

# IRS Transition Relief Reinstates \$6,900 Family Limit for 2018 HSAs

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On April 26<sup>th</sup>, the IRS released [Rev. Proc. 2018-27](#), effectively reinstating a \$6,900 limit on 2018 health savings account (“HSA”) contributions for family coverage. This is welcome relief for individuals who planned on contributing the maximum permitted HSA contributions for 2018 as well as employers who offer plans that facilitate these contributions.

## **Background**

In our [March 7, 2018 blog entry](#), we described the IRS’s retroactive downward adjustment (from \$6,900 to \$6,850) of the HSA contribution limit for individuals enrolled in family coverage (see [Rev. Proc. 2018-18](#)). This adjustment was based on a change in the method by which inflation adjusted limits were to be determined. At that time, the IRS did not provide any transition relief for those individuals who had already contributed up to the limit or who made elections under cafeteria plans to contribute up to the limit. Since the release of Rev. Proc. 2018-18, numerous employers, trade groups, and other stakeholders have asked the IRS to reconsider its retroactive limit adjustment and allow the \$6,900 limit announced in 2017 to remain applicable.

## **Rev. Proc. 2018-27**

On April 26<sup>th</sup>, the IRS relented and released Rev. Proc. 2018-27, stating that it “would be in the best interest of sound and efficient tax administration” to apply the originally announced contribution limit. Therefore, for 2018, the HSA contribution limit for those enrolled in family coverage is \$6,900.

Rev. Proc. 2018-27 also contains guidance for individuals who contributed the full \$6,900 and then received a distribution of excess contributions and earnings based on Rev. Proc. 2018-18. These individuals may repay the excess contributions and earnings and treat the distribution as a “mistake of fact” (as described in [IRS Notice 2004-50](#)). Mistaken distributions that are repaid are not included in gross income or subject to either the 20% tax on non-medical expense distributions or the 6% excise tax on excess contributions.

If an individual has already received a distribution of an excess contributions and earnings based on Rev. Proc. 2018-18 and does not repay as described above (either because he or she chooses not to or the HSA trustee or custodian refuses to accept repayment), the distribution will still be treated as the return of an excess contribution prior to the due date of the individuals 2018 tax return. As such, the distribution would not be included in income or be subject to the 20% additional tax on non-medical expense distributions.

The tax treatment described above does not apply to employer contributions (including employee contributions through a cafeteria plan) made on behalf of employees on a pre-tax basis based on the \$6,900 annual limitation. In that case, the normal restrictions and taxes applied to non-medical expense distributions will apply.

The IRS’s decision to return to the originally announced HSA limit is welcome news for employers and individuals. Employers that did not reduce the contribution limit and adjust employee elections may continue to operate their HSA contribution programs without regard to Rev. Proc. 2018-18. Employers that did take corrective action and automatically reduce employee’s contribution elections should consider whether to again adjust employee contributions to be consistent with their original elections.

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