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The New Health Savings Accounts

President Bush signed the Medicare Prescription Drug, Improvements, and Modernization Act of 2003 on December 8, 2003. This new law is generally effective January 1, 2004. This is a very complicated law. The intent of the law is to change and improve Medicare.

This article is concerned with only one small portion of this Act. The Act in section 1201 authorizes Health Savings Accounts (HSAs) by adding Internal Revenue Code section 223, Health Savings Accounts. The purpose of the law is to create tax incentives so individuals will save for future health and retirement needs. The HSA will primarily be used to accumulate funds to pay health expenses on a tax-preferred basis. However, the HSA will also be used to accumulate wealth on a tax-preferred basis. This will happen when the contributed funds are not spent on health expenses. A primary purpose of HSAs is to create an incentive for people to NOT purchase medical products and services. One of the problems with traditional group health insurance policies is that a covered employee has a great incentive to maximize his or her use of medical products and services. This obviously drives up costs. Again, the HSA creates an incentive to not buy certain medical services.

The features of the new Health Savings Accounts are discussed below in question and answer format.

Tax Overview

What are the general tax attributes of the HSA? Contributions will be made to an HSA on behalf of the account beneficiary who is the individual on whose behalf the HSA is established.

A deduction will generally be able to be claimed by the account beneficiary for the amount of the contributions. However, a new exclusion is created for employer contributions to HSAs. The rules for this exclusion are discussed later.

The earnings realized by such contributions will not be presently taxed unless the unrelated income tax rules would apply.

Distributions from the HSA will be tax free (i.e. will not be included in income for income tax purposes) if the funds are used to exclusively pay for qualifying medical expenses. Publication 502 (Medical and Dental Expense) discusses the rules and which expenses are qualifying medical expenses. If the withdrawn funds are not used exclusively for qualifying medical expenses, then the person will have to include the distribution in income and also pay an additional 10% tax, unless he or she is disabled or has attained the age specified in section 1811 of the social security act. Upon the death of the account beneficiary, his or her inheriting HSA beneficiary(ies) will be required to include the HSA amount in his or her income for tax purposes for that year, but the 10% additional tax will not be owed.

Because a person is not normally allowed to receive a double tax benefit, the fact that the distribution from an HSA will not be required to be included in the account beneficiary's income means that he or she will not be able to claim a deduction under section 213 for those same medical expenses.

CWF Observation. Be aware, Congress chose to use the term, "account beneficiary" rather than accountholder, depositor or grantor as has been used for IRA accounts.

Definition of Health Savings Accounts

What requirements must be met to be a Health Savings Account? There must be a written plan agreement which creates a trust or custodial account. The purpose of the trust is to pay qualified medical expenses. The trust must be created or organized in the U.S. The HSA plan agreement must meet the following requirements. These requirements are very similar to the requirements which apply to traditional IRAs, Roth IRAs and other tax preferred accounts. The requirements:

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1. The trustee or custodian must be a bank, an insurance company or a nonbank trustee as defined for IRA purposes.

2. No part of the HSA assets may be invested in life insurance contracts.

3. The HSA assets cannot be commingled with other assets unless pursuant to a common trust fund or common investment fund.

4. The account beneficiary's interest in the HSA is nonforfeitable.

5. The HSA assets may not be used to purchase health insurance. However, see the exceptions as discussed later.

6. The contributions must be in the form of cash unless a certain rollover contribution is made. It will be permissible to rollover funds into a HSA from another HSA or an MSA.

7. The contributions for a given calendar year cannot exceed the following amounts:

Year	Under age 55	Age 55 and Over
2004	$4,500	$5,000
2005	$4,500	$5,100
2006	$4,500	$5,200
2007	$4,500	$5,300
2008	$4,500	$5,400
2009 and thereafter	$4,500	$5,500

Definition of an Account Beneficiary

Who qualifies to be the account beneficiary of an HSA? A person must meet the following requirements:

1. He or she is covered under a high deductible health plan (HDHP); and

2. He or she is NOT covered under any health plan which does not qualify as a high deductible health plan and which provides coverage for any benefit which is covered by the HDHP.

A person who meets these requirements is called an eligible employee.

Definition of a High Deductible Health Plan

What health plans are high deductible health plans?

1. If the plan provides for self-only (i.e. single) coverage, then the plan must have an annual deductible which is not less than $1,000 and the plan has a $5,000 limit. The sum of the annual deductible and the other annual out-of-pocket expenses required to be paid under the plan (other than for premiums) cannot exceed $5,000.

