and are not subject to the 20% excise tax.

Qualified medical expenses include amounts paid with respect to the individual, the individual's spouse, and the individual's dependents, for medical care defined under section 213(d) of the Code if such amounts are not compensated for any insurance or otherwise. Medical Care includes amount paid:

- A) for the diagnosis, cure, mitigation, treatment or prevention of disease, or for the purpose of affecting any structure or function of the body;
- B) for transportation primarily for and essential to medical care referred to above; or
- C) amounts paid for certain lodging while away from home primarily for and essential to medical care, if such medical care is provided by a physician in a licensed hospital and is no significant element of personal pleasure, recreation, or vacation in the travel away from home. The term medical care does not include cosmetic surgery.

Generally qualified medical expenses do not include payment of insurance premiums. Exceptions to this rule include coverage under:

- A) a health plan during any period of continuation coverage required under Federal law (COBRA);
- B) a qualified long-term care insurance contract (as defined in section 7702(b) IRC);
- C) a health plan during a period in which the individual is receiving unemployment compensation under any Federal or State law; or
- D) Medicare premiums, when deducted from Social Security payments.

Any amounts distributed from an HSA account that are not used to pay for qualified medical expenses are included in the gross income of the taxpayer. Also, such distribution will be subject to a 20% excise tax. Exceptions to the 20% excise tax include:

- distributions due to the Account Holder becoming disabled (defined under section 72(m)(7) IRC);
- distributions made to the beneficiary(ies) upon the death of the Account Holder;
- distributions made to an Account Holder after such individual becomes eligible for Medicare. (The age specified in section 1811 of the Social Security Act is currently age 65.); or
- distributions from an HSA/MSA that are subsequently rolled over to another HSA within 60 days from the day of receipt of the distributions.

If the Account Holder designated his/her spouse as the designated beneficiary, the surviving spouse shall be treated as the account holder of the HSA after the Account Holder's death. This means that when the Account Holder dies, if the surviving spouse is the designated beneficiary, then the surviving spouse assumes such account automatically.

If a non-spouse beneficiary (other than the estate) is the designated beneficiary, then the HSA ceases to be an HSA on the date of death, and the fair market value of the Account on the date of death is treated as taxable to such non-spouse beneficiary for such taxable year.

If the taxpayer's estate is the designated beneficiary, then the fair market value of the assets in the account are includible in the decedent's gross income on the last tax return of the decedent.

Distributions made to a beneficiary shall not be taxable to the extent that the decedent incurred qualified medical expenses prior to death and the beneficiary pays such amounts within one year of the date of death. If the designated beneficiary is the estate and the decedent's gross income for the last taxable year is increased by the amount of the distribution, then the estate taxes are reduced by such amount.

PROHIBITED TRANSACTIONS – If you or your beneficiary(ies) engage in a prohibited transaction (as defined under Section 4975 of the Code) with your HSA, it will lose its tax exemption and you must include the value of your account in your gross income for that taxable year. If you use your HSA for security or pledge any portion of your HSA as collateral for a loan, the amount so pledged will be treated as a distribution and will be included in your gross income for that year.

REPORTING REQUIREMENT – Each year, we will report to the IRS and to you, as required by the Code. A Tax Form 1099-SA and Tax Form 5498-SA will be made available before the regulatory deadline. The form 1099-SA reflects Distributions from your Account and the Form 5498-SA reflects Contributions and the fair market value of your Account.

If you are an HSA account holder, additional reporting using the Form 8889 is required by you, to be sent along with your Tax Form 1040.

TRANSFERS – A direct transfer of all or a portion of your funds is permitted from this HSA to another HSA or

vice-versa. Transfers do not constitute a distribution since you are never in receipt of the funds. The monies are transferred directly to the new trustee or custodian.

If you should transfer all or a portion of your HSA to your former spouse's HSA under a divorce decree (or under a written instrument incident to divorce) or separation instrument, you will not be deemed to have made a taxable distribution but merely a transfer. The portion so transferred will be treated at the time of the transfer as the HSA of your spouse or former spouse

This disclosure statement is intended to provide only a summary of the rules and regulations that apply to Health Savings Accounts (HSAs). It is intended to be informational and does not constitute tax or legal advice regarding any specific situation. For more information or tax advice, please contact your tax advisor.

DataPath Financial Services

P.O. Box 55068 | Little Rock, AR 72215

Voice: 888-665-1264 | Fax: 501-687-1409 | Email: fiops@dpath.com