

Publication 969

Health Savings Accounts and Other Tax-Favored Health Plans

For use in preparing **2023** Returns

Volume 1 of 2



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Future Developments

Go to [IRS.gov/Pub969](https://www.irs.gov/pub969) for the latest information about Pub. 969.

What's New

Notice 2023-37 addresses the announced end of the COVID-19 public health emergency and the National Emergency Concerning the Novel Coronavirus Disease 2019 Pandemic on May 11, 2023; it modifies prior guidance regarding benefits relating to testing for and treatment of COVID-19 that can be provided by a health plan that otherwise satisfies the requirements to be a high deductible health plan (HDHP) under section 223(c)(2)(A) of the Internal Revenue Code (Code).

Specifically, the relief described in Notice 2020-15, 2020-14 IRB 559, applies only with respect to plan years ending on or before December 31, 2024.

Notice 2023-37 also clarifies whether certain items and services are treated as preventive care under section 223(c)(2)(C). Specifically, the preventive care safe harbor as described in Notice 2004-23, 2004-15 IRB 725, does not include screening (for example, testing) for COVID-19, effective as of July 24, 2023. Notice 2023-37 also provides that items and services recommended with an “A” or “B” rating by the United States Preventive Services Task Force on or after March 23, 2010, are treated as preventive care for purposes of section 223(c)(2)(C), regardless of whether these items and services must be covered, without cost sharing, under Public Health Service Act section 2713.

For more information on Notice 2023-37, 2023-30 I.R.B. 359, see [IRS.gov/irb/2023-30 IRB#NOT-2023-37](https://www.irs.gov/irb/2023-30_IRB#NOT-2023-37).

Reminders

Telehealth and other remote care

services. Public Law 117-328, December 29, 2022, amended section 223 to provide that an HDHP may have a \$0 deductible for telehealth and other remote care services for plan years beginning before 2022; months beginning after March 2022 and before 2023; and plan years beginning after 2022 and before 2025. Also, an “eligible individual” remains eligible to make contributions to its Health Savings Account (HSA) even if the individual has coverage outside of the HDHP during these periods for telehealth and other remote care services.

Health Flexible Spending Arrangement (FSA) contribution and carryover for

2023. Revenue Procedure 2022-38, October 18, 2022, provides that for tax years beginning in 2023, the dollar limitation under section 125(i) on voluntary employee salary reductions for contributions to health flexible

spending arrangements is \$3,050. If the cafeteria plan permits the carryover of unused amounts, the maximum carryover amount is \$610.

Insulin products. Public Law 117-169, August 16, 2022, amended section 223 to provide that an HDHP may have a \$0 deductible for selected insulin products. The amendment applies to plan years beginning after 2022.

Health FSA contribution and carryover for 2022. Revenue Procedure 2021-45, November 10, 2021, provides that for tax years beginning in 2022, the dollar limitation under section 125(i) on voluntary employee salary reductions for contributions to health flexible spending arrangements is \$2,850. If the cafeteria plan permits the carryover of unused amounts, the maximum carryover amount is \$570.

Home testing for COVID-19 and personal protective equipment for preventing spread of COVID-19. News Release IR-2021-181, September 10, 2021, reminds that the cost of home testing for COVID-19 and the costs of personal protective equipment, such as masks, hand sanitizer and sanitizing wipes, for the primary purpose of preventing the spread of COVID-19 are eligible medical expenses that can be paid or reimbursed under health FSAs, HSAs, Health Reimbursement Arrangements (HRAs), or Archer Medical Savings Accounts (MSAs).

Surprise billing for emergency services or air ambulance services. Public Law 116-260, December 27, 2020, amended section 223 to provide that an HDHP may provide benefits under federal and state anti-“surprise billing” laws with a \$0 deductible. Also, an “eligible individual” remains eligible to make contributions to its HSA even if the individual receives anti-“surprise billing” benefits

outside of the HDHP. The amendment applies to plan years beginning after 2021.

Note. Anti-“surprise billing” laws generally protect individuals from “surprise billing” for items like emergency medical services, some non-emergency medical services, and air ambulance services.



Ask your insurance provider whether your HDHP and any other coverage meet the requirements of section 223.



Ask your HSA trustee whether the HSA and trustee meet the requirements of section 223.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act, P.L. 116-136, March 27, 2020) made the following changes.

HSA.

- Over-the-counter medicine (whether or not prescribed) and menstrual care products are treated as medical care for amounts paid after 2019.

Archer MSA.

- Over-the-counter medicine (whether or not prescribed) and menstrual care products are treated as medical care for amounts paid after 2019.

Health FSA.

- Over-the-counter medicine (whether or not prescribed) and menstrual care products are treated as medical care for amounts incurred after 2019.

HRA.

- Over-the-counter medicine (whether or not prescribed) and menstrual care products are treated as medical care for amounts incurred after 2019.

The IRS will provide any further updates as soon as they are available at [IRS.gov/Coronavirus](https://www.irs.gov/Coronavirus).

See also Notice 2020-29, 2020-22 I.R.B. 864, and Notice 2020-33, 2020-22 I.R.B. 868, available at [IRS.gov/pub/irs-irbs/irb20-22.pdf](https://www.irs.gov/pub/irs-irbs/irb20-22.pdf), for additional information.

