

When Should an Employer Make Its HSA Contributions?

EBIA Weekly (April 4, 2024)

QUESTION: Our current HSA program only provides for employees to make pre-tax HSA contributions through our cafeteria plan, but we are considering making employer HSA contributions to offset increasing HDHP deductibles. If we begin making employer contributions, when should those contributions be made?

ANSWER: HSA contributions for a taxable year cannot be made earlier than the start of that year or later than the due date for the account holder's federal income tax return for that year (without extensions). Nearly all individual taxpayers use the calendar year as their taxable year, so employer contributions for a year generally must be made on or after January 1 of that year, and not later than April 15 of the following calendar year. (They also cannot be made before an employee's HSA is established.) Employer contributions through a cafeteria plan may be made at any time during that contribution window, according to a fixed schedule or at the company's convenience. (Employers offering HSAs outside a cafeteria plan must comply with comparability rules that are less flexible.) Here are some other factors to consider when evaluating your timing options:

- *Prorating Based on Employment.* Some employers prorate the HSA contributions of employees who do not work in qualifying employment for the entire year. This can be done by making contributions ratably over the year or by making prorated year-end contributions.
- *Risk of Overcontribution.* Employer contributions will be aggregated with the other contributions to an employee's HSA when determining whether the employee has exceeded the HSA contribution limit. Because employee pre-tax contributions can be changed monthly, and the contribution limit is based on the number of months of HSA eligibility, your company's maximum nontaxable employer contribution amount cannot be known until the end of the contribution year. If exceeding the limit is a concern, it may be better to delay employer contributions until year-end. Excess contributions can only be recovered by an employer in limited situations and will trigger an excise tax on the HSA holder if not timely distributed from the account.
- *Employer's Tax Deduction.* The filing deadline (without extensions) for a calendar-year corporate taxpayer is March 15. If your company wants to take the deduction on a corporate tax return that is filed without an extension, employer contributions should be made by March 15.
- *Nondiscrimination Testing.* Because employees can already make pre-tax HSA contributions under your company's cafeteria plan, employer contributions will also be treated as made through the cafeteria plan and will be subject to testing under the cafeteria plan nondiscrimination rules. While a single timing rule that applies uniformly to all employees is unlikely to raise nondiscrimination issues, more complex rules may require closer scrutiny.

- *Expense-Timing Considerations.* When plan deductibles increase, employees with relatively small HSA balances may have more difficulty paying the additional out-of-pocket expenses if the offsetting HSA contributions are delayed until year-end or are made ratably throughout the year. Front-loading eliminates this problem, but as noted above, it creates other issues. Some employers make accelerated contributions in hardship cases, but those hardship accelerations may complicate administration and raise additional issues, such as the extent to which the uniformity and recoupment requirements for accelerated salary reduction contributions might apply to accelerated nonelective contributions.

The cafeteria plan rules require that a plan describe the manner in which employer contributions will be made, so your cafeteria plan document may need to be amended to describe the new employer contributions. Also, if contributions for a year will be made between January 1 and April 15 of the following year, your company will need to notify the HSA trustee or custodian that the contributions are to be credited to the preceding year.

For more information, see EBIA's Consumer-Driven Health Care manual at Sections XII.I ("Employer HSA Contributions"), XII.M ("When Must HSA Contributions Be Made"), and XIX.B.2 ("Designing and Implementing a Workplace HSA Program: Decide When to Make Employer Contributions to HSAs").

Contributing Editors: EBIA Staff.