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Treasury Issues Guidance To Encourage Use Of New Innovative Health Savings Accounts ("HSAs")

The Treasury Department and the Internal Revenue Service today issued guidance regarding the new and innovative Health Savings Accounts (HSAs). HSAs were created by the Medicare bill signed by President Bush on December 8th and are designed to help individuals save for qualified medical and retiree health expenses on a tax-free basis.

"Starting January 1, 2004, new innovative Health Savings Accounts will change the way millions can save to meet their health care needs," said Treasury Secretary John Snow. "We want Americans to be able to take advantage of HSAs as soon as possible," stated Treasury Secretary John Snow. "An HSA is a good deal, and all Americans should consider it. HSAs will help consumers have more choice in meeting their health care needs, and we are acting today to clear the way."

Any individual who is covered by a high-deductible health plan may establish an HSA. Amounts contributed to an HSA belong to individuals and are completely portable. Every year the money not spent would stay in the account and gain interest tax-free, just like an IRA. Unused amounts remain available for later years (unlike amounts in Flexible Spending Arrangements that are forfeited if not used by the end of the year). Tax-advantaged contributions can be made in three ways: the individual and family members can make tax deductible contributions to the HSA even if the individual does not itemize deductions, the individual's employer can make contributions that are not taxed to either the employer or the employee, and employers with cafeteria plans can allow employees to contribute untaxed salary through a salary reduction plan. Funds distributed from the HSA are not taxed if they are used to pay qualifying medical expenses. To encourage saving for health expenses after retirement, HSA owners between age 55 and 65 are allowed to make additional catch-up contributions (\$500 in 2004) to their HSAs.

HSAs are more flexible and are available to many more individuals than Archer

MSAs. The minimum required deductible of the high-deductible plan is lower, both employees and employers can contribute, and the maximum contribution is now the full amount of the deductible. Employees of large companies are now eligible. Individuals with existing MSAs can either retain them or roll the amounts over into a new HSA.

Today's guidance (Notice 2004-2) provides, in a question and answer format, information about what HSAs are, who can have HSAs, how to establish them and the basic rules for contributions and withdrawals from HSAs. While many of the rules follow previous guidance issued for Archer MSAs, they also address new issues specific to HSAs. In addition to the basic information about HSAs, the guidance provides the following clarifications:

- Employer contributions to employee HSAs are not subject to FICA taxes.
- An HSA is allowed for employees covered by an employer self-insured medical reimbursement plan with a qualifying high-deductible.
- Like MSAs, trustees or custodians are not required to determine if withdrawals are used for medical expenses.
- Special rules are provided for determining the deductible for high-deductible family coverage.
- Like MSAs, in addition to banks and insurance companies, persons may be approved as HSA custodians under the IRA nonbank trustee rules – and existing IRA or Archer MSA trustees or custodians are automatically approved.
- While an HSA trustee or custodian that does not sponsor the high-deductible health plan may request proof or certification that someone is eligible to contribute to the HSA, it is not required.
- Otherwise eligible individuals without earnings may contribute to an HSA – including self-employed and unemployed.

Treasury and the IRS intend to issue additional guidance in the summer of 2004. To that end, today's Notice requests comments concerning HSAs, including –

- What kinds of preventive care can be offered without a deductible in a high-deductible health plan?
- What is the relationship of HSAs to Flexible Spending Arrangements and Health Reimbursement Arrangements?
- Are high-deductible plans used in conjunction with an HSA allowed to impose a lifetime limit on benefits?

Treasury Assistant Secretary for Tax Policy Pam Olson stated, "We look forward to receiving comments from the public on the issues that need to be resolved in order to make HSAs a success."

Separately, the Federal Office of Personnel Management has already begun a review of HSAs and their role within the FEHB. OPM will identify opportunities to extend this new benefit to the 3.1 million members of the Federal team as they

make decisions on how to spend their hard-earned dollars on healthcare.

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Related Documents:

- [Notice 2004-2](#)
- [Health Savings Accounts Fact Sheet](#)
- [OPM Press Release](#)