CWF Observation. Expenses in excess of $5,000 must be covered by the health plan in order to qualify as HDHP, so a single person will be covered for catastrophic situations.

2. If the plan provides for family coverage, then the plan must have an annual deductible which is not less than $2,500 and the plan has a $10,000 limit. The sum of the annual deductible and the other annual out-of-pocket expenses required to be paid under the plan (other than for premiums) cannot exceed $10,000. Family coverage means any coverage other than single-only coverage.

CWF Observation. Expenses in excess of $10,000 must be covered by the health plan in order to qualify as HDHP so a family will be covered for catastrophic situations.

As with the $2,250 amount and the $4,500 limit, the amounts of $1,000 and $5,000 will be increased by using the same cost-of-living adjustment as previously described. Such increases shall be rounded to the nearest multiple of $50. It can be rounded down as well as up.

Tax Deduction and Contribution Limits

Will a person be allowed to claim a deduction for certain contributions to his or her HSA? Yes, but of course there are limits. There is an annual deduction limit equal to the sum of the monthly limitations that apply for any year during which the account beneficiary is an eligible individual. The following rules are applied to determine the monthly limitation.

1. If an account beneficiary is younger than age 55 as of December 31, and he has self-only (i.e. single) coverage as of the first day of the month during such year, then his monthly limitation for any month is 1/12 of the lesser of: (1) the annual deductible, or (2) $2,250.

Example. David Rios becomes covered by an HDHP on March 15, 2004. He is age 43. The annual deductible of this HDHP is $3,000. He becomes an eligible individual as of April 1, 2004. His deduction amount would be determined as follows: 1/12 x $2,250 (since less than $3,000) x 9 = $1,687.50.

2. If an account beneficiary is age 55 or older as of December 31, and he has self-only (i.e. single) coverage as of the first day of any month during such year, then his monthly limitation for any month is increased by an additional contribution amount as follows:

Year	The Additional Contribution Amount	Revised Contribution Amount
2004	$500	$2,750
2005	$600	$2,850
2006	$700	$2,950
2007	$800	$3,050
2008	$900	$3,150
2009 and thereafter	$1,000	$3,250

Example. Mariann Pacetta becomes covered by an HDHP on March 20, 2004. She is age 58. The annual deductible of this HDHP is $3,200. She becomes an eligible individual as of April 1, 2004. Her deduction amount would be determined as follows: 1/12 x $2,750 (since less than $3,000) x 9 = $2,067.50.

Two Adjustments Are Made to the Above Contribution Limits

The amount calculated immediately above must be reduced by the sum of: (1) MSA contributions made on his or her behalf, and (2) the aggregate amount contributed to a health savings

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account of such an individual which is excluded from the person's gross income under section 106(d).

Contribution Limits Will Be Adjusted for Cost-of-Living Changes

The $2,250 amount will be adjusted for cost-of-living changes. The $2,250 amount will be increased by the following amount: $2,250 times a cost-of-living adjustment factor under section 1(f)(3). Such increase shall be rounded to the nearest multiple of $50. It can be rounded down as well as up.

3. If an account beneficiary who is younger than age 55 as of December 31, and who is not married, has family coverage under an HDHP as of the first day of any month during such year, then his or her monthly limitation for any month is 1/12 of the lesser of (a) the annual deductible, or (b) $4,500.

4. If an account beneficiary is age 55 or older as of December 31, and who is not married, has family covered under an HDHP as of the first day of any month during such year, then the monthly limitation for any month is increased by an additional contribution amount as follows:

Year	The Additional Contribution Amount	Revised Contribution Amount
2004	$500	$5,000
2005	$600	$5,100
2006	$700	$5,200
2007	$800	$5,300
2008	$900	$5,400
2009 and thereafter	$1,000	$5,500

5. However, there are two special coordination adjustment rules which will apply to married account beneficiaries.

Rule #1. If a person is married and has family coverage, or his or her spouse does, then both spouses will be treated as having such family coverage. However, the applicable limit (i.e. the lesser of the annual deductible, or $4,500) shall be reduced by the aggregate amount paid to both spouse's Archer MSAs for such tax year. In addition, the limitation is NOT adjusted for any additional contribution amount for individuals age 55 or older.

This annual limit shall be divided equally between them, unless they agree on a different division.

