NEXT LEVEL
Accounting & Tax
Bringing Your Business to the Next Level

2018
Volume 6, Issue 3

Tax News and Industry Updates

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HSA Relief

Cross References

- Rev. Proc. 2018-27

The Health Savings Account (HSA) annual limitations for 2018 have been modified once again. On May 4, 2017, the IRS issued Revenue Procedure 2017-37 which provided the 2018 inflation adjusted amounts for HSAs. That revenue procedure determined that the annual limitation on deductions for an individual with family coverage under a high deductible health plan (HDHP) was $6,900 ($7,900 age 55 and older).

Then on December 22, 2017, the Tax Cuts and Jobs Act modified the inflation adjustments for certain provisions of the Internal Revenue Code, including the inflation adjustments for HSAs. As a result of the new law, the IRS issued Revenue Procedure 2018-18 on March 2, 2018 which superseded Revenue Procedure 2017-37 to reflect the statutory amendments to the inflation adjustments. The new annual limitation on deductions for an individual with family coverage under an HDHP was $6,850 for 2018, which was a $50 reduction from the previous limitation announce in Revenue Procedure 2017-37. None of the other HSA inflation adjustments for 2018 were changed.

The IRS received a number of complaints stating that implementing the $50 reduction to the limitation would impose numerous unanticipated administrative and financial burdens. Some individuals with family coverage made the maximum HSA contribution for the 2018 calendar year prior to the issuance of Revenue Procedure 2018-18. Other individuals made annual salary reduction elections for HSA contributions through their employer's cafeteria plans based upon the $6,900 limit. The costs of modifying the various systems to reflect the reduced maximum, as well as the costs associated with distributing a $50 excess contribution plus earnings would be significantly greater than any tax benefit associated with an unreduced HSA contribution. Some also pointed out that IRC section 223(g)(1) requires annual inflation adjustments for HSAs to be published by June 1 of the preceding calendar year.

In response to these concerns, the IRS has determined that it is in the best interest of sound and efficient tax administration to allow taxpayers to treat the $6,900 annual limitation originally published as the 2018 inflation adjusted limitation on HSA contributions. Any individual who has already received the $50 (plus earnings) distribution from an HSA of excess contributions based on the $6,850 limit may repay the distribution to the HSA and treat the distribution as the result of a mistake of fact due to reasonable cause. If the individual repays such distribution back into the HSA by April 15,

2019, it is not included in the taxpayer's gross income or subject to the 20% penalty, nor is it subject to the excise tax on excess contributions.

Mistaken distributions that are repaid to an HSA are not required to be reported on Form 1099-SA or Form 8889 and are not required to be reported as additional HSA contributions. However, the HSA trustee or custodian is not required to allow individuals to repay the distribution.

Alternatively, if the individual does not repay the $50 (plus earnings) distribution, it is treated as a distribution of an excess contribution that is not included in gross income or subject to the 20% penalty, provided the taxpayer receives the distribution by April 15, 2019.

The preceding paragraph does not apply to distributions attributable to employer contributions (such as a cafeteria plan election) if the employer does not include any portion of the contributions in the employee's wages because the employer treats $6,900 as the annual limitation. In that case, unless the distribution from the HSA is used to pay qualified medical expenses, the distribution is included in the employee's gross income and subject to the 20% penalty.

Note: Revenue Procedure 2018-27 resets the 2018 inflation adjusted contribution limit to $6,900 for individuals with family coverage ($7,900 age 55 and older). Individuals who have not yet contributed the maximum for 2018 may do so based upon the $6,900 amount. Likewise, individuals who have already contributed the $6,900 maximum but have not yet received the $50 (plus earnings) distribution of excess contributions do not have to do anything at this time.

EAs No Longer Allowed to Use IRS Logo

Cross References

- IRS Letter to NAEA Dated March 15, 2018

The IRS has informed the National Association of Enrolled Agents (NAEA) that Enrolled Agents (EAs) are no longer allowed to use the previously IRS approved EA logo.

The IRS did create the logo for the EA program and supported its use. Unfortunately, the logo created legal concerns. The EA logo included a likeness or imitation of a government insignia or seal (the IRS eagle). Use of such insignia, seals or emblems are prescribed for the use of officers and employees of departments and agencies of the United States. Use of such likenesses and imitations without specific statutory authorization or regulation authorized by law may be criminally actionable if found to be in violation of 18 USC section 333, if it is interpreted or construed as conveying the false impression that an advertisement, solicitation, business activity, or product is approved, authorized by, or associated with the Department of Treasury. EAs are not employees of the IRS or Department of Treasury. They are simply licensed by the IRS and any advertisement or solicitation that could infer more than licensure is not consistent with the advertising and solicitation provisions of section 10.30(a) of Circular 230, and may also be in violation of 18 USC section 333.

