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HSA Inflation Adjusted Amounts

Cross References

- IRC §223
- Rev. Proc. 2020-32
- Rev. Proc. 2019-25
- Rev. Proc. 2018-30

The IRS announced inflation adjusted amounts for health savings accounts (HSAs) for 2021. These amounts are reflected in the chart below in comparison to previous years.

HSA Limitations

Annual contribution is limited to:	2021	2020	2019
Self-only coverage, under age 55	$3,600	$3,550	$3,500
Self-only coverage, age 55 or older	$4,600	$4,550	$4,500
Family coverage, under age 55	$7,200	$7,100	$7,000
*Family coverage, age 55 or older	$8,200	$8,100	$8,000
Minimum annual deductibles:			
Self-only coverage	$1,400	$1,400	$1,350
Family coverage	$2,800	$2,800	$2,700
Maximum annual deductible and out-of-pocket expense limits:			
Self-only coverage	$7,000	$6,900	$6,750
Family coverage	$14,000	$13,800	$13,500

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HSA Limitations continued

* Assumes only one spouse has an HSA. See IRS Pub. 969 if both spouses have separate HSAs.

Postponing Deadlines for Certain Time-Sensitive Actions

Cross References

- Notice 2020-35

The IRS has postponed deadlines for certain time-sensitive actions on account of the COVID-19 emergency. The postponed deadlines apply to certain employment taxes, employee benefit plans, exempt organizations, IRAs, Coverdell education savings accounts, HSAs, and Archer MSAs. The IRS is also providing a temporary waiver of the requirement that Certified Professional Employer Organizations (CPEOs) file certain employment tax returns and their accompanying schedules on magnetic media.

The relief provided in Notice 2020-35 applies to time-sensitive actions that are otherwise due to be performed on or after March 30, 2020, and before July 15, 2020. The new deadline for these actions is generally July 15, 2020, unless a different revised deadline is specified in the notice.

Time-sensitive actions to which the deadline is postponed until July 15, 2020 include the following:

- Correction of employment tax reporting errors using the interest-free adjustment process under IRC sections 6205 and 6413,
- Application for a funding waiver under IRC section 412(c) for a defined benefit pension plan that is not a multiemployer plan,
- Actions described under IRC section 432 that are due to be performed with respect to a multi-employer defined benefit pension plan,
- Actions described under IRC section 433 that are due to be performed with respect to a CSEC plan,
- Interest and penalty for failure to file Form 5330, *Return of Excise Taxes Related to Employee Benefit Plans,* and payment of the associated excise taxes are disregarded,
- Certain actions with respect to IRC section 403(b) employee plans of tax exempt and government entities,
- Form 990-N electronic notice requirement (e-Postcard) for certain small exempt organizations,
- Time for commencing a suit for declaratory judgement under IRC section 7428,

The due date is extended to August 31, 2020 for filing and furnishing the following forms:

- Form 5498, *IRA Contribution Information,*
- Form 5498-ESA, *Coverdell ESA Contribution Information,* and
- Form 5498-SA, *HSA, Archer MSA, or Medicare Advantage MSA Information.*

Paycheck Protection Program Flexibility Act of 2020

Cross References

- Public Law 116-142

The Paycheck Protection Program is a loan designed to provide a direct incentive for small businesses to keep their workers on the payroll. The Small Business Administration (SBA) will forgive loans if all employees are kept on the payroll and the money is used for payroll, rent, mortgage interest, or utilities. The program was originally enacted by the CARES Act (Public Law 116-136), which was signed into law on March 27, 2020.

On June 5, 2020, the Paycheck Protection Program Flexibility Act of 2020 was signed into law, which makes the following modifications to the Paycheck Protection Program:

Prior Law (CARES Act Version)	New Law
For loans that still have a remaining balance after the government forgives part of the loan, a covered loan has a maximum maturity of 10 years from the date on which the borrower applies for loan forgiveness.	For loans that still have a remaining balance after the government forgives part of the loan, a covered loan has a minimum maturity of 5 years and a maximum maturity of 10 years from the date on which the borrower applies for loan forgiveness.
The “covered period” is the period in which the loan proceeds may be used to pay for expenses (payroll, mortgage interest, rent, etc.) that may result in loan forgiveness if the number of employees are not reduced. The covered period is from February 15, 2020 to June 30, 2020.	The “covered period” is the period in which the loan proceeds may be used to pay for expenses (payroll, mortgage interest, rent, etc.) that may result in loan forgiveness if the number of employees are not reduced. The covered period is from February 15, 2020 to December 31, 2020.
Loan forgiveness equals the sum of the payments made for qualified expenses (payroll, mortgage interest, rent, etc.) during the 8-week covered period beginning on the loan’s origination date.	Loan forgiveness equals the sum of the payments made for qualified expenses (payroll, mortgage interest, rent, etc.) during the period beginning on the loan’s origination date and ending on the earlier of either (A) the date that is 24 weeks after the loan’s origination date, or (B) December 31, 2020. For recipients that received a covered loan before June 5, 2020, the recipient may elect to have the covered period end on the date that is 8 weeks after the loan’s origination date.
To receive loan forgiveness, the employer must use at least 75% of the covered loan amount for payroll costs and 25% for mortgage obligations, rent, or utilities.	To receive loan forgiveness, the employer must use at least 60% of the covered loan amount for payroll costs and 40% for mortgage obligations, rent, or utilities.
Repayment of a covered loan is deferred for a period of not less than 6 months, including payment of principal, interest, and fees, and not more than 1 year.	Repayment of a covered loan is deferred, including payment of principal, interest, and fees, until the date on which the amount of loan forgiveness is remitted to the lender. If the recipient fails to apply for loan forgiveness within 10 months after the last day of the covered period, the recipient must make payments of principal, interest, and fees beginning on the day that is not earlier than 10 months after the last day of the covered period.

New exemption based on employee availability. Under the original version, loan forgiveness was reduced if, during the covered period, the number of employees were reduced or the wages of certain employees were reduced. The new law provides an exception to this rule. During the period beginning February 15, 2020, and ending on December 31, 2020, the amount of loan forgiveness is determined without regard to a proportional

reduction in the number of full-time equivalent employees if the recipient, in good faith:

A) Is able to document:
   1) An inability to rehire individuals who were employees of the employer on February 15, 2020, and
   2) An inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020, or

B) Is able to document an inability to return to the same level of business activity as the business was operating at before February 15, 2020, due to compliance with regulations related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19.

Delay of payment of employer payroll taxes. Under the CARES Act, employers and self-employed individuals are allowed to delay the deposit or payment of the employer's share of Social Security taxes, and the equivalent portion of self-employment taxes (the 6.2% portion of wages, compensation, or net earnings from self-employment). In order to be eligible to defer such payments, the employer or self-employed person may not have had indebtedness forgiven under the Paycheck Protection Program.

The new law allows employers and self-employed individuals to take advantage of the delay of payment of employer payroll taxes or self-employment taxes, regardless of whether the employer or self-employed individual has loans forgiven under the Paycheck Protection Program.

Why Economic Impact Payment Could Be Different Than Anticipated

Cross References

• IR-2020-93, May 11, 2020

The IRS has posted information on their website giving various scenarios that explain why the Economic Impact Payment (EIP) that was received may be different than the amount that was expected.

2019 tax return not yet filed, or IRS has not finished processing the 2019 return. Payments are automatic for eligible people who filed a tax return for 2018 or 2019. Typically, the IRS uses information from the 2019 tax return to calculate the Economic Impact Payment. Instead, the IRS will use the 2018 return if the taxpayer has not yet filed for 2019. If a taxpayer has already filed for 2019, the IRS will still use the 2018 return if the IRS has not finished processing the 2019 return. The IRS accepting a tax return electronically is different than completing processing. Any issues with the 2019 return mean the IRS would have used the 2018 return to calculate the Economic Impact Payment.

If the IRS used the 2018 return, various life changes in 2019 would not be reflected in the payment. These may include higher or lower income or birth or adoption of a child.

In many cases, however, these taxpayers may be able to claim an additional amount on the 2020 tax return when it is filed in 2021. This could include up to an additional $500 for each qualifying child not reflected in their Economic Impact Payment.

Claimed dependents are not eligible for an additional $500 payment. Only children eligible for the Child Tax Credit qualify for the additional payment of up to $500 per child. To claim the Child Tax Credit, the taxpayer generally must be related to the child, live with them more than half the year and provide at least half of their support. Besides their own children, adopted children and foster children, eligible children can include the taxpayer's younger siblings, grandchildren, nieces and nephews if they can be claimed as dependents. In addition, any qualifying child must be a U.S. citizen, permanent resident or other qualifying resident alien. The child must also be under the age of 17 at the end of the year for the tax return on which the IRS bases the payment determination.

