

# Health Savings Trust Account

(Under section 223(a) of the Internal Revenue Code)

Form 5305-B (Rev. October 2016) Department of the Treasury, Internal Revenue Service. Do not file with the Internal Revenue Service.

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The Account Owner named on the HSA Application is establishing this Health Savings Account (HSA) exclusively for the purpose of paying or reimbursing Qualified Medical Expenses of the Account Owner, his or her spouse, and dependents. The Account Owner represents that unless this account is used solely to make rollover contributions, he or she is eligible to contribute to this HSA; specifically, that he or she: (1) is covered under a High Deductible Health Plan (HDHP); (2) is not also covered by any other health plan that is not an HDHP (with certain exceptions for plans providing preventive care and limited types of permitted insurance and permitted coverage); (3) is not enrolled in Medicare; and (4) cannot be claimed as a dependent on another person's tax return.

The Account Owner has assigned to this Trust Account the amount indicated on the Application. The Account Owner and the Trustee make the following Agreement:

## ARTICLE I

1. The Trustee will accept additional cash contributions for the tax year made by the Account Owner or on behalf of the Account Owner (by an employer, family member or any other person). No contributions will be accepted by the Trustee for any Account Owner that exceeds the maximum amount for family coverage plus the catch-up contribution.
2. Contributions for any tax year may be made at any time before the deadline for filing the Account Owner's federal income tax return for that year (without extensions).
3. Rollover contributions from an HSA or an Archer Medical Savings Account (Archer MSA) (unless prohibited under this Agreement) need not be in cash and are not subject to the maximum annual contribution limit set forth in Article II.
4. Qualified HSA distributions from a health flexible spending arrangement or health reimbursement arrangement must be completed in a trustee-to-trustee transfer and are not subject to the maximum annual contribution limit set forth in Article II.
5. Qualified HSA funding distributions from an individual retirement account must be completed in a trustee-to-trustee transfer and are subject to the maximum annual contribution limit set forth in Article II.

## ARTICLE II

1. For calendar year 2011, the maximum annual contribution limit for an Account Owner with single coverage is \$3,050. This amount increases to \$3,100 in 2012. For calendar year 2011, the maximum annual contribution limit for an Account Owner with family coverage is \$6,150. This amount increases to \$6,250 in 2012. These limits are subject to cost-of-living adjustments after 2012.
2. Contributions to Archer MSAs or other HSAs count toward the maximum annual contribution limit to this HSA.
3. For calendar year 2009 and later years, an additional \$1,000 catch-up contribution may be made for an Account Owner who is at least age 55 or older and not enrolled in Medicare.
4. Contributions in excess of the maximum annual contribution limit are subject to an excise tax. However, the catch-up contributions are not subject to an excise tax.

## ARTICLE III

It is the responsibility of the Account Owner to determine whether contributions to this HSA have exceeded the maximum annual contribution limit described in Article II. If contributions to this HSA exceed the maximum annual contribution limit, the Account Owner shall notify the Trustee that there exist excess contributions to the HSA. It is the responsibility of the Account Owner to request the withdrawal of the excess contribution and any net income attributable to such excess contribution.

## ARTICLE IV

The Account Owner's interest in the balance in this Trust Account is nonforfeitable.

## ARTICLE V

1. No part of the trust funds in this account may be invested in life insurance contracts or in collectibles as defined in section 408(m).
2. The assets of this account may not be commingled with other property except in a common trust fund or common investment fund.
3. Neither the Account Owner nor the Trustee will engage in any prohibited transaction with respect to this account (such as borrowing or pledging the account or engaging in any other prohibited transaction as defined in section 4975).

## ARTICLE VI

1. Distributions of funds from this HSA may be made upon the direction of the Account Owner.
2. Distributions from this HSA that are used exclusively to pay or reimburse Qualified Medical Expenses of the Account Owner, his or her spouse, or dependents are tax-free. However, distributions that are not used for Qualified Medical Expenses are included in the Account Owner's gross income and are subject to an additional 20 percent tax on that amount. The additional 20 percent tax does not apply if the distribution is made after the Account Owner's death, disability, or reaching age 65.
3. The Trustee is not required to determine whether the distribution is for the payment or reimbursement of Qualified Medical Expenses. Only the Account Owner is responsible for substantiating that the distribution is for Qualified Medical Expenses and must maintain records sufficient to show, if required, that the distribution is tax-free.

## ARTICLE VII

If the Account Owner dies before the entire interest in the account is distributed, the entire account will be disposed of as follows:

1. If the Beneficiary is the Account Owner's spouse, the HSA will become the spouse's HSA as of the date of death.
2. If the Beneficiary is not the Account Owner's spouse, the HSA will cease to be an HSA as of the date of death. If the Beneficiary is the Account Owner's estate, the fair market value of the account as of the date of death is taxable on the Account Owner's final return. For other Beneficiaries, the fair market value of the account is taxable to that person in the tax year that includes such date.

## ARTICLE VIII

1. The Account Owner agrees to provide the Trustee with information necessary for the Trustee to prepare any report or return required by the IRS.
2. The Trustee agrees to prepare and submit any report or return as prescribed by the IRS.

## ARTICLE IX

Notwithstanding any other article that may be added or incorporated in this Agreement, the provisions of Articles I through VIII and this sentence are controlling. Any additional article in this Agreement that is inconsistent with section 223 or IRS published guidance will be void.