Affordable Care Act guidance. Notice 2013-54, 2013-40 I.R.B. 287, available at [IRS.gov/irb/2013-40_IRB/ar11.html](https://www.irs.gov/irb/2013-40_IRB/ar11.html), as supplemented by Notice 2015-87, provides guidance for employers on the application of the Affordable Care Act (ACA) to FSAs and Health Reimbursement Arrangements (HRAs).

For more information on the ACA, go to [IRS.gov/ Affordable-Care-Act](https://www.irs.gov/Affordable-Care-Act).

Photographs of missing children. The Internal Revenue Service is a proud partner with the [National Center for Missing & Exploited Children® \(NCMEC\)](https://www.ncmec.org/). Photographs of missing children selected by the Center may

appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 800-THE-LOST (800-843-5678) if you recognize a child.

Introduction

Various programs are designed to give individuals tax advantages to offset health care costs. This publication explains the following programs.

- Health Savings Accounts (HSAs).
- Medical Savings Accounts (Archer MSAs and Medicare Advantage MSAs).
- Health Flexible Spending Arrangements (FSAs).
- Health Reimbursement Arrangements (HRAs).

An HSA may receive contributions from an eligible individual or any other person, including an employer or a family member, on behalf of an eligible individual. Contributions, other than employer contributions, are deductible on the eligible individual's return whether or not the individual itemizes deductions. Employer contributions aren't

included in income. Distributions from an HSA that are used to pay qualified medical expenses aren't taxed.

An Archer MSA may receive contributions from an eligible individual and the eligible individual's employer, but not both in the same year. Contributions by the individual are deductible whether or not the individual itemizes deductions. Employer contributions aren't included in income. Distributions from an Archer MSA that are used to pay qualified medical expenses aren't taxed.

A Medicare Advantage MSA is an Archer MSA designated by Medicare to be used solely to pay the qualified medical expenses of the account holder who is enrolled in Medicare. Contributions can be made only by Medicare.

The contributions aren't included in your income. Distributions from a Medicare Advantage MSA that are used to pay qualified medical expenses aren't taxed.

A health FSA may receive contributions from an eligible individual. Employers may also contribute. Contributions aren't includible in income. Reimbursements from an FSA that are used to pay qualified medical expenses aren't taxed.

An HRA must receive contributions from the employer only. Employees may not contribute. Contributions aren't includible in income. Reimbursements from an HRA that are used to pay qualified medical expenses aren't taxed.

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Health Savings Accounts (HSAs)

An HSA is a tax-exempt trust or custodial account you set up with a qualified HSA trustee to pay or reimburse certain medical expenses you incur. You must be an eligible individual to contribute to an HSA.

No permission or authorization from the IRS is necessary to establish an HSA. You set up an HSA with a trustee. A qualified HSA trustee can be a bank, an insurance company, or anyone already approved by the IRS to be a trustee of individual retirement arrangements (IRAs) or Archer MSAs. The HSA can be established through a trustee that is different from your health plan provider.

Your employer may already have some information on HSA trustees in your area.



If you have an Archer MSA, you can generally roll it over into an HSA tax free. See [Rollovers](#), later.

What are the benefits of an HSA? You may enjoy several benefits from having an HSA.

- You can claim a tax deduction for contributions you, or someone other than your employer, make to your HSA even if you don't itemize your deductions on Schedule A (Form 1040).
- Contributions to your HSA made by your employer (including contributions made through a cafeteria plan) may be excluded from your gross income.
- The contributions remain in your account until you use them.
- The interest or other earnings on the assets in the account are tax free.

- Distributions may be tax free if you pay qualified medical expenses. See [Qualified medical expenses](#), later.
- An HSA is “portable.” It stays with you if you change employers or leave the work force.

Qualifying for an HSA Contribution

To be an eligible individual and qualify for an HSA contribution, you must meet the following requirements.

- You are covered under a [high deductible health plan \(HDHP\)](#), described later, on the first day of the month.
- You have no other health coverage except what is permitted under [Other health coverage](#), later.
- You aren’t enrolled in Medicare.
- You can’t be claimed as a dependent on someone else’s 2023 tax return.



Under the last-month rule, you are considered to be an eligible individual for the entire year if you are an eligible individual on the first day of the last month of your tax year (December 1 for most taxpayers) and you meet certain other requirements.

If you meet these requirements, you are an eligible individual even if your spouse has non-HDHP family coverage, provided your spouse's coverage doesn't cover you.

Also, you may be an eligible individual even if you receive hospital care or medical services under any law administered by the Secretary of Veterans Affairs for a service-connected disability.



If another taxpayer is entitled to claim you as a dependent, you can't claim a deduction for an HSA contribution. This is true even if the other person doesn't receive an exemption deduction for you because the exemption

amount is zero for tax years 2018 through 2025.



Each spouse who is an eligible individual who wants an HSA must open a separate HSA. You can't have a joint HSA.

High deductible health plan (HDHP). An HDHP has:

- A higher annual deductible than typical health plans, and
- A maximum limit on the sum of the annual deductible and out-of-pocket medical expenses that you must pay for covered expenses. Out-of-pocket expenses include copayments and other amounts, but don't include premiums.

An HDHP may provide preventive care benefits without a deductible or with a deductible less than the minimum annual deductible. Preventive care includes, but isn't limited to, the following.

1. Periodic health evaluations, including tests and diagnostic procedures ordered in connection with routine examinations, such as annual physicals.
2. Routine prenatal and well-child care.
3. Child and adult immunizations.
4. Tobacco cessation programs.
5. Obesity weight-loss programs.
6. Screening services. This includes screening services for the following.
 - a. Cancer.
 - b. Heart and vascular diseases.
 - c. Infectious diseases.
 - d. Mental health conditions.
 - e. Substance abuse.
 - f. Metabolic, nutritional, and endocrine conditions.