Rule #2. If a person is married and has family coverage, and so does his or her spouse, (but under different HDHP plans) then both spouses will be treated as having the family coverage with the lowest annual deductible. However, the applicable limit (i.e. the lesser of the annual deductible, or $4,500) shall be reduced by the aggregate amount paid to the spouse's Archer MSAs for such tax year. In addition, the limitation is NOT adjusted for any additional contribution amount for individuals age 55 or older. This annual limit shall be divided equally between them unless they agree on a different division.

6. If a person becomes eligible for Medicare during a month, then the deduction limitation for such month is "0" and will be "0" for all subsequent months.

7. If a person is claimed as a dependent by another taxpayer(s), then he or she will not be able to claim a deduction for contributions to his or her HSA.

Is a person allowed to claim a deduction for the HSA contributions even though the person may not otherwise itemize deductions? Yes. a person is allowed to deduct the HSA contribution amount even if he or she does not itemize other deductions.

Employer Contributions to an HSA

What special tax rules apply when an employer contributes to the HSAs of its employees? If an employee qualifies as an eligible employee, then amounts contributed by the employer to the employee's HSA shall be treated as employer-provided coverage for medical expenses under an accident or health plan. Such contributions must not exceed the HSA limitations discussed above, and the special rules discussed above also apply.

The employer's contribution to the employees' HSAs shall be excluded for the various employment taxes: railroad retirement tax; unemployment taxes; and withholding taxes. The general rule for these taxes is – excluded from these taxes if at the time of the payment it is reasonable to believe the employer will be able to exclude such payment from income under section 106(d). Note that it appears there is no exclusion for social security or medicare tax purposes.

An employer will be required to report, on the Form W-2, the amount of the employer contributions to an employee's HSA.

A new section is added to Code section 4980G to provide a penalty tax if an employer fails to make comparable contributions to the HSA accounts of comparable employees. There are to be rules and requirements similar to the rules and requirements of section 4980E. The Secretary of the Treasury is instructed to issue regulations to carry out the purpose of the law, including regulations providing special rules for employers who make contributions to HSAs and Archer MSAs.

Definition of Qualified Medical Expenses

What is meant by the term Qualified Medical Expenses?

The amounts paid by the account beneficiary for medical care as defined in section 213(d) for the account beneficiary, his or her spouse, and any dependent of the account beneficiary as defined in section 152. However, if such medical care has already been paid for, by insurance or otherwise, then it will not qualify as a qualified medical expense for HSA purposes.

When may HSA assets be used to pay for certain types of insurance? The following insurance premiums may be paid from a HSA for coverage under:

1. A health plan during any period of continuation coverage (i.e. COBRA) required under Federal law;

2. A qualified long-term care insurance contract;

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3. A health plan during a period of unemployment as evidenced by the individual receiving unemployment compensation under a Federal or State law, or;

Any health insurance other than a medicare supplemental policy for any account beneficiary who has attained the specified age under section 1811 of the Social Security Act.

Prohibited Transaction Rules With Respect to an HSA

The rules for HSAs and IRAs are very similar. If an HSA quits being an HSA after applying rules similar to those found in Code section 408(e)(2) and (4), then any amount treated as distributed shall be treated as not used to pay qualified medical expenses. That is, the amount will need to be included in income and the 10% additional tax will apply, if applicable.

Code section 408(e)(2) provides the rule that the IRA ceases to be an IRA as of the first day of the year during which a prohibited transaction occurs. In such a case, a distribution is deemed to have occurred on the first day of such year. The amount deemed distributed is the fair market value of all assets as of the first day of the year.

Code section 408(e)(4) provides the rule that if an individual uses any portion of his or her IRA as security for a loan, then the part so pledged is treated as a distribution. The same result will occur if a person pledges a portion of his or her HSA.

HSA Rules to Be Similar to IRA Rules

What additional IRA rules will apply in a similar fashion to HSAs?

1. The "no deduction for rollover contribution rule" found in section 219(d)(2);

2. A contribution made by the tax-filing deadline will be considered to have been made by December 31 as provided by section 219(f)(3);

3. The community property laws do not apply to HSAs as provided by Code section 408(g);

4. HSAs may be set up as custodial accounts as well as trust accounts pursuant to section 408(h).

5. Employer payments are permissible pursuant to section 219(f)(5), except as provided in section 106(d).

6. There are rules for the Transfer of HSA Incident to Divorce which are virtually identical to the rules which apply to IRAs. The transfer of an account beneficiary's interest in the HSA to a spouse or former spouse under a divorce decree or a separation agreement is not considered to be a taxable transfer. That is, the transfer is tax free. The receiving spouse is now considered to be the account beneficiary of the HSA.