## ARTICLE X

This Agreement will be amended from time to time to comply with the provisions of the Code or IRS published guidance. Other amendments may be made with the consent of the persons whose signatures appear below.

## ARTICLE XI

### 1. Definitions.

**Account Owner.** Account Owner means the individual named as the HSA owner on the Application for whose benefit the HSA is established.

**Agreement.** Agreement means the Health Savings Trust Account (IRS Form 5305-B), Application, Disclosure Statement, and accompanying documentation. The Agreement may be amended from time to time as provided in Article X.

**Application.** Application means the legal document that establishes this Health Savings Account (HSA) after acceptance by the Trustee by signing the Application. The information and statements contained in the Application are incorporated into this HSA Agreement.

**Authorized Agent.** Authorized Agent means the individual(s) appointed in writing by the Account Owner authorized to perform the duties and responsibilities set forth in the Agreement on behalf of the Account Owner.

**Beneficiary.** Beneficiary means the person(s) or entity(ies) the Account Owner designates in writing in a form and manner acceptable to the Trustee that will be entitled to receive the proceeds in the Trust Account upon the death of the Account Owner.

**Code.** Code means the Internal Revenue Code.

**High Deductible Health Plan (HDHP).** For calendar year 2021, an HDHP for self-only coverage has a minimum annual deductible of

\$1,400 and an annual out-of-pocket maximum (deductibles, co-payments and other amounts, but not premiums) of \$7,000. In 2022, the \$1,400 minimum annual deductible remains the same and the annual out-of-pocket maximum increases to \$7,050. For calendar year 2021, an HDHP for family coverage has a minimum annual deductible of \$2,800 and an annual out-of-pocket maximum of \$14,000. In 2022, the \$2,800 minimum annual deductible remains the same and the annual out-of-pocket maximum increases to \$14,100. These limits are subject to cost-of-living adjustments.

**Identifying Number.** The Account Owner's social security number will serve as the identification number of this HSA. For married persons, each spouse who is eligible to open an HSA and wants to contribute to an HSA must establish his or her own account. An employer identification number (EIN) is required for an HSA for which a return is filed to report unrelated business taxable income. An EIN is also required for a common fund created for HSAs.

**Qualified Medical Expenses.** Qualified Medical Expenses are amounts paid for medical care as defined in section 213(d) for the Account Owner, his or her spouse, or dependents (as defined in section 152) but only to the extent that such amounts are not compensated for by insurance or otherwise. With certain exceptions, health insurance premiums are not Qualified Medical Expenses. Regulations. Regulations mean the U.S. Treasury Regulations.

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**Self-Only Coverage and Family Coverage Under an HDHP.** Family coverage means coverage that is not self-only coverage.

**Trust Account.** Trust Account means the type of legal arrangement whereby the Custodian is a qualified financial institution that agrees to maintain the Trust Account for the exclusive benefit of the Account Owner.

**Trustee.** A Trustee of an HSA must be a bank, an insurance company, a person previously approved by the IRS to be a custodian of an individual retirement account (IRA) or Archer MSA, or any other person approved by the IRS.

2. **Account Owner's Responsibilities.** All information that the Account Owner has provided or will provide to the Trustee under this Agreement is complete and accurate and the Trustee may rely upon it. The Account Owner will comply with all legal requirements governing this Agreement and assumes all responsibility for his or her actions including, but not limited to, eligibility determination, contributions, distributions, penalty infractions, proper filing of tax returns and other issues related to activities regarding this Agreement.

The Account Owner is responsible for determining the suitability of the High Deductible Health Plan associated with this HSA. The Account Owner agrees to indemnify and hold the Trustee harmless for any adverse consequences or losses incurred based on the representations, statements, actions or inactions of the insurance company or agent that sold the Account Owner the HDHP associated with this HSA.

The Account Owner will provide to the Trustee the information the Trustee believes appropriate to comply with the requirements of Section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (U.S.A. PATRIOT) Act of 2001. The Account Owner will pay the Trustee reasonable compensation for its services, as disclosed in the applicable fee schedules.

Subject to the policies and practices of the Trustee, the Account Owner may delegate certain responsibilities by appointing an Authorized Agent in writing in a form and manner acceptable to the Trustee. Upon receipt of instructions from the Account Owner and proof of acceptance by the Authorized Agent, the Trustee may fully rely on instructions from the Authorized Agent as if the Trustee had received the instructions from the Account Owner.

3. **Contributions.** Except for certain rollovers and transfers, the Trustee will not accept contributions to the Trust Account for any year that exceeds the maximum amounts permitted by law, as indexed each year.

The Trustee reserves the right not to permit distributions to be returned to the Trust Account due to "mistake of fact." However, any acceptance of a return of a mistaken distribution by the Trustee will be based on relevant facts and circumstances, including the Account Owner's certification that there is clear and convincing evidence that the amounts were distributed from the HSA because of a mistake of fact due to reasonable causes, and whether the amounts are being returned by April 15 following the first year the Account Owner knew or should have known the distribution was a mistake. The Account Owner will indemnify and hold the Trustee harmless for any taxes, penalties, or losses incurred by his or her actions or inactions regarding a return of a mistaken distribution from the Trust Account.