- g. Musculoskeletal disorders.
- h. Obstetric and gynecological conditions.
- i. Pediatric conditions.
- j. Vision and hearing disorders.

For more information on screening services, see Notice 2004-23, 2004-15 I.R.B. 725, available at [IRS.gov/irb/2004-15_IRB#NOT-2004-23](https://www.irs.gov/irb/2004-15_IRB#NOT-2004-23).

For additional guidance on preventive care, see Notice 2004-50, 2004-2 C.B. 196, Q&A 26 and 27, available at [IRS.gov/irb/2004-33_IRB#NOT-2004-50](https://www.irs.gov/irb/2004-33_IRB#NOT-2004-50); and Notice 2013-57, 2013-40 I.R.B. 293, available at [IRS.gov/pub/irs-drop/n-13-57.pdf](https://www.irs.gov/pub/irs-drop/n-13-57.pdf). Preventive care can also include coverage for treatment of individuals with certain chronic conditions listed in the Appendix of Notice 2019-45, 2019-32 I.R.B. 593, if such services were received or items were incurred on or after July 17, 2019. For information on preventive

care for chronic conditions, see Notice 2019-45, 2019-32 I.R.B. 593, available at [IRS.gov/pub/irs-drop/n-19-45.pdf](https://www.irs.gov/pub/irs-drop/n-19-45.pdf).

The following table shows the minimum annual deductible and maximum annual deductible and other out-of-pocket expenses for HDHPs for 2023.

	Self-only coverage	Family coverage
Minimum annual deductible	\$1,500	\$3,000
Maximum annual deductible and other out-of-pocket expenses*	\$7,500	\$15,000

* This limit doesn't apply to deductibles and expenses for out-of-network services if the plan uses a network of providers. Instead, only deductibles and out-of-pocket expenses

for services within the network should be used to figure whether the limit applies.



The following table shows the minimum annual deductible and maximum annual deductible and other out-of-pocket expenses for HDHPs for 2024.

	Self-only coverage	Family coverage
Minimum annual deductible	\$1,600	\$3,200
Maximum annual deductible and other out-of-pocket expenses*	\$8,050	\$16,100

* This limit doesn't apply to deductibles and expenses for out-of-network services if the plan uses a network of providers. Instead, only deductibles and out-of-pocket expenses

for services within the network should be used to figure whether the limit applies.

Self-only HDHP coverage is HDHP coverage for only an eligible individual. Family HDHP coverage is HDHP coverage for an eligible individual and at least one other individual (whether or not that individual is an eligible individual).

Example. You, an eligible individual, and your dependent child are covered under an “employee plus one” HDHP offered by your employer. This is family HDHP coverage.

Family plans that don’t meet the high deductible rules. There are some family plans that have deductibles for both the family as a whole and for individual family members. Under these plans, if you meet the individual deductible for one family member, you don’t have to meet the higher annual deductible amount for the family. If either the deductible for the family as a whole or the deductible for an individual family member is

less than the minimum annual deductible for family coverage, the plan doesn't qualify as an HDHP.

Other health coverage. If you (and your spouse, if you have family coverage) have HDHP coverage, you can't generally have any other health coverage. However, you can still be an eligible individual even if your spouse has non-HDHP coverage, provided you aren't covered by that plan.

You can have additional insurance that provides benefits only for the following items.

- Liabilities incurred under workers' compensation laws, tort liabilities, or liabilities related to ownership or use of property.
- A specific disease or illness.
- A fixed amount per day (or other period) of hospitalization.

You can also have coverage (whether provided through insurance or otherwise) for the following items.

- Accidents.
- Disability.
- Dental care.
- Vision care.
- Long-term care.
- Telehealth and other remote care.



Plans in which substantially all of the coverage is through the items listed earlier aren't HDHPs. For example, if your plan provides coverage substantially all of which is for a specific disease or illness, the plan isn't an HDHP for purposes of establishing an HSA.

Prescription drug plans. You can have a prescription drug plan, either as part of your HDHP or a separate plan (or rider), and

qualify as an eligible individual if the plan doesn't provide benefits until the minimum annual deductible of the HDHP has been met. If you can receive benefits before that deductible is met, you aren't an eligible individual.

Other employee health plans. An employee covered by an HDHP and a health FSA or an HRA that pays or reimburses qualified medical expenses can't generally make contributions to an HSA. FSAs and HRAs are discussed later.

However, an employee can make contributions to an HSA while covered under an HDHP and one or more of the following arrangements.

- Limited-purpose health FSA or HRA. These arrangements can pay or reimburse the items listed earlier under [Other health coverage](#) except long-term care. Also, these arrangements can pay or reimburse preventive care expenses because they

can be paid without having to satisfy the deductible.

- **Suspended HRA.** Before the beginning of an HRA coverage period, you can elect to suspend the HRA. The HRA doesn't pay or reimburse, at any time, the medical expenses incurred during the suspension period except preventive care and items listed under [Other health coverage](#), earlier. When the suspension period ends, you are no longer eligible to make contributions to an HSA.
- **Post-deductible health FSA or HRA.** These arrangements don't pay or reimburse any medical expenses incurred before the minimum annual deductible amount is met. The deductible for these arrangements doesn't have to be the same as the deductible for the HDHP, but benefits may not be provided before the minimum annual deductible amount is met.