Excess Contributions.

The rules are very similar to the IRA rules. As with the other tax-preferred accounts, a 6% excise tax will be assessed for an excess contribution to an HSA which is not corrected by the appropriate deadline.

An HSA excess contribution is any contribution to an HSA which does not qualify to be deducted under this section 223 or which is not excludable from income under section 106(d). However, a qualifying rollover contribution to an HSA is not an excess contribution. A failed rollover will be an excess contribution.

If an excess contribution and the related income are withdrawn before the filing deadline, plus extensions, then the excess contribution amount will not be required to be included in income even though the funds were not used to pay qualifying medical expenses. However, any income will need to be included in the account beneficiary's income for the tax year in which it is received. Note, this is different than the IRA rule which requires the income to be taxed in the year contributed.

Rollover Contribution Rules

These rules are very similar to the rules which apply to IRAs and other tax-preferred accounts, with one major exception. The general rule is that funds distributed from one HSA may be rolled over to another HSA if certain rules are met.

Funds distributed from an Archer MSA will also be able to be rolled over into an HSA.

First, the consequence of rolling funds from one HSA to another HSA is that the distribution will not be taxed in the income of the account beneficiary even though the funds were not used to pay the qualified medical expenses of the account beneficiary. Similarly, a distribution from an Archer MSA which is rolled over into a HSA will not be required to be included in the income of the recipient.

Secondly, in order to gain rollover treatment, the funds distributed must be re-contributed not later than the 60th day after the day on which the account beneficiary received the distribution.

Thirdly, an account beneficiary is not eligible to roll over an HSA distribution if he or she received such distribution and he or she had made a prior rollover contribution within one year of such distribution.

Rules Once the HSA Account Beneficiary Dies

If a surviving spouse is the sole beneficiary of the deceased account beneficiary's HSA, then that HSA is to be treated as the surviving spouse's HSA.

If a surviving spouse is not the sole beneficiary of the deceased account beneficiary's HSA, then the deceased account beneficiary's HSA ceases to be an HSA as of the date of his or her death, and the fair market value of the assets of such HSA shall be included in the income of the inheriting beneficiary. There is one exception. If the inheriting beneficiary is the estate of the deceased account beneficiary, then the funds in the HSA will be included in the account beneficiary's gross income for his or her last tax year. The inheriting beneficiary who must include the HSA funds in his or her income is allowed to claim a deduction for the amount of qualified medical expenses incurred by the decedent before the date of the decedent's death, if he or she paid such expenses

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within one year after such date. The inheriting beneficiary (but not the spouse or the decedent's estate) is also allowed a deduction for the estate taxes paid because the HSA was included in the estate and had to pay a portion of the estate tax.

Penalties for the Trustee/Custodian Failing to Provide Reports on HSAs.

Code section 6693(a)(2) was amended to include HSAs. The penalty is $50.00 for each failure.

HSAs May Be Offered Under Cafeteria Plans.

Code section 125(d)(2) has been amended to permit an employee to elect to have the employer pay contributions to an HSA established on behalf of the employee.

Conclusion

On January 1, 2004, eligible individuals will be able to make deductible contributions to Health Savings Accounts established for themselves. Alternatively, employers will be able to make contributions to the HSA of employees, and such employees will not be taxed, for income tax purposes, on such contributions. Contributions will be made to an HSA on behalf of the account beneficiary who is the individual on whose behalf the HSA was established.

The earnings realized by such contributions will not be presently taxed unless the unrelated income tax rules would apply. Distributions from the HSA will be tax free (i.e. will not be included in income for income tax purposes) if the funds are used to exclusively pay for qualifying medical expenses. If the withdrawn funds are not used exclusively for qualifying medical expenses, then the person will have to include the distribution in come and also pay an additional 10% tax, unless he or she is disabled or has attained the age specified in section 1811 of the social security act. Upon the death of the account beneficiary, his or her inheriting HSA beneficiary(ies) will be required to include the HSA amount in his or her income for tax purposes for that year, but the 10% additional tax will not be owed.

It appears the purpose of this new law is to encourage employers and employees to select health plans with much higher deductibles than are currently selected.