4. **Investment Responsibilities.**

**Investment Direction By Account Owner.** All investment decisions are the sole responsibility of the Account Owner and the Account Owner

is responsible to direct the Trustee in writing, or other acceptable form and manner authorized by the Trustee, regarding how all amounts are to be invested. Subject to the policies and practices of the Trustee, the Account Owner may delegate investment authority by appointing an Authorized Agent in writing in a form and manner acceptable to the Trustee. Upon receipt of instructions from the Account Owner and proof of acceptance by the Authorized Agent, the Trustee will accept investment direction and may fully rely on those instructions as if the Trustee had received the instructions from the Account Owner. The Trustee will determine the investments available within the Trust Account. All transactions shall be subject to any and all restrictions that are imposed by the Trustee's charter, articles of incorporation, or bylaws; any and all applicable federal and state laws and regulations; the rules, regulations, customs, and usages of any exchange, market, or

clearing house where the transaction is executed; the Trustee's policies and practices; and this Agreement. The Trustee may change its investment options from time to time and the Account Owner may move his or her monies in the Trust Account to different investments. Any investment changes within the Trust Account are subject to the terms and conditions of the investments, including but not limited to minimum deposit requirements and early redemption penalties.

The Trustee will not provide any investment direction, suitability recommendations, tax advice, or any other investment guidance. Further, the Trustee has no duty to question the investment directions provided by the Account Owner or any issues relating to the management of the Trust Account. The Account Owner will indemnify and hold the Trustee harmless from and against all costs and expenses (including attorney's fees) incurred by the Trustee in connection with any litigation regarding the investments within the Trust Account where the Trustee is named as a necessary party.

The Trustee will promptly execute investment instructions received from the Account Owner if the instructions are in a form and manner acceptable to the Trustee. If the Trustee determines the instructions from the Account Owner are unclear or incomplete, the Trustee may request additional instructions. Until clear instructions are received, the Trustee reserves the right, in good faith, to leave the contribution uninvested, place the contribution in a holding account (e.g., a money market account), or return the contribution to the Account Owner. The Trustee will not be liable for any investment losses due to such delays in receiving clear investment instructions. Further, the Account Owner will indemnify and hold the Trustee harmless for any adverse consequences or losses incurred from the Trustee's actions or inactions relating to the investment directions received from the Account Owner or Authorized Agent.

The Account Owner will not engage in transactions not permitted under the Agreement, including, but not limited to, the investment in collectibles or life insurance contracts, or engage in a prohibited transaction under Code Section 4975.

- 5. Beneficiary Designation.** The Account Owner may designate any person(s) or entity(ies) as primary and contingent Beneficiaries by completing a written designation in a form and manner acceptable to the Trustee, filed with the Trustee during the Account Owner's lifetime. Unless otherwise indicated, all subsequent Beneficiary designations revoke all prior designations.

If the Account Owner is married and subject to the marital or community property laws that require the consent of the Account Owner's spouse to name a Beneficiary other than or in addition to such spouse, the Account Owner understands that he or she is responsible for any and all tax and legal ramifications and he or she should consult a competent tax and/or legal advisor before making such designation.

Upon the Account Owner's death, if the primary designated Beneficiary is the Account Owner's surviving spouse, the Trust Account becomes the Trust Account of such surviving spouse. If the primary designated Beneficiary is someone other than a surviving spouse, the Trust Account ceases to be an HSA as of the date of death and the fair market value of the assets in the Trust Account as of the date of death are includible in such person's gross income for the year of the Account Owner's death. If no primary Beneficiaries survive the Account Owner, the Trust Account will be paid to surviving contingent Beneficiaries in equal shares unless indicated otherwise. If no primary or contingent Beneficiaries survive the Account Owner or if the Account Owner fails to designate Beneficiaries during his or her lifetime, the Trust Account becomes the Trust Account of the Account Owner's spouse. If no such legal spouse shall survive the Account Owner, then the Trust Account will be paid to the Account Owner's estate and the fair market value of the Trust Account will be included on the final tax return filed for the Account Owner's estate.

No payment will be made to any Beneficiary until the Trustee receives appropriate evidence of the Account Owner's death as determined by the Trustee.

If a Beneficiary is a minor, the Trustee is relieved of all of its obligations as Trustee by paying the Trust Account to the minor's parent or legal guardian upon receiving written instructions from such parent or legal guardian.

The Account Owner represents and warrants that all Beneficiary designations meet the applicable laws. The Trustee will exercise good faith in distributing the Trust Account consistent with the Beneficiary designation. The Account Owner, for the Account Owner and the heirs,

Beneficiaries and estate of the Account Owner agrees to indemnify and hold the Trustee harmless against any and all claims, liabilities and expenses resulting from the Trustee's payment of the Trust Account in accordance with such Beneficiary designation and the terms of the Agreement.

6. **Distributions.** The Account Owner may request distributions from the Trust Account in a form and manner acceptable to the Trustee. The Trustee is not obligated to distribute the Trust Account unless it is satisfied it has received the required information to perform its administrative and legal reporting obligations. Required information includes, but is not limited to, taxpayer identification number, distribution reason, and proof of identity.

The Trustee will not be liable for and the Account Owner will indemnify and hold the Trustee harmless for any adverse consequences and/or penalties resulting from the Account Owner's actions or inactions regarding distributions from the Trust Account, including whether the distributions are used to pay for Qualified Medical Expenses. The Trustee reserves the right to reasonably restrict the distribution frequency, and the distribution amounts from the Trust Account.

7. **Amendments and Termination.** The Trustee may amend this Agreement at any time to comply with legal and regulatory changes and to modify the Agreement as the Trustee determines advisable. Any such amendment will be sent to the Account Owner at the last known address on file with the Trustee. The amendment will be effective on the date specified in the notice to the Account Owner. At the Account Owner's discretion, the Account Owner may direct that the Trust Account be transferred to another trustee or custodian. The Trustee will not be liable for any losses for any actions or inactions of any successor trustee or custodian.