For these reasons, use of the prior logo must cease. The IRS Return Preparer Office and the Office of Professional Responsibility have not yet taken any action against EAs using the prior approved logo. However, continued use of the logo by an EA could be subject to a cease and desist action. EAs must take action within six months of the release of a new IRS approved logo to delete the prior logo from advertising, websites, business cards, and other communications with clients or prospective clients.

NAEA will inform its members when the new IRS approved logo is ready for use.

Auto Depreciation Limits

Cross References

- Rev. Proc. 2018-25
- IRC §280F

When the actual expense method is used for deducting the business use of a vehicle, the cost of the vehicle is depreciated under MACRS using a 5-year recovery period. The Section 179 deduction is also allowed for business vehicles. The annual deduction for depreciation, including any Section 179 deduction or special depreciation allowance, is limited to statutory amounts. The limits are adjusted each year for inflation.

The annual deduction is the lesser of:

- The vehicle's basis multiplied by the business use percentage multiplied by the applicable depreciation percentage, or
- The section 280F limit multiplied by the business percentage.

The Tax Cuts and Jobs Act increases the IRC section 280F limitations for vehicles placed in service after 2017. The new law also removes the separate section 280F limitations for trucks and vans. The chart below reflects the new section 280F limits for 2018 in comparison to previous years.

Vehicle Depreciation Limitations (Section 280F)				
Tax year first placed in service:	2018	2017	2016	2015
Auto depreciation limitations based on 100% business or investment use:				
1st year if special depreciation is claimed	$18,000	$11,160	$11,160	$11,160
1st year depreciation	$10,000	$3,160	$3,160	$3,160
2nd year depreciation	$16,000	$5,100	$5,100	$5,100
3rd year depreciation	$9,600	$3,050	$3,050	$3,050
Each succeeding year	$5,760	$1,875	$1,875	$1,875
Trucks and vans depreciation limitations based on 100% business or investment use (same as autos for years after 2017):				
1st year if special depreciation is claimed	$18,000	$11,560	$11,560	$11,460
1st year depreciation	$10,000	$3,560	$3,560	$3,460
2nd year depreciation	$16,000	$5,700	$5,700	$5,600
3rd year depreciation	$9,600	$3,450	$3,350	$3,350
Each succeeding year	$5,760	$2,075	$2,075	$1,975

Notes: If business or investment use is less than 100%, the depreciation limit equals the amount listed above multiplied by the business or investment percentage.

The 50% and 100% special depreciation allowance does not apply to section 280F property. Instead, the section 280F limits are increased by $8,000 for the first year.

Vehicles Acquired Before September 28, 2017 and Placed in Service During 2018

The Tax Cuts and Jobs Act eliminated the phase-down of the $8,000 additional bonus depreciation under prior law for autos placed in service after 2017. The prior law phase-down still applies to autos acquired before September 28, 2017 and placed in service after September 27, 2017. The chart below reflects the new section 280F limitations for vehicles placed in service during 2018 if the vehicle was acquired before September 28, 2017.

Tax year first placed in service:	2018
Auto depreciation (including trucks and vans) limitations based on 100% business or investment use:	
1st year if special depreciation is claimed	$16,400
1st year depreciation (no special depreciation claimed)	$10,000
2nd year depreciation	$16,000
3rd year depreciation	$9,600
Each succeeding year	$5,760

HSA Inflation Adjusted Amounts

Cross References

- IRC §223
- Rev. Proc. 2018-30
- Rev. Proc. 2018-27
- Rev. Proc. 2017-37
- Rev. Proc. 2016-28

The IRS announced inflation adjusted amounts for Health Savings Accounts (HSAs) for 2019. These amounts are reflected in the chart below in comparison to previous years.