- Retirement HRA. This arrangement pays or reimburses only those medical expenses incurred after retirement. After retirement, you are no longer eligible to make contributions to an HSA.

Health FSA—grace period. Coverage during a grace period by a general purpose health FSA is allowed if the balance in the health FSA at the end of its prior year plan is zero. See [*Flexible Spending Arrangements \(FSAs\)*](#), later.

Contributions to an HSA

Any eligible individual can contribute to an HSA. For an employee's HSA, the employee, the employee's employer, or both may contribute to the employee's HSA in the same year. For an HSA established by a self-employed (or unemployed) individual, the individual can contribute. Family members or any other person may also make contributions on behalf of an eligible individual.

Contributions to an HSA must be made in cash. Contributions of stock or property aren't allowed.

Limit on Contributions

The amount you or any other person can contribute to your HSA depends on the type of HDHP coverage you have, your age, the date you become an eligible individual, and the date you cease to be an eligible individual. For 2023, if you have self-only HDHP coverage, you can contribute up to \$3,850. If you have family HDHP coverage, you can contribute up to \$7,750.



For 2024, if you have self-only HDHP coverage, you can contribute up to \$4,150. If you have family HDHP coverage, you can contribute up to \$8,300.

If you are, or were considered (under the [last-month rule](#), discussed later), an eligible individual for the entire year and didn't change your type of coverage, you can

contribute the full amount based on your type of coverage. However, if you weren't an eligible individual for the entire year or changed your coverage during the year, your contribution limit is the greater of:

1. The limitation shown on the Line 3 Limitation Chart and Worksheet in the Instructions for Form 8889, Health Savings Accounts (HSAs); or
2. The maximum annual HSA contribution based on your HDHP coverage (self-only or family) on the first day of the last month of your tax year.



If you had family HDHP coverage on the first day of the last month of your tax year, your contribution limit for 2023 is \$7,750 even if you changed coverage during the year.

Last-month rule. Under the last-month rule, if you are an eligible individual on the first day of the last month of your tax year (December

1 for most taxpayers), you are considered an eligible individual for the entire year. You are treated as having the same HDHP coverage for the entire year as you had on the first day of the last month if you didn't otherwise have coverage.

Testing period. If contributions were made to your HSA based on you being an eligible individual for the entire year under the last-month rule, you must remain an eligible individual during the testing period. For the last-month rule, the testing period begins with the last month of your tax year and ends on the last day of the 12th month following that month (for example, December 1, 2023, through December 31, 2024).

If you fail to remain an eligible individual during the testing period, for reasons other than death or becoming disabled, you will have to include in income the total contributions made to your HSA that wouldn't have been made except for the last-month

rule. You include this amount in your income in the year in which you fail to be an eligible individual. This amount is also subject to a 10% additional tax. The income and additional tax are calculated on Form 8889, Part III.

Example 1. You, age 53, become an eligible individual on December 1, 2023. You have family HDHP coverage on that date. Under the last-month rule, you contribute \$7,750 to your HSA.

You fail to be an eligible individual in June 2024. Because you didn't remain an eligible individual during the testing period (December 1, 2023, through December 31, 2024), you must include in your 2024 income the contributions made in 2023 that wouldn't have been made except for the last-month rule. You use the worksheet in the Form 8889 instructions to determine this amount.

You would include \$7,104.17 (\$7,750.00 – \$645.83) in your gross income on your 2024 tax return. Also, a 10% additional tax applies to this amount.

January	-0-
February	-0-
March	-0-
April	-0-
May	-0-
June	-0-
July	-0-
August	-0-
September	-0-
October	-0-

November	-0-
December	\$7,750.00
Total for all months	\$7,750.00
Limitation. Divide the total by 12	\$645.83

Example 2. You, age 39, have self-only HDHP coverage on January 1, 2023. You change to family HDHP coverage on November 1, 2023. Because you have family HDHP coverage on December 1, 2023, you contribute \$7,750 for 2023.

You fail to be an eligible individual in March 2024. Because you didn't remain an eligible individual during the testing period (December 1, 2023, through December 31, 2024), you must include in income the contribution made that wouldn't have been made except for the last-month rule. You use

the worksheet in the Form 8889 instructions to determine this amount.

January	\$3,850.00
February	\$3,850.00
March	\$3,850.00
April	\$3,850.00
May	\$3,850.00
June	\$3,850.00
July	\$3,850.00
August	\$3,850.00
September	\$3,850.00
October	\$3,850.00
November	\$7,750.00

December	\$7,750.00
Total for all months	\$54,000.00
Limitation. Divide the total by 12	\$4,500.00

You would include \$3,250.00 (\$7,750.00 – \$4,500.00) in your gross income on your 2024 tax return. Also, a 10% additional tax applies to this amount.

Additional contribution. If you are an eligible individual who is age 55 or older at the end of your tax year, your contribution limit is increased by \$1,000. For example, if you have self-only coverage, you can contribute up to \$4,850 (the contribution limit for self-only coverage (\$3,850) plus the additional contribution of \$1,000). However, see [Enrolled in Medicare](#), later.



If you have more than one HSA in 2023, your total contributions to all the HSAs can't be more than the limits discussed earlier.

Reduction of contribution limit. You must reduce the amount that can be contributed (including any additional contribution) to your HSA by the amount of any contribution made to your Archer MSA (including employer contributions) for the year. A special rule applies to married people, discussed next, if each spouse has family coverage under an HDHP.