The Account Owner may terminate this Agreement at any time by providing a written notice of such termination to the Trustee in a form and manner acceptable to the Trustee. As of the date of the termination notice, the Trustee will no longer accept additional deposits under the Agreement. Upon receiving a termination notice, the Trustee will continue to hold the assets and act upon the provisions within the Agreement until the Account Owner provides additional instructions. If no instructions are provided by the Account Owner to the Trustee within 30 days of the termination notice, and unless the Trustee and Account Owner agree in writing otherwise, the Trustee will distribute the Trust Account, less any applicable fees or penalties, as a single payment to the Account Owner. The Trustee shall not be liable for any losses for any actions or inactions of any successor trustee or custodian.

The Trustee may resign at any time by providing 30 days written notice to the Account Owner. Upon receiving such written notice, the Account Owner will appoint a successor trustee or custodian in writing. Upon such appointment and upon receiving acknowledgement from the successor trustee or custodian of acceptance of the Trust Account, the Trustee shall transfer the Trust Account, less any applicable fees or penalties, to the successor trustee or custodian. If no successor trustee or custodian is appointed or no distribution instructions are provided by the Account Owner, the Trustee may, at its own discretion, select a successor trustee or custodian and transfer the Trust Account, less any applicable fees or penalties, or may distribute the Trust Account, less any applicable fees or penalties, as a single payment to the Account Owner. The Trustee shall not be liable for any losses for any actions or inactions of any successor trustee or custodian.

By establishing a health savings account with the Trustee, you agree that you will substitute another custodian or trustee in place of the existing Trustee upon notification by the Commissioner of the Internal Revenue Service or his or her delegate, that such substitution is required because the Trustee has failed to comply with the requirements of the Internal Revenue Code by not keeping such records, or making such returns or rendering such statements as are required by the Internal Revenue Code, or otherwise.

8. **Instructions, Changes of Addresses and Notices.** The Account Owner is responsible to provide any instructions, notices or changes of address in writing to the Trustee. Such communications will be effective upon actual receipt by the Trustee unless otherwise indicated in writing by the Account Owner.

Any notices required to be sent to the Account Owner by the Trustee will be sent to the last address on file with the Trustee and are effective when mailed unless otherwise indicated by the Trustee.

If authorized by the Trustee and provided by the Account Owner in the Application, Account Agreement or other documentation deemed acceptable to the Trustee, an electronic address is an acceptable address to provide and receive such communications.

9. **Fees and Charges.** The Trustee reserves the right to charge fees for performing its duties and meeting its obligations under this Agreement. All fees, which are subject to change from time to time, will be disclosed on the Trustee's fee schedule or other disclosure document provided by the Trustee. The Trustee will provide the Account Owner 30 days written notice of any fee changes. The Trustee will collect all fees from the cash proceeds in the Trust Account. If there is insufficient cash in the Trust Account, the Trustee may liquidate investments, at its

discretion, to satisfy fee obligations associated with the Agreement. Alternatively, if the Trustee so authorizes and if separate payment of fees or other expenses is permissible under applicable federal and/or state laws, the fees may be paid separately outside of the Trust Account. If the Trustee offers investments other than depository products, the Account Owner recognizes that the Trustee may receive compensation from other parties. The Account Owner agrees to pay the Trustee a reasonable charge for distribution from, transfers from, and terminations of this HSA. The Account Owner agrees to pay any expenses incurred by the Trustee in the performance of its duties in connection with this Agreement. Such expenses include, but are not limited to, administrative expenses, such as legal and accounting fees, and any taxes of any kind that may be levied or assessed with respect to such Trust Account. The Account Owner shall be responsible for any deficiency. If for any reason the Trustee is not certain as to who is entitled to receive all or part of the HSA, the Trustee reserves the right to withhold any payment from the HSA, to request a court ruling to determine the disposition of the HSA assets, and to charge the HSA for any expenses incurred in obtaining such legal determination.

**10. Transfers and Rollovers.** The Trustee may accept transfers and rollovers from other eligible plans. The Account Owner represents and warrants that only eligible transfers and roll overs will be made to the Trust Account. The Trustee reserves the right to refuse any transfer or rollover and is under no obligation to accept certain investments or property it cannot legally hold or determines is an ineligible investment in the Trust Account. The Trustee will duly act on written instructions from the Account Owner received in a form and manner acceptable to the Trustee to transfer the HSA to a successor trustee or custodian. The Trustee is not liable for any actions or inactions by any predecessor or successor trustee or custodian or for any investment losses resulting from the timing of or sale of assets resulting from the transfer or rollover.

**11. Miscellaneous.**

**Account Owner's Age.** The Trustee will track the Account Owner's age and will rely on the information provided by the Account Owner.

**Employer Contributions.** The Trustee is not responsible for monitoring employer contributions or notifying the Account Owner of any employer contributions to the HSA. The Account Owner is responsible for contacting his or her employer regarding matters relating to employer contributions and agrees to indemnify and hold the Trustee harmless for any costs, penalties, expenses, or losses as a result of the employer's failure to make contributions to or to properly determine comparable employee contributions for the Account Owner's HSA.