HSA Limitations

Annual contribution is limited to:	2019	2018	2017
Self-only coverage, under age 55	$3,500	$3,450	$3,400
Self-only coverage, age 55 or older	$4,500	$4,450	$4,400
Family coverage, under age 55	$7,000	$6,900	$6,750
*Family coverage, age 55 or older	$8,000	$7,900	$7,750
Minimum annual deductibles:			
Self-only coverage	$1,350	$1,350	$1,300
Family coverage	$2,700	$2,700	$2,600
Maximum annual deductible and out-of-pocket expense limits:			
Self-only coverage	$6,750	$6,650	$6,550
Family coverage	$13,500	$13,300	$13,100

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

Electronic Filing of Information Returns

Cross References

- REG-102951-16, May 31, 2018

The IRS is proposing to change the rules for filing information returns electronically. Under current regulations, a taxpayer is required to file information returns electronically if a 250-return threshold is met. For partnerships, a different threshold applies. Under a non-aggregation rule, the 250-return threshold applies separately to each type of information return (1099s, K-1s, etc.). Thus, the types of different forms a partnership may file are not combined for determining whether the partnership is required to file electronically.

The proposed regulations remove the non-aggregation rule. If a taxpayer (including a partnership) is required to file a total of 250 or more information returns of any type during a calendar year, the taxpayer must file them electronically.

Corrected information returns are not taken into account in determining whether the 250-return threshold is met. Corrected information returns must be filed electronically only if the original returns had to be filed electronically.

Taxpayers will still be allowed to request a waiver of the electronic filing requirements. The new regulations do not take effect until the final regulations are published.

Health Care Inflation Adjusted Amounts

Cross References

- Rev. Proc. 2018-34
- Rev. Proc. 2017-36
- Rev. Proc. 2016-24

A number of tax provisions under the Affordable Care Act (ACA) are adjusted each year for inflation. The IRS recently released the inflation adjusted amounts for the 2019 tax year. The following charts compare the 2019 inflation adjusted amounts with prior year amounts.

Applicable Percentages—Premium Tax Credit

- IRC §36B(b)(3)(A)(i)

Tax Years Beginning in:	2019		2018		2017	
Household income percentage of Federal poverty line:	*Initial %*	*Final %*	*Initial %*	*Final %*	*Initial %*	*Final %*
Less than 133%	2.08%	2.08%	2.01%	2.01%	2.04%	2.04%
At least 133% but less than 150%	3.11%	4.15%	3.02%	4.03%	3.06%	4.08%
At least 150% but less than 200%	4.15%	6.54%	4.03%	6.34%	4.08%	6.43%
At least 200% but less than 250%	6.54%	8.36%	6.34%	8.10%	6.43%	8.21%
At least 250% but less than 300%	8.36%	9.86%	8.10%	9.56%	8.21%	9.69%
At least 300% but not more than 400%	9.86%	9.86%	9.56%	9.56%	9.69%	9.69%

Note: The detailed applicable percentage table used for purposes of Form 8962, *Premium Tax Credit (PTC),* is found in the Form 8962 instructions for each year.

Required Contribution Percentage

Generally, if an employee is offered minimum essential coverage in the group market, including employer-provided health insurance coverage, the individual is ineligible for the Premium Tax Credit.

If an employee is offered unaffordable coverage by his or her employer, or the plan's share of provided benefits is less than 60% of the total allowed cost of benefits, the employee may be eligible for the Premium Tax Credit, but only if the employee declines to enroll in the coverage and satisfies the conditions for receiving a credit through an exchange. Unaffordable is defined as coverage with a premium required to be paid by the employee that is 9.5% or more of the employee's household income, based on self-only coverage. [IRC §36B(c)(2)(C)(i)(II)]

The 9.5% amount is adjusted each year for inflation. The following chart provides the inflation adjusted amounts for 2017 through 2019:

For Plan Years Beginning in:	2019	2018	2017
The required contribution percentage is:	9.86%	9.56%	9.69%

Non-Affordable Insurance

For tax years prior to 2019, an individual may be subject to a penalty for not maintaining minimum essential health insurance coverage. Individuals are exempt from this requirement if the lowest cost bronze plan in the local exchange exceeds 8% of household income. [IRC §5000A(e)(1)(A)]

The 8% amount is adjusted each year for inflation. The following chart provides the inflation adjusted amounts for 2017 and 2018:

For Plan Years Beginning in:	2019	2018	2017
The percentage of household income that makes insurance non-affordable is:	n/a*	8.05%	8.16%

* The penalty for not maintaining minimum essential health insurance coverage does not apply for tax years after 2018. Thus, the inflation adjusted amount is not applicable for tax years after 2018.