The HSA will primarily be used to accumulate funds to pay health expenses on a tax-preferred basis. However, the HSA will also be used to accumulate wealth on a tax-preferred basis. This will happen when the contributed funds are not spent on health expenses.

Summary of Collections Before Refunds by Type of Return, for Year 2002

Type of Return	Number of Returns	Gross Collections (in millions)	Percent of Total	Average Collection
Individual Income Tax	130,904,889	$1,037,734	52.4	$7,927
Employment Taxes	29,140,771	$650,968	32.9	$22,339
Corporate Income Tax	5,710,759	$211,438	10.7	$37,025
Excise Taxes	885,078	$52,137	2.6	$58,907
Estate	120,576	$25,532	1.3	$211,750
Gift Taxes	278,926	$1,709	.1	$6,127
Totals	167,040,999	$1,979,518	100.0%	

IRAs Cannot Be Sold??

We, at CWF, believe that, generally, IRAs cannot be sold, even when an institution is sold. However, your institution will need to rely on the advice of its own attorney.

We realize that many financial institutions are frustrated with IRAs because of the cost to properly administer these accounts. Therefore, some institutions are trying to eliminate their IRA accounts by selling them. Because the sale of IRAs for profit is considered a prohibited transaction, an institution must be very careful concerning any sales transaction involving IRA accounts. Although the law is not clearly settled concerning this prohibited transaction, the consequences can be quite severe. If the IRS or Department of Labor would declare an institution's sale of IRAs a prohibited transaction, an excise tax of 15% of the dollar amount of all IRAs sold could be assessed the financial institution. Also, all the IRAs which were sold could be deemed distributed, and each individual accountholder would have to include the amount distributed in income for that year and pay the applicable tax on the distribution. This could result in individuals suing the institution for the harm caused because the institution sold the IRAs. The worst case scenario for an institution would be that both of the results above would happen.

Code section 4975(c) defines prohibited transactions. It states:

> General Rule—For purposes of this section, the term "prohibited transaction" means any direct or indirect—
>
> • act by a disqualified person who is a fiduciary whereby the deals with the income or assets of a plan in his own interest or for his own account (Code section 4975(c)(1)(E)); or
>
> • receipt of any consideration for his own personal account by any disqualified person who is a fiduciary from any party dealing with the plan in connection with a transaction involved the income or assets of the plan. (Code section 4975(c)(1)(F))

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IRAs Cannot Be Sold??,
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We will discuss two possible situations.

Situation 1. An institution wishes to sell only its IRAs to another entity (trustee/brokerage firm/insurance company). In this situation, it would be expected that the institution wishes to make a profit on this sale. Under the prohibited transaction rules, it cannot. Lets then assume the institution does not make a profit, but, because it is selling its IRAs, it is saving thousands of dollars in IRA administrative fees. This would also be a prohibited transaction, because the fiduciary is profiting from this sale in its own interest. The only way to technically "get out of" the IRA business is to require each accountholder to transfer his/her account to another institution or to close the account.

Situation 2. ABC Bank purchases XYZ Bank, including XYZ Bank's IRA accounts. CWF believes that the sales agreement must specifically state that no consideration was given for the IRA accounts (because to make a profit on the sale would be a prohibited transaction). However, XYZ would still be gaining on the sale of the IRA accounts, in that it will no longer have to incur the cost of IRA administration. This again, technically, would be a prohibited transaction. The solution would be to not include the IRAs of XYZ Bank when the ABC Bank purchases the loans, checking accounts, etc. of XYZ Bank. Admittedly, this would not be an ideal situation, and CWF believes the IRS and DOL apparently do not regulate the sale of IRAs very strictly, because, obviously, financial institutions are being purchased every day. The IRS is either too busy, or has chosen not to enforce this particular prohibited transaction issue concerning the sale of IRA accounts.

In summary, a financial institution cannot sell its IRAs at a profit or to save maintenance costs. If the IRS/DOL would declare such sale a prohibited transaction, the consequences can be severe. Be aware that a financial institution can have substantial liability in this situation. As stated earlier, your institution will have to rely on the advice of its attorney.

IRS Eliminates Determination Letter User Fee for Certain Employers

Small business employers sponsoring a qualified retirement plan (QRP) may quality for exemption from user fees when applying for a determination letter with the Internal Revenue Service (IRS).