**Reliance and Responsibilities.** The Account Owner acknowledges that he or she has the sole responsibility for any taxes, penalties or other fees and expenses associated with his or her actions or inactions regarding the laws, regulations and rules associated with this Agreement. Further, the Account Owner acknowledges and understands that, except as otherwise expressly agreed to in writing between the parties, will act solely as an agent for the Account Owner and bears no fiduciary responsibility. The Trustee will rely on the information provided by the Account Owner and has no duty to question or independently verify or investigate any such information. The Account Owner will indemnify and hold the Trustee harmless from any liabilities, including claims, judgments, investment losses, and expenses (including attorney's fees), which may arise under this Agreement, except liability arising from gross negligence or willful misconduct of the Trustee.

**Trustee Acquired/Merged.** If the Trustee is purchased by or merged with another financial institution qualified to serve as a trustee or custodian that institution will automatically become the trustee or custodian of this HSA unless otherwise indicated.

**Maintenance of Records.** The Trustee will maintain adequate records and perform its reporting obligations required under the Agreement. The Trustee's sole duty to the Account Owner regarding reporting is to furnish the IRS mandated reports as required in Article VIII of this Agreement. The Trustee may, at its discretion, furnish additional reports or information to the Account Owner. The Account Owner approves any report furnished by the Trustee unless within 60 days of receiving the report, the Account Owner notifies the Trustee in writing of any discrepancies. Upon receipt of such notice, the Trustee's responsibility is to investigate the request and make any corrections or adjustments accordingly.

**Exclusive Benefit.** The Trust Account is maintained for the exclusive benefit of the Account Owner. To the extent permitted by law, no creditors of the Account Owner may at any time execute any lien, levy, assignment, attachment or garnishment on any of the assets in the Trust Account.

**Minimum Values.** The Trustee reserves the right to establish HSA, deposit and/or withdrawal minimums. The Trustee may resign or charge additional fees if the minimums are not met.

**Other Providers.** At its discretion, the Trustee may appoint other service providers to fulfill certain obligations, including reporting responsibilities, and may compensate such service providers accordingly. The Trustee may release nonpublic personal information regarding your HSA to such providers as necessary to provide the products and services made available under this Agreement.

**Agreement.** This Agreement and all amendments are subject to all state and federal laws. The laws of the Trustee's domicile will govern should any state law interpretations be necessary concerning this Agreement.

**Severability.** If any part of this Agreement is invalid or in conflict with applicable law or Regulations, the remaining portions of the Agreement will remain valid.

## GENERAL INSTRUCTIONS

*Section references are to the Internal Revenue Code unless otherwise noted.*

**Purpose of Form.** Form 5305-B is a model Trust Account Agreement that has been approved by the IRS. An HSA is established after the form is fully executed by both the Account Owner and the Trustee. The form can be completed at any time during the tax year. This account must be created in the United States for the exclusive benefit of the Account Owner.

**Do not** file Form 5305-B with the IRS. Instead, keep it with your records. For more information on HSAs, see Notice 2004-2, 2004-2 I.R.B. 269, Notice 2004-50, 2004-33 I.R.B. 196, Publication 969, *Health Savings Accounts and Other Tax-Favored Health Plans*, and other IRS published guidance.

## SPECIAL INSTRUCTIONS

**Article XI.** Article XI and any that follow it may incorporate additional provisions that are agreed to by the Account Owner and Trustee. The additional provisions may include, for example, definitions, restrictions on rollover contributions from HSAs or Archer MSAs (requiring a rollover

not later than 60 days after receipt of a distribution and limited to one rollover during a one-year period), investment powers, voting rights, exculpatory provisions, amendment and termination, removal of Trustee, Trustee's fees, state law requirements, treatment of excess contributions, distribution procedures (including frequency or minimum dollar amount), use of debit, credit, or stored-value cards, return of mistaken distributions, and descriptions of prohibited transactions.



# Health Savings Trust Account Disclosure Statement

(Used with Form 5305-B)

This Disclosure Statement provides a general review of the terms, conditions and federal laws associated with your Health Savings Account (HSA). It is not intended to replace the advice of your own tax and legal advisors. You are encouraged to consult with your tax advisor and/or state taxing authorities concerning any tax and/or compliance questions. You are responsible for complying with the laws that apply to your HSA. In addition to the transactions outlined in this Health Savings Account Disclosure Statement, the federal government may authorize permissible transactions from time to time. Unless expressly prohibited by the Trustee's policies, such additional federally authorized transactions are hereby incorporated by this reference.

Additional information on HSAs may be found in several IRS sources including IRS Publication 969, *Health Savings Accounts and Other Tax-Favored Health Plans*; IRS Publication 502, *Medical and Dental Expenses*; IRS Notice 2004-2, Notice 2004-50 and Notice 2007-22.

## GENERAL INFORMATION

### What is an HSA?

An HSA is a savings product that offers you a different way to pay for health care. HSAs are established in conjunction with a High Deductible Health Plan (HDHP) and enable you to pay qualifying medical expenses for yourself, your spouse and your dependents on a tax-free basis.

In general, insurance premiums on an HDHP will be substantially lower than premiums paid for traditional health care coverage. By investing the premium savings in an HSA, you may accumulate significant savings that you own and control and that may be used to pay for current and future qualifying medical expenses.

### What are Qualified Medical Expenses?

Qualified Medical Expenses are those incurred by you, your spouse and your dependents that would generally be eligible to deduct if you itemized deductions on your tax return. IRS Publication 502, *Medical and Dental Expenses*, further explains what expenses qualify. For expenses to be qualified, they must be incurred after you establish an HSA and must not be covered by insurance or otherwise.

