**372.01 What is the HSA establishment date?**

HSA account owners set an establishment date for their HSAs and can use the HSA to pay for all qualified medical expenses incurred after that date.[[1]](#endnote-1)

The establishment date is initially set the first time a taxpayer opens an HSA. The definition of “established” depends on state law so the exact date an HSA is established depends on an HSA account owner’s state trust law.[[2]](#endnote-2) A common requirement under state law for a trust is that an executed trust agreement exists and potentially that the trust is funded. HSA rules require that HSA custodians use a formal document for HSA establishment; the IRS Forms 5305-C, 5305-B or an IRS approved prototype. The signing of that document would generally be a requirement for establishment.[[3]](#endnote-3) The establishment date is not the date when the HSA account owner was eligible to open the HSAor when coverage under an HDHP begins.

If an HSA account owner opens another HSA, the new HSA is deemed established the same day the first HSA was established so long as the earlier HSA had a positive balance at any point during the 18-month period ending on the date of the opening of the new HSA.[[4]](#endnote-4) For transfers and rollover of HSA funds, the establishment date stays the same as the date the original HSA.[[5]](#endnote-5)

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**Planning Point:** Upon a first reading, the establishment date rule appears to be simple and follow a common sense approach. Accordingly, many account owners and even professionals do not give the date much thought. Understanding the establishment date rules; however, can help HSA account owners maximize HSA benefits.

The rule allows HSA account owners with a normal amount of medical expenses to maximize HSA tax benefits by paying for most, if not all, qualified medical expenses tax-free through their HSA, even in years when the HSA account owners’ medical expenses exceed the HSA limits or in years when the account owner is not currently eligible to contribute to an HSA. The rule also allows an account owner to maximize tax-deferred earnings by delaying reimbursement of medical expenses from the HSA. The key is that the rule simply requires that the HSA be established in order to use it for qualified medical expenses. The rule does not refer to the amount of money available in the HSA.

For individuals that anticipate good health and prefer not to contribute to an HSA, the establishment date rule allows the individual to establish the HSA with a nominal dollar amount. Having the HSA established before a medical expense is incurred, provides the individual the flexibility to fund the HSA periodically only after a medical expense is incurred and the amount known. If the expense is larger than the current year’s HSA contribution limit allows, the individual can pay the expense with non-HSA funds that are not tax-favored (e.g. FSA or HRA could not be used) and then wait for future year contributions to reimburse from the HSA. This of course assumes the individual remains HSA eligible.

An individual losing eligibility that wants to maximize tax planning should keep the HSA open with a small balance to maintain the establishment date. This would allow the individual to save medical receipts during the period of ineligibility and potentially use future HSA contributions to reimburse for those qualified medical expenses after the individual regains HSA eligibility and begins making contributions again. The ability to pay for current year expenses with future year HSA contributions provides an opportunity for individuals losing their HSA eligibility before a large reserve has accumulated.

Some individuals use this rule to maximize tax deferral by fully funding the HSA each year and then not using the HSA for qualified medical expenses. This approach allows the full HSA to grow tax-deferred. Assuming the taxpayer is actually incurring medical expenses, the taxpayer can save those receipts and essentially build a fund within the HSA that is available for immediate tax-free distribution at any time. HSA rules allow for the reimbursement of qualified medical expenses incurred after the establishment date at any point in the future.

1. IRS Notice 2004-2, A26. [↑](#endnote-ref-1)
2. IRS Notice 2008-59, A38. [↑](#endnote-ref-2)
3. IRC Sec 223 (d)(1)(B); Instructions to IRS Form 5305-C. [↑](#endnote-ref-3)
4. IRS Notice 2008-59, A41. [↑](#endnote-ref-4)
5. IRS Notice 2008-59, A40. [↑](#endnote-ref-5)