

(Also: Part I, § 223.)

Rev. Proc. 2018-27

SECTION 1. PURPOSE

This revenue procedure modifies the annual limitation on deductions for contributions to Health Savings Accounts (HSAs) allowed for individuals with family coverage under a high deductible health plan (HDHP) for calendar year 2018 announced in Revenue Procedure 2018-18, 2018-10 I.R.B. 392. For 2018, taxpayers may treat \$6,900 as the annual limitation on the deduction for an individual with family coverage under an HDHP pursuant to section 223(b)(2)(B) of the Internal Revenue Code. This revenue procedure makes no other changes to Rev. Proc. 2018-18.

SECTION 2. BACKGROUND

On May 4, 2017, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) released Revenue Procedure 2017-37, 2017-21 I.R.B. 1252, which provided the 2018 inflation adjusted amounts for HSAs as determined under section 223. Under Rev. Proc. 2017-37, the annual limitation on deductions

under section 223(b)(2)(B) for an individual with family coverage under an HDHP was \$6,900.

Subsequently, statutory amendments by “An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018” (the Act), Pub. L. 115–97, 131 Stat. 2504, enacted December 22, 2017, modified the inflation adjustments for certain provisions of the Internal Revenue Code, including the inflation adjustments under section 223. On March 2, 2018, the Treasury Department and the IRS released Rev. Proc. 2018-18, which superseded Rev. Proc. 2017-37, to reflect the statutory amendments to the inflation adjustments under the Act. Under section 4 of Rev. Proc. 2018-18, the annual limitation on deductions under section 223(b)(2)(B) for an individual with family coverage under an HDHP was \$6,850 for 2018 — a \$50 reduction from the limitation announced in Rev. Proc. 2017-37. Rev. Proc. 2018-18 did not change any other annual limitation or any other requirement under section 223 for calendar year 2018.

In response to Rev. Proc. 2018-18, stakeholders informed the Treasury Department and the IRS that implementing the \$50 reduction to the limitation on deductions for individuals with family coverage would impose numerous unanticipated administrative and financial burdens. Specifically, stakeholders noted that some individuals with family coverage under an HDHP made the maximum HSA contribution for the 2018 calendar year before the issuance of Rev. Proc. 2018-18 reducing the deduction limitation, and that many other individuals made annual salary reduction elections for HSA contributions through their employers’ cafeteria plans based on the \$6,900 limit for an individual with family coverage under an HDHP. Further,

stakeholders informed the Treasury Department and the IRS that the costs of modifying the various systems to reflect the reduced maximum, as well as the costs associated with distributing a \$50 excess contribution (and earnings), would be significantly greater than any tax benefit associated with an unreduced HSA contribution (and in some instances may exceed \$50). Some stakeholders also pointed to section 223(g)(1), which requires annual inflation adjustments for HSAs to be published by June 1 of the preceding calendar year, as another indication that a current year change would be unduly burdensome.

In response to these concerns, the Treasury Department and the IRS have 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 in Rev. Proc. 2017-37 as the 2018 inflation adjusted limitation on HSA contributions for eligible individuals with family coverage under an HDHP.

SECTION 3. PROCEDURE

For calendar year 2018, taxpayers may treat \$6,900 as the annual limitation on deductions under section 223(b)(2)(B) for an individual with family coverage under an HDHP.

An individual who receives a distribution from an HSA of an excess contribution (with earnings) based on the \$6,850 deduction limit published in Rev. Proc. 2018-18 may repay the distribution to the HSA and treat the distribution as the result of a mistake of fact due to reasonable cause under Q&A-37 of Notice 2004-50, 2004-2 C.B. 196. Accordingly, the portion of a distribution (including earnings) that an individual repays to

an HSA by April 15, 2019, is not included in the individual's gross income under section 223(f)(2) or subject to the 20 percent additional tax under section 223(f)(4), and the repayment is not subject to the excise tax on excess contributions under section 4973(a)(5). 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, in accordance with Q&A-76 of Notice 2004-50, a trustee or custodian is not required to allow individuals to repay mistaken distributions.

Alternatively, an individual who receives a distribution from an HSA of an excess contribution (with earnings) based on the \$6,850 deduction limit published in Rev. Proc. 2018-18 and does not repay the distribution to the HSA may treat the distribution in accordance with section 223(f)(3), which describes the treatment of excess contributions returned before the due date of return. Thus, the excess contribution generally would not be included in gross income under section 223(f)(2) or subject to the 20 percent additional tax under section 223(f)(4), provided the distribution is received on or before the last day prescribed by law (including extensions of time) for filing the individual's 2018 tax return.

The tax treatment described in the preceding paragraph does not apply to distributions from an HSA that are attributable to employer contributions (pursuant to a cafeteria plan election or otherwise) 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 on deductions under section 223(b)(2)(B). In that case, unless the distribution from the HSA is used to pay qualified medical expenses, the distribution is includible in the employee's gross income under section 223(f)(2) and subject to the 20

percent additional tax under section 223(f)(4).

SECTION 4. EFFECT ON OTHER DOCUMENTS

This revenue procedure modifies and supersedes the second sentence of section 4 of Rev. Proc. 2018-18, which for calendar year 2018 addresses the annual limitation on deductions under section 223(b)(2)(B) for an individual with family coverage under an HDHP.

SECTION 5. EFFECTIVE DATE

This revenue procedure applies for calendar year 2018.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Karen Levin of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this revenue procedure contact Karen Levin on (202) 317-5500 (not a toll free call).