### Who is an HSA eligible individual for purposes of HSA contribution eligibility?

Contribution eligibility is determined on the first day of each month. To be an eligible individual for HSA contributions you must meet the following criteria.

**HDHP**-You must be covered under an HDHP that meets certain requirements concerning the deductible and out-of-pocket expenses.

**No other coverage**-You may not be covered under an insurance plan that is not an HDHP (with certain exceptions for plans providing certain limited types of coverage).

**Not enrolled in Medicare**-You may not be enrolled in Medicare.

**Not claimed as a dependent**-You may not be eligible to be claimed as a dependent on someone else's tax return.

If you are not an eligible individual for all 12 months of a year, the annual contribution limit may be prorated. For assistance in determining your eligible contribution amount, consult your tax advisor.

### What is a High Deductible Health Plan (HDHP)?

Generally, an HDHP is a health plan often referred to as a "catastrophic" health insurance plan. As compared to traditional health insurance coverage, the premiums for an HDHP are less expensive, and the HDHP will not generally pay for health care expenses until the deductible is satisfied. Once the deductible is satisfied, the plan will generally cover the medical expenses.

For purposes of determining contribution eligibility for an HSA, an HDHP must satisfy certain requirements regarding deductibles and out-of-pocket expenses. There are two types of HDHPs for purposes of determining HSA contribution eligibility.

**HDHP Self-Only Coverage**-Self-only coverage is an HDHP that covers only one eligible individual. For calendar year 2021, the annual deductible must be at least \$1,400 and annual out-of-pocket expenses required to be paid (deductibles, co-payments, and other amounts, excluding premiums) may not exceed \$7,000. For calendar year 2022, the annual deductible must be at least \$1,400 and annual out-of-pocket expenses required to be paid (deductibles, co-payments, and other amounts, excluding premiums) may not exceed \$7,050. These amounts are adjusted for cost-of-living increases.

**HDHP Family Coverage**-Family coverage is an HDHP that covers one eligible individual and at least one other person (even if the other person is not eligible for an HSA). For calendar year 2021, the annual deductible must be at least \$2,800 and annual out-of-pocket expenses (deductibles, co-payments and other amounts, excluding premiums) required to be paid may not exceed \$14,000. For calendar year 2022, the annual deductible must be at least \$2,800 and annual out-of-pocket expenses (deductibles, co-payments, and other amounts, excluding premiums) required to be paid may not exceed \$14,100. These amounts are adjusted for cost-of-living increases.

Note, a plan does not fail to qualify as an HDHP merely because it does not have a deductible (or has a small deductible) for preventive care.

### In addition to HDHP coverage, what other types of health coverage may an individual have and remain eligible for an HSA?

In addition to an HDHP, you may be covered by permitted insurance. Permitted insurance is insurance where substantially all of the coverage provided relates to liabilities incurred under workers' compensation laws, tort liabilities, liabilities relating to ownership or use of property (e.g., automobile insurance), insurance for a specified disease or illness, and insurance that pays a fixed amount per day (or other period) of hospitalization. In addition, you may have coverage for accidents, disability, dental care, vision care, long-term care or other coverage types as allowed under the Internal Revenue Code and Regulations.



### **How many HSAs may an individual have?**

There is no limit on the number of HSAs you may have. However, contributions made to all your HSAs (and Archer Medical Savings Accounts (MSAs)) for any tax year may not exceed your contribution limit.

## **CONTRIBUTIONS**

### **Who may make contributions to HSAs?**

Contributions to your HSA may be made by you, your employer, or any other person. The total amount for the year from all sources may not exceed your annual contribution limit.

### **Are there any compensation or income requirements that affect how much may be contributed to an HSA?**

No. Eligibility for an HSA does not depend on your earnings.

### **How must contributions be made?**

Except for certain rollovers and transfers, all contributions must be made in the form of money (e.g., cash, check or money order).

### **What is the contribution limit for individuals whose HDHP is self-only coverage?**

The maximum annual contribution limit for an individual with self-only coverage is \$3,600 for tax year 2021 and \$3,650 for tax year 2022 with possible cost-of-living adjustments for later years. If the individual is not an eligible individual for all 12 months of a year, the contribution limit may be prorated. For example, if the individual is an eligible individual for only three months of the year, the annual limit is multiplied by 3/12 to determine the prorated maximum contribution amount for that partial year. For more information about prorated contributions for partial year eligibility, please see "When is the maximum annual contribution limit not prorated for partial year eligibility?" below.

### **What is the contribution limit for individuals whose HDHP is family coverage?**

The maximum annual contribution limit for an individual with family coverage is \$7,200 for 2021 and \$7,300 for tax year 2022 with possible cost-of-living adjustments for later years. If the individual is not an eligible individual for all 12 months of a year, the contribution limit may be prorated. For example, if the individual was an eligible individual for only three months of the year, the annual limit is multiplied by 3/12 to determine the prorated maximum contribution amount for that partial year. For more information about prorated contributions for partial year eligibility, please see "When is the maximum annual contribution limit not prorated for partial year eligibility?" below.

### **Are additional contributions permitted for individuals age 55 and older?**

Yes, in addition to the annual contribution limit, additional "catch up" contributions are permitted if the individual is age 55 (or older) before the close of the tax year. The additional amount is \$1,000. If the individual is not an eligible individual for all 12 months of a year, the contribution limit may be prorated. For more information about prorated contributions for partial year eligibility, please see "When is the maximum annual contribution limit not prorated for partial year eligibility?" below.

