Lively

Small Employer Start Guide

Benefits, Contributions and Compliance

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Summary

Small business owners are always looking for ways to maximize benefits while minimizing cost for both themselves and their employees. A small business HSA is a perfect way to limit healthcare costs while ensuring you have the dedicated money you need to pay for medical costs. What you might not know is that your company legal structure, and ownership stake, might impact your HSA contributions.

Employee Eligibility Requirements

Before we dive into the corporate structure and the impact it has on your HSA-eligibility, employees must meet all of the standard HSA-eligibility requirements including an HSA-eligible health plan. You can read all of the HSA-eligibility account holder requirement details here.

2021 Contribution Limits

INDIVIDUAL	FAMILY	CATCH UP (55+)
$3,600	$7,200	+$1,000

Am I Eligible in 2021?

HSA-ELIGIBLE HEALTH PLAN

Annual Minimum Deductibles: $1,400 (individuals) & $2,800 (families).

Annual Out-of-Pocket Maximum $7,000 (individuals) & $14,000 (families).

HSA REQUIREMENTS

You can't be enrolled in any other non-HSA qualified health insurance plan.

You can't have or be eligible to use a general purpose Flexible Spending Account (FSA).

You can't be claimed as a dependent on someone else's tax return.

You can't be enrolled in Medicare (Part A and Part B) or Medicaid.

ELIGIBILITY IS NOT REQUIRED FOR USAGE

Your HSA funds never expire

You can always use your funds for qualified out-of-pocket medical expenses

After 65 year of age, you can use your HSA funds for anything, just like a 401(k) or IRA.

Employer Eligibility Requirements

Some of you might have heard of a "Cafeteria Plan." A smaller number may have even heard the term "Section 125." However, most HSA owners have never really needed to know these terms, much less the underlying mechanics governing the employer benefits programs it created. We will review all options for company HSA-eligibility and IRS compliance for both pre and post-tax contributions.

HSA Corporate Structure Qualification Requirements

C-Corp: A Section 125 plan is required to fund pre-tax benefits (including HSA contributions). All employees of the c-corp (shareholder or not) can participate in the plan. If a Section 125 plan is not in place, then contributions can still be made, however it must be post-tax dollars are subject to comparability rules per IRS Section 223.

S-Corp: Please be aware that any owner who owns >2% is ineligible to receive pre-tax contributions. Anyone in this designation is considered an "owner" from an IRS perspective as such must receive HSA contributions on a post-tax basis and receive the tax benefit at the end of the year.

Partnerships (e.g., LLC / LLP): Partnerships must be taxed as a corporation to make pre-tax contributions. If the partnership is not taxed as a corporation and it has employees, then it can implement a Section 125 plan and allow for employee contributions on a pre-tax basis but the owners of the partnership would not be allowed to participate in the plan (on a pre-tax basis).

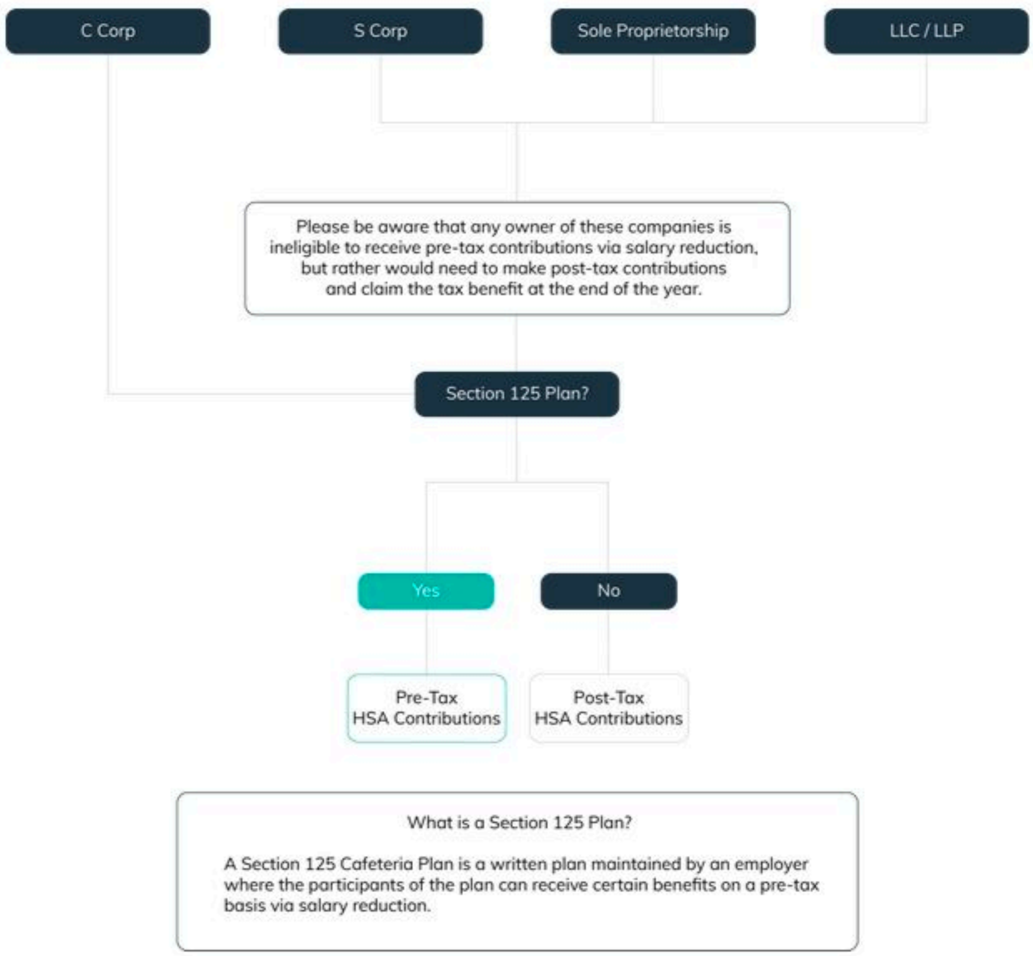
Sole Proprietorship: Sole proprietors cannot make pre-tax contributions into their own HSA account. If the sole proprietorship has employees, then they can implement a Section 125 plan and allow for employee contributions on a pre-tax basis but the sole proprietor would not be allowed to participate in the plan (on a pre-tax basis).

