**376.01 What are the employee’s responsibilities regarding HSAs?**

The bulk of the compliance burden for meeting the HSA rules rests with the individual employee. The following are key employee responsibilities.

1. *Substantiation.* The employee must substantiate that the distributions from the HSA were in fact used for qualified medical expenses by saving medical receipts in case of an IRS audit.[[1]](#endnote-1) Placing this burden on the individual relieves the employer of the arduous task of reviewing receipts and issuing reimbursement checks or otherwise facing some potential liability for failure by an employee to use the money appropriately. Employers generally welcome this change even though employers lose some control. Employee substantiation simplifies the process of paying or reimbursing for medical expenses, allows for more employee privacy, and gives employees the opportunity to be more aggressive in interpreting the definition of qualified medical expenses.
2. *Eligibility.* Although an employer and a custodian can help educate employees on the requirements to be eligible for an HSA and the employer should verify that the employee is covered by an HDHP, the ultimate responsibility to determine eligibility rests with the employee.[[2]](#endnote-2) An employee’s participation in a spouse’s health insurance plan or general purpose Flexible Spending Account (FSA) could jeopardize the employee’s HSA eligibility as could participation in a government health care system such as the Veterans Administration’s plan or Medicare. (See Q 370)
3. *Maximum Contribution Limit.* The employee is primarily responsible to ensure that the amount contributed to the HSA is within federal guidelines.[[3]](#endnote-3) Employers and custodians share some of the responsibility as employers cannot deduct more than the maximum HSA contribution limit for an employee (the employer can assume eligibility based on HDHP coverage) and custodians cannot accept more than the family HSA limit plus one catch-up contribution ($7,750 for 2016). An employee that exceeds the limit may cause additional administrative work for the employer, the custodian and the individual. It is in everyone’s best interest to educate the employee on the limits.
4. *Management of HSA.* Employees manage the balance in the HSA, select investments, choose beneficiaries, update contact information, pay for medical expenses and perform other maintenance issues generally without employer involvement.
5. *Tax Reporting/Payments.* Employees are required to file an attachment (IRS Form 8889) to their income tax return each year they make a contribution or take a distribution.[[4]](#endnote-4) This includes employees that receive an employer-made contribution. This form is used by the IRS to ensure that the individual does not take a larger than permitted deduction and also ensures that the individual pays any taxes and penalties owed for non-eligible distributions. The employer provides a W-2 to the employee documenting pre-tax HSA contributions.
6. *Termination of Employment.* Another positive feature of HSAs for both employers and employees is that the HSA remains open and viable after the employee’s separation from service (some situations may require the account owner to transfer the HSA to a new custodian). Other than discontinuing any employer contributions into the HSA, the employer generally does not need to take any action regarding the separating employee’s HSA. The employee is responsible to maintain or close the HSA after separation from service.

1. IRS Notice 2004-2, A30. [↑](#endnote-ref-1)
2. IRS Notice 2004-50, A81. [↑](#endnote-ref-2)
3. IRS Notice 2004-50, A81. [↑](#endnote-ref-3)
4. IRS Instructions to Form 8889. [↑](#endnote-ref-4)