



Employer FAQs

As an employer, do I own my employees' HSAs? Can I control how they spend the money in them?

No, you do not own your employees' HSAs. The employee fully owns the contributions to the account as soon as they are deposited, just as with a personal checking or savings account to which you would deposit their compensation.

My employees want to contribute to their HSAs, but want to make sure they get a tax benefit out of doing so. How does that work?

Employee contributions can be made to HSAs on either an after-tax or pre-tax basis. If made on an after-tax basis, they should be counted as an "above-the-line" deduction on their tax return, effectively making their contributions tax-free. If they want to make the contribution pre-tax it can be done through a Section 125 (also called a "salary reduction" or "cafeteria plan").

As an employer how much do I have to contribute to my employees' HSAs?

As much or as little as you want (while staying below the 2009 annual legal limit on the account of \$3,000 for employees with self-only coverage or \$5,950 for employees with family coverage).

Do HSA contributions have to be made in equal amounts each month?

No, you can contribute in a lump sum or in any amounts or frequency you wish. However, keep in mind that the funds belong to the employee after they are deposited.

As an employer, do I have to contribute the same amount to every employee's HSA?

Employer contributions must be "comparable." That is they must be in the same dollar amount or same percentage of the employee's deductible for all employees with the same category of coverage — for this purpose, generally categories of coverage are either "self-only" or "family," although consult the comparability regulations regarding the ability to subdivide the family category. You can also vary the level of contributions for "full-time" vs. "part-time" employees, and employees covered by a collective bargaining agreement are not covered by the comparability rules if health benefits were part of the agreement. You do not need to consider employees who do not have HDHP coverage as they are not eligible for HSA contributions.

Our company offers benefits through a Section 125 plan. Do contributions have to be comparable under these plans as well?

Section 125 plans (also known as "salary reduction" or "cafeteria plans") must meet a different set of rules. Under these plans, contributions (both from employer and/or employee) must meet "non-discrimination" rules. These rules require the employer to ensure that contributions do not favor higher compensated employees.

Our company wants to offer matching contributions. Can we do that?

Yes, but your company can only offer matching contributions through a Section 125 plan. Remember that the non-discrimination rules still apply.

I do not offer health insurance, but some of my employees have opened HSAs and I'd like to help them out. What can I do?

Your company can make pre-tax contributions to your employees' HSAs, as long as you do so for all eligible employees. However, the comparability rules apply. If you have a Section 125 plan, then the non-discrimination rules apply.

How are contributions treated for owners and shareholders of S corps?

Owners and officers with greater than a 2% share of a Subchapter S corporation cannot make pre-tax contributions to their HSAs through the company by salary reduction. In addition, any contributions made to their HSAs by the corporation are taxable as income. However, they can make their own personal contributions to their HSAs and take the "above-the-line" deduction on their personal income taxes.

How are contributions treated for partners in a partnership or limited liability company (LLC)?

Partners in a partnership or LLC cannot make pre-tax contributions to their HSAs through the partnership by salary reduction. However, they can make their own personal contributions to their HSAs and take the "above-the-line" deduction on their personal income taxes.

May a self-employed person contribute to an HSA on a pre-tax basis?

No. Self-employed persons may not contribute to an HSA on a pre-tax basis and may not take the amount of their HSA contribution as a deduction for Self-Employment Contributions Act (SECA) purposes. However, they may contribute to an HSA with after-tax dollars and take the above-the-line deduction.