A qualifying child must have a valid Social Security Number (SSN) or an Adoption Taxpayer Identification Number (ATIN). A child with an Individual Taxpayer Identification Number (ITIN) is not eligible for an additional payment.

Parents who are not married to each other and do not file a joint return cannot both claim their qualifying child as a dependent. The parent who claimed the child on their 2019 return may have received an additional Economic Impact Payment for their qualifying child. When the parent who did not receive an additional payment files a 2020 tax return, they may be able to claim up to an additional $500 per-child amount on that return if they qualify to claim the child as their qualifying child for 2020.

Dependents are college students. Dependent college students do not qualify for an EIP, and even though their parents may claim them as dependents, they normally do not qualify for the additional $500 payment. For example, a 20-year-old full-time college student claimed as a dependent on his or her parent's 2019 federal income tax return is not eligible for a $1,200 Economic Impact Payment. In addition, the student's parents will not receive an additional $500 Economic Impact Payment because the student does not qualify as a child younger than 17.

This scenario could also apply if the parent's 2019 tax return hasn't been processed yet by the IRS before the payments were calculated, and a college student was claimed on a 2018 tax return.

However, if the student cannot be claimed as a dependent by his or her parents or anyone else for 2020, that student may be eligible to claim a $1,200 credit on his or her own 2020 tax return.

Claimed dependents are parents or relatives, age 17 or older. If a taxpayer claimed a parent or any other relative age 17 or older on his or her tax return, the dependent will not receive a $1,200 payment. In addition, the taxpayer will not receive an additional $500 payment because the parent or other relative is not a qualifying child under age 17.

However, if the parent or other relative cannot be claimed as a dependent on the taxpayer's or anyone else's return for 2020, the parent or relative may be eligible to individually claim a $1,200 credit on his or her 2020 tax return.

Past-due child support was deducted from the payment. The Economic Impact Payment is offset only by past-due child support. The Bureau of the Fiscal Service will send the taxpayer a notice if an offset occurs.

For taxpayers who are married filing jointly and filed an injured spouse claim with their 2019 tax return (or 2018 tax return if they haven't filed the 2019 tax return), half of the total payment will be sent to each spouse. Only the payment of the spouse who owes past-due child support should be offset.

The IRS is aware that a portion of the payment sent to a spouse who filed an injured spouse claim with his or her 2019 tax return (or 2018 tax return if no 2019 tax return has been filed) may have been offset by the injured spouse's past-due child support. The IRS is working with the Bureau of Fiscal Service and the U.S. Department of Health and Human Services, Office of Child Support Enforcement, to resolve this issue as quickly as possible. If an injured spouse claim was filed with the return and the taxpayer is impacted by this issue, the taxpayer does not need to take any action. The injured spouse will receive their unpaid half of the total payment when the issue is resolved.

Garnishments by creditors reduced the payment amount. Federal tax refunds, including the Economic Impact Payment, are not protected from garnishment by creditors by federal law once the proceeds are deposited into a taxpayer's bank account.

What if the amount of the Economic Impact Payment is incorrect? In many instances, eligible taxpayers who received a smaller-than-expected Economic Impact Payment (EIP) may qualify to receive an additional amount when they file their 2020 federal income tax return. EIPs are technically an advance payment of a new temporary tax credit that eligible taxpayers can claim on their 2020 return. Everyone should keep for their records the letter they receive by mail within a few weeks after their payment is issued.

When taxpayers file their 2020 tax return, they can claim additional credits if they are eligible for them.

The EIP will not reduce a taxpayer's refund or increase the amount they owe on the 2020 tax return. It is also not taxable on the 2020 return.

Health FSA Rules, Dependent Care Assistance Program Rules, and Other Health Plan Rules Modified in Response to COVID-19

Cross References

- IRC §125
- Notice 2020-29
- Notice 2020-33

An IRC section 125 cafeteria plan is a written plan maintained by an employer under which all participants may choose among two or more benefits consisting of cash and qualified benefits. A qualified benefit is excluded from the employee's gross income. Qualified benefits may include employer-provided health plans, including health flexible spending arrangements (health FSAs) and dependent care assistance programs.