Rules for married people. If either spouse has family HDHP coverage, both spouses are treated as having family HDHP coverage. If each spouse has family coverage under a separate plan, the contribution limit for 2023 is \$7,750. You must reduce the limit on contributions, before taking into account any additional contributions, by the amount contributed to both spouses' Archer MSAs.

After that reduction, the contribution limit is split equally between the spouses unless you agree on a different division.



The rules for married people apply only if both spouses are eligible individuals.

If both spouses are 55 or older and not enrolled in Medicare, each spouse's contribution limit is increased by the additional contribution. If both spouses meet the age requirement, the total contributions under family coverage can't be more than \$9,750. Each spouse must make the additional contribution to its own HSA.

Example. For 2023, you and your spouse are both eligible individuals. You each have family coverage under separate HDHPs. You are 58 years old and your spouse is 53. You and your spouse can split the family contribution limit (\$7,750) equally or you can agree on a different division. If you split it equally, you can contribute \$4,875 to an HSA (one-half the

maximum contribution for family coverage (\$3,875) + \$1,000 additional contribution) and your spouse can contribute \$3,875 to an HSA.

Employer contributions. You must reduce the amount you, or any other person, can contribute to your HSA by the amount of any contributions made by your employer that are excludable from your income. This includes amounts contributed to your account by your employer through a cafeteria plan.

Enrolled in Medicare. Beginning with the first month you are enrolled in Medicare, your contribution limit is zero. This rule applies to periods of retroactive Medicare coverage. So, if you delayed applying for Medicare and later your enrollment is backdated, any contributions to your HSA made during the period of retroactive coverage are considered excess. See [Excess contributions](#), later.

Example. You turned age 65 in July 2023 and enrolled in Medicare. You had an HDHP

with self-only coverage and are eligible for an additional contribution of \$1,000. Your contribution limit is \$2,425 ($\$4,850 \times 6 \div 12$).

Qualified HSA funding distribution. A qualified HSA funding distribution may be made from your traditional IRA or Roth IRA to your HSA. This distribution can't be made from an ongoing SEP IRA or SIMPLE IRA. For this purpose, a SEP IRA or SIMPLE IRA is ongoing if an employer contribution is made for the plan year ending with or within the tax year in which the distribution would be made.

The maximum qualified HSA funding distribution depends on the HDHP coverage (self-only or family) you have on the first day of the month in which the contribution is made and your age as of the end of the tax year. The distribution must be made directly by the trustee of the IRA to the trustee of the HSA. The distribution isn't included in your income, isn't deductible, and reduces the

amount that can be contributed to your HSA. The qualified HSA funding distribution is shown on Form 8889 for the year in which the distribution is made.

You can generally make only one qualified HSA funding distribution during your lifetime. However, if you make a distribution during a month when you have self-only HDHP coverage, you can make another qualified HSA funding distribution in a later month in that tax year if you change to family HDHP coverage. The total qualified HSA funding distribution can't be more than the contribution limit for family HDHP coverage plus any additional contribution to which you are entitled.

Example. In 2023, you are an eligible individual, age 57, with self-only HDHP coverage. You can make a qualified HSA funding distribution of \$4,850 (\$3,850 plus \$1,000 additional contribution).

Funding distribution—testing period. You must remain an eligible individual during the testing period. For a qualified HSA funding distribution, the testing period begins with the month in which the qualified HSA funding distribution is contributed and ends on the last day of the 12th month following that month. For example, if a qualified HSA funding distribution is contributed to your HSA on August 10, 2023, your testing period begins in August 2023, and ends on August 31, 2024.

If you fail to remain an eligible individual during the testing period, for reasons other than death or becoming disabled, you will have to include in income the qualified HSA funding distribution. You include this amount in income in the year in which you fail to be an eligible individual. This amount is also subject to a 10% additional tax. The income and the additional tax are calculated on Form 8889, Part III.

Each qualified HSA funding distribution allowed has its own testing period. For example, you are an eligible individual, age 45, with self-only HDHP coverage. On June 18, 2023, you make a qualified HSA funding distribution. On July 27, 2023, you enroll in family HDHP coverage and on August 17, 2023, you make a qualified HSA funding distribution. Your testing period for the first distribution begins in June 2023 and ends on June 30, 2024. Your testing period for the second distribution begins in August 2023 and ends on August 31, 2024.

The testing period rule that applies under the [last-month rule](#) (discussed earlier) doesn't apply to amounts contributed to an HSA through a qualified HSA funding distribution. If you remain an eligible individual during the entire funding distribution testing period, then no amount of that distribution is included in income and won't be subject to the additional

tax for failing to meet the last-month rule testing period.

Rollovers

A rollover contribution isn't included in your income, isn't deductible, and doesn't reduce your contribution limit.

Archer MSAs and other HSAs. You can roll over amounts from Archer MSAs and other HSAs into an HSA. You don't have to be an eligible individual to make a rollover contribution from your existing HSA to a new HSA. Rollover contributions don't need to be in cash. Rollovers aren't subject to the annual contribution limits.

You must roll over the amount within 60 days after the date of receipt. You can make only one rollover contribution to an HSA during a 1-year period.

Note. If you instruct the trustee of your HSA to transfer funds directly to the trustee of

another of your HSAs, the transfer isn't considered a rollover. There is no limit on the number of these transfers. Don't include the amount transferred in income, deduct it as a contribution, or include it as a distribution on Form 8889.