### **When is the maximum annual contribution limit not prorated for partial year eligibility?**

An individual who is an HSA eligible individual as of the last month of a year will be treated as eligible so long as the individual remains HSA eligible for

the "testing period". The "testing period" begins with the last month of the year in which the individual first becomes HSA eligible and runs for a full 12 months. For example, if an individual is HSA eligible in December 2021 that individual is treated as an HSA eligible individual for all of 2021 for purposes of HSA contribution limits if that individual remains eligible through December 31, 2022.

If the individual does not remain HSA eligible during the "testing period", the individual may be subject to tax and penalty on the amount that could not have been made but for this "testing period" rule.

### **May both spouses of a married couple contribute to an HSA?**

Yes, if they are both eligible for an HSA, however, special contribution limits may apply.

### **How do contributions to Archer Medical Savings Accounts (MSAs) affect HSA contributions?**

Any contributions made to an Archer MSA reduce the contribution limit permitted to your HSA for the year.

### **How do qualified HSA funding distributions from Traditional and Roth IRAs affect HSA contributions?**

Qualified HSA funding distributions (distributions from IRAs which are contributed as a direct trustee-to-trustee transfers to HSAs) made by the HSA Owner are taken into account in applying the annual limit for HSA contributions. For additional information on qualified HSA funding distributions, please see "May Traditional and Roth IRAs be directly transferred to HSAs?" below.

### **When is the deadline for making HSA contributions?**

Contributions may be made to your HSA during the tax year and up until the due date for filing your federal income tax return, not including extensions. For most people, the tax return due date is April 15.

### **Are prior year contributions allowed?**

If you make a contribution between January 1 and April 15, tell the Trustee which tax year the contribution is for. If you do not indicate otherwise, the Trustee will report it to the IRS as a current year contribution (the year received).

### **May HSA contributions be made after age 65?**

At age 65, individuals are generally entitled to enroll in Medicare. Individuals who enroll in Medicare are no longer eligible to make HSA contributions. However, any person age 65 or older who is not actually enrolled in Medicare, and otherwise eligible to contribute to an HSA, may contribute to an HSA until the month he or she is enrolled in Medicare.

### **May self-employed individuals contribute to an HSA?**

Yes, providing the HSA contribution eligibility requirements are met. Contributions are made with after-tax dollars and the amounts are deducted as "above the line" deductions when filing federal income taxes.

### **What if more than the allowable contribution amount is contributed to an HSA for a year?**

The amount exceeding your allowable limit for a year is an excess contribution and must be removed by your tax return deadline (including extensions) along with the net income attributable to such excess contribution. Failure to remove the excess and earnings by your tax return deadline (including extensions) will subject you to a 6% penalty tax for each year the excess remains in your HSA. For assistance in determining the net

income attributable to your excess HSA contribution, consult your tax advisor and/or Treasury Regulation 1.408-11.

#### **How are HSA contributions reported?**

Employer contributions made to your HSA are reported on your Form W-2. The Trustee reports HSA contributions to the IRS on Form 5498-SA. You report all HSA contributions on IRS Form 8889, *Health Savings Accounts (HSAs)*, when you file your federal income taxes.

### **EMPLOYER CONTRIBUTIONS**

#### **May an employer make HSA contributions for eligible employees?**

Yes. However, contributions from all sources must be aggregated and may not exceed your annual contribution limit. Amounts exceeding the allowable limit may be an excess contribution and subject to penalties if not properly removed.

#### **How do employer HSA contributions affect an employee's taxable income?**

Employer contributions to your HSA are excluded from your income. The employer HSA contributions are not subject to income tax withholding, or subject to the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA) or the Railroad Retirement Tax Act.

### **HSA DEDUCTIBILITY**

#### **Are HSA contributions tax deductible?**

Yes, all contributions made to your HSA (except those, if any, made by your employer) are "above the line" tax deductions. An "above the line" deduction reduces your taxable income by the HSA contribution amount. You do not need to itemize deductions to benefit from the tax deduction. Note you may not deduct any HSA contributions made by your employer.

### **TRANSFERS AND ROLLOVERS**

#### **May HSAs receive rollovers from other HSAs or MSAs?**

Your HSA Trustee may permit you to roll amounts withdrawn from another HSA or Archer MSA into this HSA provided such amounts are rolled over within 60 days of the distribution. Rollovers are not subject to the annual contribution limits. Both the distribution and the rollover deposit are reported to the IRS. However, a rollover is a tax-free transaction when done properly. Only one distribution from an HSA or MSA may be rolled over within a 12-month period.

#### **May HSAs be directly transferred from one trustee/custodian to another trustee/custodian?**

Your HSA Trustee may permit you to directly transfer all or a portion of another HSA or from your Archer MSA into this HSA. The direct transfer of assets from an HSA or Archer MSA to an HSA is not subject to the annual contribution limits and federal law does not limit the number of these transactions you may make during any year. A direct transfer is tax free and not reportable to the IRS.