Even if your company's legal or ownership structure will not allow for you to make pre-tax HSA contributions, you can make post-tax HSA contributions. From there, you can use those HSA contributions to reduce your yearly income tax liability. So rather than getting the tax benefit on a paycheck by paycheck basis, you will receive the tax benefit at the end of the year when you file

What is a Section 125 Plan?

A Section 125 Cafeteria Plan is a written document maintained by an employer where the participants of the plan can receive benefits on a pre-tax basis via salary reduction.

Eligible benefits plans include Premium-Only Plans (POP), Flexible Spending Account (FSA), Healthcare Reimbursement Account (HRA), Dependent Reimbursement Accounts (DRA) and of course a Health Savings Account (HSA).



How does a Section 125 Plan affect HSA contributions?

A Section 125 Plan sets the rules and regulations for pre-tax contributions for employee and employer HSA plans via pre-tax salary deductions.

Can Employers Contribute to an HSA without a Section 125 Plan?

Yes! Employers can still contribute to an HSA without a Section 125 Plan. Employers can make post-tax contributions directly into their employees' HSA accounts.

You likely didn't consider HSA contribution requirements when you were setting up your corporate structure. Don't worry. Understanding your corporate structure and how that impacts your pre-tax HSA contributions eligibility will help you stay IRS compliant. The good news is, no matter your corporate structure or ownership position you can still make HSA contributions, as long as your employees qualify for the standard HSA health plan requirements.

Do The New ICHRA Rules Impact You?

In 2020, The US Departments of Labor, Treasury and Health and Human Services have created a new kind of Health Reimbursement Arrangement (HRA) called the Individual Coverage HRA (ICHRA) and it promises to be a huge benefit for small and medium-sized businesses (SMBs).

This is a great option for small and medium businesses for a number of reasons.

1. You can use an ICHRA as a way to offer health insurance coverage to your employees. Studies have shown that access to health insurance leads to a healthier workforce, and a healthier workforce is a more productive workforce. But you might not be able to afford to offer an employer-sponsored group plan. What you can do is fund an ICHRA account for the purposes of helping your employees purchase an individual health insurance plan in the marketplace.

2. You can use it to offer retirement benefits to your employees. As a small or medium business, you might not have set up a 401k, pension or other retirement benefits for your employees. But since employers can choose to allow their retired employees to maintain access to the ICHRA, and since an ICHRA can be used for Medicare premiums and out-of-pocket expenses, it’s a great way to reward longtime employees who retire from your company.

3. You can use an ICHRA to offer health insurance benefits to employees who don’t qualify for the group plan. The rules for ICHRA prohibits employees who participate in a group plan from also participating in an ICHRA. But employers are not prohibited from offering both to employees. Employers can also choose who gets access to the group plan and who gets access to the ICHRA. For instance, if you have salaried employees and hourly, you can choose to offer the hourly employees the ICHRA and the salaried employees a group plan.

What is an ICHRA?