When To Contribute

You can make contributions to your HSA for 2023 through April 15, 2024. If you fail to be an eligible individual during 2023, you can still make contributions through April 15, 2024, for the months you were an eligible individual.

Your employer can make contributions to your HSA from January 1, 2024, through April 15, 2024, that are allocated to 2023. Your employer must notify you and the trustee of your HSA that the contribution is for 2023. The contribution will be reported on your 2024 Form W-2, Wage and Tax Statement.

Reporting Contributions on Your Return

Contributions made by your employer aren't included in your income. Contributions to an employee's account by an employer using the amount of an employee's salary reduction through a cafeteria plan are treated as employer contributions. Generally, you can claim contributions you made and contributions made by any other person, other than your employer, on your behalf, as a deduction.

Contributions by a partnership to a bona fide partner's HSA aren't contributions by an employer. The contributions are treated as a distribution of money and aren't included in the partner's gross income. Contributions by a partnership to a partner's HSA for services rendered are treated as guaranteed payments that are deductible by the partnership and includible in the partner's gross income. In

both situations, the partner can deduct the contribution made to the partner's HSA.

Contributions by an S corporation to a 2% shareholder-employee's HSA for services rendered are treated as guaranteed payments and are deductible by the S corporation and includible in the shareholder-employee's gross income. The shareholder-employee can deduct the contribution made to the shareholder-employee's HSA.

Form 8889. Report all contributions to your HSA on Form 8889 and file it with your Form 1040, 1040-SR, or 1040-NR. You should include all contributions made for 2023, including those made from January 1, 2024, through April 15, 2024, that are designated for 2023. Contributions made by your employer and qualified HSA funding distributions are also shown on the form.

You should receive Form 5498-SA, HSA, Archer MSA, or Medicare Advantage MSA

Information, from the trustee showing the amount contributed to your HSA during the year. Your employer's contributions will also be shown on Form W-2, box 12, code W. Follow the Instructions for Form 8889. Report your HSA deduction on Form 1040, 1040-SR, or 1040-NR.

Excess contributions. You will have excess contributions if the contributions to your HSA for the year are greater than the limits discussed earlier. Excess contributions aren't deductible. Excess contributions made by your employer are included in your gross income. If the excess contribution isn't included in box 1 of Form W-2, you must report the excess as "Other income" on your tax return.

Generally, you must pay a 6% excise tax on excess contributions. See Form 5329, Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts, to figure the excise tax. The excise tax applies

to each tax year the excess contribution remains in the account.

You may withdraw some or all of the excess contributions and avoid paying the excise tax on the amount withdrawn if you meet the following conditions.

- You withdraw the excess contributions by the due date, including extensions, of your tax return for the year the contributions were made.
- You withdraw any income earned on the withdrawn contributions and include the earnings in “Other income” on your tax return for the year you withdraw the contributions and earnings.



If you fail to remain an eligible individual during any of the testing periods, discussed earlier, the amount you have to include in income isn't an excess contribution. If you withdraw any of those amounts, the amount is treated the

same as any other distribution from an HSA, discussed later.

Deducting an excess contribution in a later year. You may be able to deduct excess contributions for previous years that are still in your HSA. The excess contribution you can deduct for the current year is the lesser of the following two amounts.

- Your maximum HSA contribution limit for the year minus any amounts contributed to your HSA for the year.
- The total excess contributions in your HSA at the beginning of the year.

Amounts contributed for the year include contributions by you, your employer, and any other person. They also include any qualified HSA funding distribution made to your HSA. Any excess contribution remaining at the end of a tax year is subject to the excise tax. See Form 5329.

Distributions From an HSA

You will generally pay medical expenses during the year without being reimbursed by your HDHP until you reach the annual deductible for the plan. When you pay medical expenses during the year that aren't reimbursed by your HDHP, you can ask the trustee of your HSA to send you a distribution from your HSA.

You can receive tax-free distributions from your HSA to pay or be reimbursed for qualified medical expenses you incur after you establish the HSA. If you receive distributions for other reasons, the amount you withdraw will be subject to income tax and may be subject to an additional 20% tax. You don't have to make withdrawals from your HSA each year.



If you are no longer an eligible individual, you can still receive tax-free distributions to pay or reimburse your qualified medical expenses.

Generally, a distribution is money you get from your HSA. Your total distributions include amounts paid with a debit card and amounts withdrawn from the HSA by other individuals that you have designated. The trustee will report any distribution to you and the IRS on Form 1099-SA, Distributions From an HSA, Archer MSA, or Medicare Advantage MSA.

Qualified medical expenses. Qualified medical expenses are those expenses that would generally qualify for the medical and dental expenses deduction. These are explained in Pub. 502, Medical and Dental Expenses.

Amounts paid after 2019 for over-the-counter medicine (whether or not prescribed) and

menstrual care products are considered medical care and are considered a covered expense.

For HSA purposes, expenses incurred before you establish your HSA aren't qualified medical expenses. State law determines when an HSA is established. An HSA that is funded by amounts rolled over from an Archer MSA or another HSA is established on the date the prior account was established.

If, under the last-month rule, you are considered to be an eligible individual for the entire year for determining the contribution amount, only those expenses incurred after you actually establish your HSA are qualified medical expenses.

Qualified medical expenses are those incurred by the following persons.