#### **May IRAs be directly transferred to HSAs?**

Your HSA Trustee may permit you to do a tax-free transfer of Traditional and Roth IRA assets to this HSA. This transfer, also known as a qualified HSA funding distribution, is subject to HSA contribution limits. You must irrevocably elect to treat such distribution as a qualified HSA funding distribution. Generally, you are limited to one qualified HSA funding

distribution from any of your Traditional or Roth IRAs during your lifetime. If you do not remain HSA eligible during the applicable "testing period" as defined under the Internal Revenue Code, the amount of the qualified HSA funding distribution may be subject to tax and penalty. For assistance in determining to what extent you may be eligible to make a qualified HSA funding distribution, consult your tax advisor. Note, qualified HSA funding distributions may be made from a SEP IRA or SIMPLE IRA so long as the SEP IRA or SIMPLE IRA is not treated as an ongoing SEP IRA or an ongoing SIMPLE IRA. For this purpose, a SEP IRA or SIMPLE IRA is treated as ongoing if an employer contribution is made for the plan year ending with or within the IRA owner's taxable year in which the qualified HSA funding distribution would be made.

#### **Can HSAs be transferred as part of a valid divorce decree?**

Yes, under a valid divorce decree or separate maintenance decree, or a written document incident to such a decree, all or part of your HSA may be transferred to your ex-spouse or you may receive all or part of your ex-spouse's HSA.

### **DISTRIBUTIONS**

#### **What is the tax treatment of an HSA distribution used to pay qualifying medical expenses?**

All earnings in the HSA are tax-deferred until distributed. Distributions from your HSA used to pay qualifying medical expenses are tax free.

#### **When may distributions be taken from an HSA?**

The money in your HSA is always yours and you may withdraw it at any time. However, any amounts not used to pay qualifying medical expenses are subject to income tax and an additional 20% IRS penalty (unless the distribution is on account of death, disability or made after reaching age 65 or older). In addition, the Trustee may charge you distribution fees and, if you prematurely surrender time deposit(s), loss of earnings penalties.

The HSA may be used to cover those medical expenses that the HDHP does not cover (excluding the premiums for most HDHPs). Note, however, you are not required to take distributions from your HSA to cover those uncovered medical costs.

#### **Is there a deadline for reimbursing current year medical expenses from an HSA?**

No. So long as the medical expenses were incurred after you established an HSA, there is no time limit on when you must take a distribution from your HSA to reimburse Qualified Medical Expenses. You will want to make sure you keep proper records to show the distributions were used to reimburse Qualified Medical Expenses, that the expenses were not reimbursed by another source and that the medical expenses were not taken as an itemized tax deduction on a prior year's tax return.

#### **Are HSA distributions used to pay premiums for the HDHP considered qualified distributions?**

Distributions from an HSA to pay for HDHP premiums are generally not qualified distributions, however, an exception exists for certain HSA owners over age 65.

#### **What happens when the HSA owner dies?**

When you die, if the primary designated beneficiary is your surviving spouse, your HSA becomes an HSA of your surviving spouse. If the primary designated beneficiary is someone other than your surviving spouse, the

HSA ceases to be an HSA as of the date of your death and the fair market value of the assets in the HSA as of the date of your death are includable in such person's gross income for the year of your death. If you do not designate any beneficiaries for your HSA, your surviving spouse will be treated as your beneficiary. If you do not have a surviving spouse, your HSA will be paid to your estate and the fair market value of your HSA as of your date of your death is includable as income on your final tax return.

#### **How are HSA distributions reported?**

The Trustee reports distributions from your HSA to the IRS on Form 1099-SA. You also report them on IRS Form 8889, *Health Savings Accounts (HSAs)*, when you file your federal income taxes.

#### **What is a prohibited transaction?**

If you engage in a prohibited transaction with your HSA, the HSA will be disqualified and the entire HSA value (on the first day of the year in which the prohibited transaction occurs) is includable in income. This amount is also subject to an additional 10% IRS penalty unless an exception applies due to the HSA owner's death, disability or attainment of age 65 or older. Prohibited transactions are defined in Internal Revenue Code Section 4975. Examples include borrowing money from the HSA, selling property to the HSA, receiving unreasonable compensation for managing the HSA, or buying property with HSA funds for your personal use.

#### **May an HSA be used as security for a loan?**

No. If you pledge all or part of your HSA as security for a loan, the amount pledged is treated as a distribution and is includable in income. This amount is also subject to an additional 10% IRS penalty unless an exception applies due to the HSA owner's death, disability or attainment of age 65 or older.

### **MISCELLANEOUS**

**Nonforfeitureability.** Your interest in your HSA is nonforfeitable at all times.

**Trustee.** The Trustee of your HSA must be a bank, savings and loan association or credit union as defined in Internal Revenue Code (IRC) section 408(n), a life insurance company as defined in IRC section 816, or another person or entity that has been approved as a nonbank custodian by the Treasury Department.

**Investment Restrictions.** Money in your HSA may not be used to buy a life insurance policy or invested in collectibles. However, certain gold, silver and platinum coins, bullion and coins issued under state laws are allowable investments.

**No Commingling.** Assets in your HSA may not be combined with other property, except in a common trust fund or common investment fund.

**Beneficiary Designation.** You may designate a beneficiary for your HSA by completing a written designation in a form and manner acceptable to the Trustee. If you do not designate a beneficiary, your surviving spouse will be treated as your beneficiary. If you do not have a surviving spouse, your HSA will be paid to your estate when you die.

**Tax Filing.** You are responsible for filing the applicable IRS forms to report certain activities, taxable income and/or penalties associated with your HSA.

**IRS Form.** This HSA uses the precise language of IRS Form 5305-B and is therefore treated as approved by the IRS. Additional language has been

included as permitted by such form. The IRS approval represents a determination as to form and not to the merits of the account.