An ICHRA (Individual Coverage Health Reimbursement Arrangement) is a new tool that allows employers of any size to reimburse any amount per month for healthcare expenses incurred by employees on a tax-free basis. Instead of signing up for a pricey employer-sponsored group plan, an employer can scale benefits across 11 customizable classes of employees and each employee chooses an individual health plan on the marketplace that works best for their families, their doctors, and their prescriptions. Employees submit receipts for things like doctor visit copays, lab work, monthly premiums, and qualified medical expenses (if the plan design allows) online and they are reimbursed through payroll. Employers can say goodbye to annoying paperwork, administrative burden and creeping group plan costs!

A few other details you won't want to miss:

1. Employees must have an individual marketplace or Medicare plan to participate. That means individuals covered through spouse group plans, sharing ministries, or TRICARE are not eligible.

2. This is a health reimbursement account, not a health savings account, so the employer only pays when receipts for care are submitted. If money is leftover, it stays with the employer.

3. A special enrollment period is triggered when an employer begins to offer an ICHRA, which means that employees will have 60 days to enroll in a major medical plan instead of waiting until open enrollment.

4. If the ICHRA is considered "unaffordable," employees have the option to opt out of receiving ICHRA reimbursements and choose to keep their tax credit instead.

There are also some basic rules regarding employee classes:

1. If you have fewer than 100 employees, the class of employee to which you offer the ICHRA must consist of at least 10 employees.

2. If you have between 100-200 employees, the class of employees to which you offer the ICHRA must consist of at least 10 percent of employees.

3. If you have 201+ employees, the class of employees to which you offer the ICHRA must be at least 20 employees.

There are also some basic rules regarding employee classes (continued)

4. The size of the employee classification is determined on the first day of the ICHRA plan year.

5. Employers can also maintain group health coverage for existing employees and start offering an ICHRA to new employees.

How does an HSA and ICHRA work together?

Here’s the good news. These two tax-advantaged powerhouses can be used together. But their integration depends on how they are set up and the details are pretty complex. In a nutshell, the rules are in place so folks don’t double dip when it comes to using tax-advantaged funds for medical expenses.

An ICHRA would have to be set up to reimburse premiums only for the employee to be eligible to make contributions to their HSA. If ICHRA reimburses premiums and medical expenses, then employees are disqualified from using the HSA. Since HSA funds don’t expire, employees can choose not to utilize their HSA during years the ICHRA reimburses expenses and will reap the benefits of the growing HSA funds down the road. This is a good strategy, despite the extra paperwork, considering HSA funds don’t expire.

For ICHRA and HSAs to work together, an individual must have a HDHP and no disqualifying health coverage.

1. A unique thing about ICHRA is that employers can offer expense reimbursement but employees can individually opt out and use their HSA, versus ICHRA’s predecessor, QSEHRA, which required the employer to offer it all or nothing.

2. Contributions can’t be made to an HSA for a worker if the worker can use his or her HRA to pay for general medical expenses before meeting the HDHP deductible.

3. An employer can offer employees in a class a choice between an HSA-compatible individual coverage HRA and an individual coverage HRA that is not HSA compatible because both types of individual coverage HRAs are offered to all employees in the class on the same terms.

4. If a plan sponsor chooses to offer an HSA-compatible individual coverage HRA that reimburses medical care expenses after the minimum deductible is satisfied, it is the employer’s responsibility—not the employee’s—to track medical care expenses incurred during the year and ensure that the individual coverage HRA does not reimburse medical care expenses incurred prior to the satisfaction of the minimum deductible.

As you can see there are a few ways in which an ICHRA can help small employers provide attractive health and retirement benefits to employees. Which can, in turn, help employers find better talent and grow their workforce and their business.

A Note About HSAs and Employer Taxes

Employers must have an active Section 125 Cafeteria Plan in place to benefit from payroll tax savings. The payroll tax savings calculator excludes any potential unemployment tax savings.

Employer Tax Savings

- Employer contributions are not subject to withholding from wages for income tax

- Those contributions are not subject to the Federal Insurance Contributions Act (FICA) or the Federal Unemployment Tax Act (FUTA)

- IRS views contributions to an HSA through a cafeteria plan as employer contributions.

According to Devenir's 2019 Year-End HSA Market Statistics & Trends report, the average employee HSA contribution was $169 per month or $2,034 annually in 2019. You can use our interactive payroll calculator to see how much you will save this year based on your company size, and employer contributions.

Lively

About Lively, Inc.

Lively is a modern Health Savings Account (HSA) platform for employers and individuals. Lively's user-centric solution creates an intuitive user experience allowing consumers to get the most out of their HSA.

Lively HSAs work alongside HSA compatible plans to make healthcare easier for everyone. Lively was started to help consumers optimize their healthcare spending, maximize their savings, and better their livelihood.

Lively is headquartered in San Francisco, CA. For more information, please visit **Livelyme.com** or contact us at sales@livelyme.com.