Elections regarding qualified benefits generally must be irrevocable and must be made prior to the first day of the plan year. Exceptions apply under certain circumstances, such as if the employee experiences a change in status or there are significant changes in the cost of coverage.

Due to the nature of the public health emergency posed by COVID-19, the IRS has determined there is a need to allow employees to change elections that have been made under health FSA plans and dependent care assistance programs.

Elections under a cafeteria plan. The IRS is permitting employees to make certain prospective mid-year election changes for health FSAs and dependent care assistance programs during the 2020 calendar year. The employer, in its discretion, may amend the plan to allow each employee who is eligible to make salary reduction contributions under the plan to make prospective election changes, including an initial election. The employer may amend its plan to allow employees to:

1) Make a new election for employer-sponsored health coverage on a prospective basis, if the employee initially declined to elect employer-sponsored health coverage,
2) Revoke an existing election for employer-sponsored health coverage and make a new election to enroll in different health coverage sponsored by the same employer on a prospective basis, including changing enrollment from self-only coverage to family coverage,
3) Revoke an existing election from employer-sponsored health coverage on a prospective basis, provided that the employee attests in writing that the employee is enrolled, or immediately will enroll, in other health coverage not sponsored by the employer,
4) Revoke an election, make a new election, or decrease or increase an existing election regarding a health FSA on a prospective basis, and
5) Revoke an election, make a new election, or decrease or increase an existing election regarding a dependent care assistance program on a prospective basis.

See Notice 2020-29 for details on how an employer can amend its plan to provide for one or more of the above.

Extended claims period for health FSAs and dependent care assistance programs. The IRS is permitting flexibility to provide an extended period to apply unused amounts remaining in a health FSA or dependent care assistance program to pay or reimburse medical care expenses or dependent care expenses. An employer, in its discretion, may amend the plan to permit employees to apply unused amounts remaining in a health FSA or a dependent care assistance program as of the end of a grace period ending in 2020 or a plan year ending in 2020 to pay or reimburse expenses incurred for the same qualified benefit through December 31, 2020.

For example, if an employer sponsors a calendar year health FSA plan that has a grace period ending on March 15 immediately following the end of each plan year, the employer may amend the plan to permit employees to apply unused amounts remaining in the plan as of March 15, 2020 to reimburse the employee for medical care expenses incurred through December 31, 2020.

See Notice 2020-29 for more details.

Indexed carryover amount. Notice 2020-33 increases the maximum $500 carryover amount for a plan year to an amount equal to 20% of the maximum salary reduction contribution under IRC section 125(i) for that plan year. Under this provision, the maximum unused amount from a plan year starting in 2020 allowed to be carried over to a plan year starting in 2021 is $550.

See Notice 2020-33 for more details.

Notice 2020-29 and 2020-33 examples:

Example #1: *An employer provides a health FSA that allows a $500 carryover for the plan year that begins on July 1, 2019 and ends on June 30, 2020 (the 2019 plan year). The employer amends the plan to adopt a $550 (indexed) carryover beginning with the 2020 plan year, and also amends the plan to adopt the temporary extended period for incurring claims with respect to the 2019 plan year, allowing for claims incurred prior to January 1, 2021, to be paid with respect to amounts from the 2019 plan year. An employee has a remaining balance in his health FSA for the 2019 plan year of $2,000 on June 30, 2020, because a scheduled non-emergency procedure was postponed. For the 2020 plan year beginning July 1, 2020, the employee elects to contribute $2,000 to his health FSA. The employee is able to reschedule the procedure before December 31, 2020 and, between July 1, 2020 and December 31, 2020, incurs $1,900 in medical care expenses. The health FSA may reimburse the employee $1,900 from the $2,000 remaining in his health FSA at the end of the 2019 plan year, leaving $100 unused from the 2019 plan year. Under the plan terms that provide for a carryover, the employee is allowed to use the remaining $100 in his health FSA until June 30, 2021, to reimburse claims incurred during the 2020 plan year. The employee may be reimbursed for up to $2,100 ($2,000 contributed to the health FSA for the 2020 plan year plus $100 carryover from the 2019 plan year) for medical care expenses incurred between January 1, 2021 and June 30, 2021. In addition, the employee may carry over to the 2021 plan year beginning July 1, 2021 up to $550 of any remaining portion of that $2,100 after claims are processed for the 2020 plan year that began July 1, 2020. A grace period is not available for the plan year ending June 30, 2021.*