1. You and your spouse.
2. All dependents you claim on your tax return.

3. Any person you could have claimed as a dependent on your return except that:
- a. The person filed a joint return;
 - b. The person had gross income of \$4,700 or more; or
 - c. You, or your spouse if filing jointly, could be claimed as a dependent on someone else's 2023 return.



For this purpose, a child of parents that are divorced, separated, or living apart for the last 6 months of the calendar year is treated as the dependent of both parents whether or not the custodial parent releases the claim to the child's exemption.



You can't deduct qualified medical expenses as an itemized deduction on Schedule A (Form 1040) that are

equal to the tax-free distribution from your HSA.

Insurance premiums. You can't treat insurance premiums as qualified medical expenses unless the premiums are for any of the following.

1. Long-term care insurance.
2. Health care continuation coverage (such as coverage under COBRA).
3. Health care coverage while receiving unemployment compensation under federal or state law.
4. Medicare and other health care coverage if you were 65 or older (other than premiums for a Medicare supplemental policy, such as Medigap).

The premiums for long-term care insurance (item (1)) that you can treat as qualified medical expenses are subject to limits based

on age and are adjusted annually. See *Limit on long-term care premiums you can deduct* in the Instructions for Schedule A (Form 1040).

Items (2) and (3) can be for your spouse or a dependent meeting the requirement for that type of coverage. For item (4), if you, the account beneficiary, aren't 65 or older, Medicare premiums for coverage of your spouse or a dependent (who is 65 or older) aren't generally qualified medical expenses.

Health coverage tax credit. You can't claim this credit for premiums that you pay with a tax-free distribution from your HSA. See Pub. 502 for more information on this credit.

Deemed distributions from HSAs. The following situations result in deemed taxable distributions from your HSA.

- You engaged in any transaction prohibited by section 4975 with respect to any of your HSAs at any time in 2023. Your

account ceases to be an HSA as of January 1, 2023, and you must include the fair market value of all assets in the account as of January 1, 2023, on Form 8889.

- You used any portion of any of your HSAs as security for a loan at any time in 2023. You must include the fair market value of the assets used as security for the loan as income on Form 1040, 1040-SR, or 1040-NR.

Examples of prohibited transactions include the direct or indirect:

- Sale, exchange, or leasing of property between you and the HSA;
- Lending of money between you and the HSA;
- Furnishing goods, services, or facilities between you and the HSA; and
- Transfer to or use by you, or for your benefit, of any assets of the HSA.

Any deemed distributions won't be treated as used to pay qualified medical expenses. These distributions are included in your income and are subject to the additional 20% tax, discussed later.

Recordkeeping. You must keep records sufficient to show that:

- The distributions were exclusively to pay or reimburse qualified medical expenses,
- The qualified medical expenses hadn't been previously paid or reimbursed from another source, and
- The medical expenses hadn't been taken as an itemized deduction in any year.

Don't send these records with your tax return. Keep them with your tax records.

Reporting Distributions on Your Return

How you report your distributions depends on whether or not you use the distribution for qualified medical expenses (defined earlier).

- If you use a distribution from your HSA for qualified medical expenses, you don't pay tax on the distribution but you have to report the distribution on Form 8889. However, the distribution of an excess contribution taken out after the due date, including extensions, of your return is subject to tax even if used for qualified medical expenses. Follow the instructions for the form and file it with your Form 1040, 1040-SR, or 1040-NR.
- If you don't use a distribution from your HSA for qualified medical expenses, you must pay tax on the distribution. Report the amount on Form 8889 and file it with your Form 1040, 1040-SR, or 1040-NR.

You may have to pay an additional 20% tax on your taxable distribution.



HSA administration and maintenance fees withdrawn by the trustee aren't reported as distributions from the HSA.

Additional tax. There is an additional 20% tax on the part of your distributions not used for qualified medical expenses. Figure the tax on Form 8889 and file it with your Form 1040, 1040-SR, or 1040-NR.

Exceptions. There is no additional tax on distributions made after the date you are disabled, reach age 65, or die.

Balance in an HSA

An HSA is generally exempt from tax. You are permitted to take a distribution from your HSA at any time; however, only those amounts used exclusively to pay for qualified medical expenses are tax free. Amounts that

remain at the end of the year are generally carried over to the next year (see [Excess contributions](#), earlier). Earnings on amounts in an HSA aren't included in your income while held in the HSA.

Death of HSA Holder

You should choose a beneficiary when you set up your HSA. What happens to that HSA when you die depends on whom you designate as the beneficiary.

Spouse is the designated beneficiary. If your spouse is the designated beneficiary of your HSA, it will be treated as your spouse's HSA after your death.

Spouse isn't the designated beneficiary. If your spouse isn't the designated beneficiary of your HSA:

- The account stops being an HSA, and

- The fair market value of the HSA becomes taxable to the beneficiary in the year in which you die.

If your estate is the beneficiary, the value is included on your final income tax return. The amount taxable to a beneficiary other than the estate is reduced by any qualified medical expenses for the decedent that are paid by the beneficiary within 1 year after the date of death.

Filing Form 8889

You must file Form 8889 with your Form 1040, 1040-SR, or 1040-NR if you (or your spouse, if married filing jointly) had any activity in your HSA during the year. You must file the form even if only your employer or your spouse's employer made contributions to the HSA.

