

# COMPLIANCE

February 2019

# ALERT

## FSA, HRA, and HSA Comparison Chart: Eligibility, Funding, & Taxation

	Flexible Spending Arrangements (FSAs)	Health Reimbursement Arrangements (HRAs)	Health Savings Accounts (HSAs)
<b>Description</b>	Created under a 125 Cafeteria Plan to reimburse employees for qualified medical expenses	An employer-established account that reimburses employees for qualified medical expenses. Must be integrated with ACA compliant health plan	A tax-exempt employee account established to pay for qualified medical expenses
<b>High Deductible Health Plan (HDHP)</b>	Not Required	Not Required	<u>2019 Minimum Annual Deductibles</u> <ul style="list-style-type: none"> <li>• \$1,350 – Self Only</li> <li>• \$2,700 – Family</li> </ul>
<b>Who is Eligible?</b>	Any employee who is eligible for health coverage which is not an excepted benefit; subject to employer-designed exclusions	Any employee, subject to employer-designed exclusions; eligibility may or may not be tied to HDHP	Employee / Individual covered by HDHP & no other non-HDHP coverage
<b>Who Can Create an Account?</b>	Employer	Employer	Employer or Individual
<b>Who Funds It?</b>	<ul style="list-style-type: none"> <li>• Employee salary reduction dollars</li> <li>• Employer</li> </ul>	Employer only	<ul style="list-style-type: none"> <li>• Individual</li> <li>• Employee salary reduction dollars</li> <li>• Employer</li> </ul>
<b>Who Can Contribute?</b>	Employer, Employee, or Both	Employer only	Employer, Employee, or Both
<b>Maximum Annual Contribution</b>	Plan Years Beginning in: 2018: \$2,650 2019: \$2,700	Set by employer	<u>2019 Maximum Contribution Amounts</u> <ul style="list-style-type: none"> <li>• Individual – \$3,500</li> <li>• Family – \$7,000</li> </ul>
<b>Catch-Up Contributions</b>	Not Allowed	Not Allowed	Allowed for ages 55 and older until enrolled in Medicare at age 65 – \$1,000
<b>Out-Of-Pocket Maximum for HDHP*</b>	Not Applicable	Not Applicable	Plan Years Beginning in: 2018 <ul style="list-style-type: none"> <li>• Individual – \$6,650</li> <li>• Family – \$13,300</li> </ul> 2019 <ul style="list-style-type: none"> <li>• Individual – \$6,750</li> <li>• Family – \$13,500</li> </ul>
<b>Interest and Earnings</b>	Not Applicable	Yes; earnings are tax free if used for qualified medical expenses	Yes; earnings are tax free if used for qualified medical expenses
<b>Are Contributions Taxed?</b>	No federal or state income tax** or social security / Medicare tax	No federal or state income tax** or social security / Medicare tax	No federal or state income tax** or social security / Medicare tax
<b>Distributions for Non-Medical Expenses (Including Cash-Outs)</b>	Not Allowed	Not Allowed	Subject to tax & 20% penalty (with certain exceptions)

\* HHS clarifies that plans offering family coverage (or any plan other than self-only coverage) are required to include an embedded OOP limit for each individual covered.

\*\* State taxes could apply in some states.

## FSA, HRA, and HSA Comparison Chart: Account Use

	Flexible Spending Arrangements (FSAs)	Health Reimbursement Arrangements (HRAs)	Health Savings Accounts (HSAs)
<b>Qualified Expenses</b>	Qualified medical expenses as defined in IRC 213(d), including over-the-counter drugs if prescribed	Qualified medical expenses as defined in IRC 213(d), including over-the-counter drugs if prescribed	Qualified medical expenses as defined in IRC 213(d), including over-the-counter drugs if prescribed; premiums for (1) Medicare, (2) COBRA, (3) health insurance while receiving unemployment compensation are qualified
<b>Health Insurance Premiums</b>	No	Yes	No, with exceptions
<b>Reimburse Long-Term Care (LTC)?</b>	LTC premiums – No LTC expenses – No	LTC premiums – Yes LTC expenses – No	LTC premiums – Yes LTC expenses – Yes
<b>Portability</b>	No; employees also forfeit unused balances	At the discretion of the employer	Yes; employee owns the account
<b>Balance Carry-Over</b>	Limited; plans may allow up to \$500 carryover or a grace period of up to two and a half months but not both	At the discretion of the employer	Yes
<b>Discrimination</b>	IRC Section 125 and 105(h) – Yes	Employer contributions must not discriminate in favor of highly compensated individuals as provided by IRC Section 105(h)	If employer contributions are done through a Section 125, the employer must comply with nondiscrimination requirements of the 125 Plan
<b>Reimbursement Order***</b>	FSAs should be considered the “final payer” and cannot reimburse expenses that have been reimbursed elsewhere	Claims are submitted to the HRA first and the FSA reimburses any amounts not reimbursed by the HRA	Should not have HRA & FSA that cover same expenses as the HDHP
<b>Funding Requirement</b>	Uniform coverage rule applies; claims must be paid without regard to contribution amount	Not required to pre-fund – uniform coverage rule does not apply	Funds must be present before withdrawal is made; employer may contribute to HSA over time or all at once
<b>COBRA Continuation</b>	Subject to COBRA	Subject to COBRA	Not subject to COBRA
<b>ERISA Requirements</b>	Yes	Yes	No
<b>ERISA Form 5500</b>	Applies; exception for small (< 100 participants) unfunded plans	Applies; exception for small (< 100 participants) unfunded plans	No
<b>ERISA SPD &amp; Other Disclosures; Adherence to Benefit Claims Procedures</b>	Yes	Yes	No
<b>HIPAA Portability, Certificate of Creditable Coverage and Health Status Nondiscrimination</b>	Applies; exception for health FSAs funded with salary reductions	Yes	No
<b>HIPAA Privacy</b>	Yes	Yes	No

\*\*\* Employer can draft HRA and FSA plan documents so that HRA reimburses only after FSA amounts are exhausted.