Example #2: *Same facts as Example #1, except that a different employee has a remaining balance in his health FSA for the 2019 plan year of $1,250 on June 30, 2020. For the 2020 plan year beginning July 1, 2020, this employee elects to contribute $1,200 to his health FSA. Between July 1, 2020 and December 31, 2020, the employee incurs $600 in medical care expenses. The health FSA may reimburse the employee $600 from the $1,250 remaining in his health FSA at the end of the 2019 plan year, leaving $650 unused from the 2019 plan year. Under the plan terms, the employee is allowed to use $500 of the $650 unused amount from the 2019 plan year to reimburse claims incurred during the 2020 plan year, and the remaining $150 will be forfeited. The employee may be reimbursed for up to $1,700 ($1,200 contributed to the health FSA for the 2020 plan year plus $500 carryover from the 2019 plan year) for medical care expenses incurred between January 1, 2021 and June 30, 2021. In addition, the employee may carry over to the 2021 plan year beginning July 1, 2021 up to $550 of any remaining unused portion of that $1,700 after claims are processed for the 2020 plan year that began July 1, 2020. A grace period is not available for the plan year ending June 30, 2021.*

Timing for reimbursements by health plans. In general, a cafeteria plan or an individual coverage health reimbursement arrangement (HRA) may not reimburse medical care expenses incurred before the beginning of the plan year. Medical care expenses are treated as incurred when the covered individual is provided the medical care, not when the amount is billed or paid.

Notice 2020-33 provides that a plan is permitted to treat an expense for a premium for health insurance coverage as incurred on:

1) The first day of each month of coverage on a pro rata basis,
2) The first day of the period of coverage, or
3) The date the premium is paid.

Thus, for example, an individual coverage HRA with a calendar year plan year may immediately reimburse a substantiated premium for health insurance coverage that begins on January 1 of that plan year, even if the covered individual paid the premium for the coverage prior to the first day of the plan year.

HDHPs and application of Notice 2020-15. Notice 2020-15 provides that a health plan that otherwise satisfies the requirements to be a high deductible health plan (HDHP) under IRC section 223(c)(2)(A) (the health savings account (HSA) rules) will not fail to be an HDHP merely because the health plan provides medical care services and items purchased related to testing for and treatment of COVID-19 prior to the satisfaction of the applicable minimum deductible. Notice 2020-29 clarifies that the relief provided in Notice 2020-15 regarding HDHPs and expenses related to testing for and treatment of COVID-19 applies with respect to reimbursements of expenses incurred on or after January 1, 2020. Notice 2020-29 further clarifies that the panel of diagnostic testing for influenza A & B, norovirus and other coronaviruses, and respiratory syncytial virus (RSV) and any items or services required to be covered with zero cost sharing under the Families First Coronavirus Response Act as amended by the CARES Act, are part of testing and treatment for COVID-19 for purposes of Notice 2020-15.

HDHPs and application of the CARES Act. The CARES Act amended the HSA rules to provide a temporary safe harbor for providing coverage for telehealth and other remote care services. HSA-eligible HDHPs are allowed to cover telehealth and other remote care services without a deductible or with a deductible below the minimum annual deductible otherwise required by IRC section 223(c)(2)(A). The CARES Act also amended the HSA rules to include telehealth and other remote care services as categories of coverage that are disregarded for purposes of determining whether an individual who has other health plan coverage in addition to an HDHP is an eligible individual who may make tax-favored contributions to his or her HSA. Thus, an otherwise eligible individual with coverage under an HDHP may also receive coverage for telehealth and other remote care services outside the HDHP and before satisfying the deductible of the HDHP and still contribute to an HSA.

Notice 2020-29 provides that treatment of telehealth and other remote care services under the CARES Act applies with respect to services provided on or after January 1, 2020, with respect to plan years beginning on or before December 31, 2021. Therefore, for example, an otherwise eligible individual with coverage under an HDHP who also received coverage beginning February 15, 2020 for telehealth and other remote care services under an arrangement that is not an HDHP and before satisfying the deductible for the HDHP will not be disqualified from contributing to an HSA during 2020.