If, during the tax year, you are the beneficiary of two or more HSAs or you are a beneficiary of an HSA and you have your own

HSA, you must complete a separate Form 8889 for each HSA. Enter “statement” at the top of each Form 8889 and complete the form as instructed. Next, complete a controlling Form 8889 combining the amounts shown on each of the statement Forms 8889. Attach the statements to your tax return after the controlling Form 8889.

Employer Participation

This section contains the rules that employers must follow if they decide to make HSAs available to their employees. Unlike the previous discussions, “you” refers to the employer and not to the employee.

Health plan. If you want your employees to be able to have HSAs, they must have an HDHP. You can provide no additional coverage other than those exceptions listed earlier under [Other health coverage](#).

Contributions. You can make contributions to your employees’ HSAs. You deduct the

contributions on your business income tax return for the year in which you make the contributions. If the contribution is allocated to the prior year, you still deduct it in the year in which you made the contribution.

For more information on employer contributions, see Notice 2008-59, 2008-29 I.R.B. 123, questions 23 through 27, available at [IRS.gov/irb/2008-29_IRB/ar11.html](https://www.irs.gov/irb/2008-29_IRB/ar11.html).

Comparable contributions. If you decide to make contributions, you must make comparable contributions to all comparable participating employees' HSAs. Your contributions are comparable if they are either:

- The same amount, or
- The same percentage of the annual deductible limit under the HDHP covering the employees.

The comparability rules don't apply to contributions made through a cafeteria plan.

Comparable participating employees.

Comparable participating employees:

- Are covered by your HDHP and are eligible to establish an HSA,
- Have the same category of coverage (either self-only or family coverage), and
- Have the same category of employment (part-time, full-time, or former employees).

To meet the comparability requirements for eligible employees who have neither established an HSA by December 31 nor notified you that they have an HSA, you must meet a notice requirement and a contribution requirement.

You will meet the notice requirement if by January 15 of the following calendar year you provide a written notice to all such employees. The notice must state that each eligible employee who, by the last day of February, establishes an HSA and notifies you

that the eligible employee has established an HSA will receive a comparable contribution to the HSA for the prior year. For a sample of the notice, see Regulations section 54.4980G-4 A-14(c). You will meet the contribution requirement for these employees if by April 15, 2024, you contribute comparable amounts plus reasonable interest to the employees' HSAs for the prior year.

Note. For purposes of making contributions to HSAs of non-highly compensated employees, highly compensated employees may not be treated as comparable participating employees.

Excise tax. If you made contributions to your employees' HSAs that weren't comparable, you must pay an excise tax of 35% of the amount you contributed.

Employment taxes. Amounts you contribute to your employees' HSAs aren't generally subject to employment taxes. You must report the contributions in box 12 of the Form W-2 you file for each employee. This includes the amounts the employee elected to contribute through a cafeteria plan. Enter code W in box 12.

Medical Savings Accounts (MSAs)

Archer MSAs were created to help self-employed individuals and employees of certain small employers meet the medical care costs of the account holder, the account holder's spouse, or the account holder's dependent(s).



After 2007, you can't be treated as an eligible individual for Archer MSA purposes unless:

- 1. You were an active participant for any tax year ending before 2008, or*
- 2. You became an active participant for a tax year ending after 2007 by reason of coverage under a high deductible health plan (HDHP) of an Archer MSA participating employer.*

A Medicare Advantage MSA is an Archer MSA designated by Medicare to be used solely to

pay the qualified medical expenses of the account holder who is eligible for Medicare.

Archer MSAs

An Archer MSA is a tax-exempt trust or custodial account that you set up with a U.S. financial institution (such as a bank or an insurance company) in which you can save money exclusively for future medical expenses.

What are the benefits of an Archer MSA?

You may enjoy several benefits from having an Archer MSA.

- You can claim a tax deduction for contributions you make even if you don't itemize your deductions on Schedule A (Form 1040) or Schedule A (Form 1040-NR).
- The interest or other earnings on the assets in your Archer MSA are tax free.

- Distributions may be tax free if you pay qualified medical expenses. See [*Qualified medical expenses*](#), later.
- The contributions remain in your Archer MSA from year to year until you use them.
- An Archer MSA is “portable,” so it stays with you if you change employers or leave the work force.

Qualifying for an Archer MSA

To qualify for an Archer MSA, you must be either of the following.

- An employee (or the spouse of an employee) of a [*small employer*](#) (defined later) that maintains a self-only or family HDHP for you (or your spouse).
- A self-employed person (or the spouse of a self-employed person) who maintains a self-only or family HDHP.

You can have no other health or Medicare coverage except what is permitted under

[Other health coverage](#), later. You must be an eligible individual on the first day of a given month to get an Archer MSA deduction for that month.



If another taxpayer is entitled to claim you as a dependent, you can't claim a deduction for an Archer MSA contribution. This is true even if the other person doesn't receive an exemption deduction for you because the exemption amount is zero for tax years 2018 through 2025.

Small employer. A small employer is generally an employer who had an average of 50 or fewer employees during either of the last 2 calendar years. The definition of small employer is modified for new employers and growing employers.

Growing employer. A small employer may begin HDHPs and Archer MSAs for its employees and then grow beyond 50 employees. The employer will continue to meet the requirement for small employers if the employer:

- Had 50 or fewer employees when the Archer MSAs began,
- Made a contribution that was excludable or deductible as an Archer MSA for the last year the employer had 50 or fewer employees, and
- Had an average of 200 or fewer employees each year after 1996.

Changing employers. If you change employers, your Archer MSA moves with you. However, you may not make additional contributions unless you are otherwise eligible.