IRS Notice 2003-49 provides guidance on the application of section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), regarding elimination of user fees for certain determination letter requests. The notice amplifies the guidance in Notice 2002-1 by describing when the EGTRRA remedial amendment period begins for purposes of determining if a determination letter is eligible for elimination of the user fee.

What are the requirements for purposes of determining eligibility for elimination of the user fee?

1. The plan was first in existence after January 1, 1997;
2. The employer had at least one employee who was not a highly compensated employee (as defined in Section 414(q) of the Internal Revenue Code) and who participated in the plan for the plan year preceding the determination letter request; and
3. The employer had no more than 100 employees who received at least $5,000 of compensation from the employer for the calendar year preceding the request.

With elimination of the user fee in some cases, coupled by recent restatement of all qualified retirement plans, an employer may wish to give consideration to applying for a determination letter.

Reminder—New 5498-ESA Deadline

The deadline for furnishing the 5498-ESA "Coverdell ESA Contribution Information" form to the recipient has changed more than once since this account's inception. It has been January 31 and May 31. You need to be aware that, beginning in 2003, the requirement is that this information form be furnished to the recipient by April 30. An IRA custodian must include on the 5498-ESA all contributions to a Coverdell ESA, including rollover contributions. The account's fair market value as of December 31 is no longer reported on this form.

IRS Rev. Rul 2003-72 & CESAs

In this revenue ruling, the IRS provides a uniform method to determine when a child attains a given age for certain purposes of the tax code. In general, a child attains a given age on the anniversary of the date that child was born. For example, a child born on January 1, 1987 attains age 17 on January 1, 2004. The child credit may not be taken for a child who attains age 17 during the year.

The rules set forth in Rev. Rul 2003-72 should also apply for purpose of Coverdell ESAs. Contributions are only permissible if they are made before the person is age 18. And the account must be distributed before the person reaches age 30. For example, if a child was born on July 10, 1985, then any contribution to a CESA must be made on or before July 9, 2003.

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Full Retirement Age—SSA

Year of Birth	Full Retirement Age
1937 or earlier	**65**
1938	**65 and 2 months**
1939	**65 and 4 months**
1940	**65 and 6 months**
1941	**65 and 8 months**
1942	**65 and 10 months**
1943-1954	**66**
1955	**66 and 2 months**
1956	**66 and 4 months**
1957	**66 and 6 months**
1958	**66 and 8 months**
1959	**66 and 10 months**
1960 and later	**67**

Other Important Social Security Information

Maximum Social Security Benefit: Worker Retirement at Full Retirement Age in	**2003**	**2004**
Note: For retirees born in 1938, full retirement age is 65 and 2 months; for those born in 1939, it is 65 and 4 months. Full retirement age will gradually increase to age 67 for those born in 1960 or later.	$1,741/mo. (Age 65 and 2 months)	$1,825/mo. (Age 65 and 4 months)

Estimated Average Monthly Social Security Benefits Payable in January 2004:	**Before 2.1% COLA**	**After 2.1% COLA**
All Retired Workers	$ 903	$ 922
Aged Couple, Both Receiving Benefits	$1,492	$1,523
Widowed Mother and Two Children	$1,865	$1,904
Aged Widow(er) Alone	$ 870	$ 888
Disabled Worker, Spouse and One or More Children	$1,412	$1,442

Retirement Earnings Test Exempt Amounts:	**2003**	**2004**
Under full retirement age NOTE: One dollar in benefits will be withheld for every $2 in earnings above the limit	$11,520/yr ($960/mo.)	$11,640/yr ($970/mo.)
The year an individual reaches full retirement age NOTE: Applies only to earnings for months prior to attaining full retirement age. One dollar in benefits will be withheld for every $3 in earnings above the limit.	$30,720/yr ($2,560/mo.)	$31,080/yr ($2,590/mo.)

There is no limit on earnings beginning the month an individual attains full retirement age (65 and 2 months for retirees born in 1938: 65 and 4 months for retirees born in 1939.

MSAs for 2004

A law has not been enacted in 2003 extending MSAs past 12-31-03. This means that 2003 is the last year new MSAs may be established.

Those individuals with existing MSAs are eligible to continue to fund them if they are still eligible.

Those employers with an existing MSA plan may continue to fund the MSAs with respect to employees who have existing MSAs and also with respect to new employees who have never had an MSA. That is, the only way for a person to establish a new MSA after 12-31-03, is to find an employer who is grandfathered because it sponsored an MSA plan as of 12-31-03.

Proposed IRA Legislation

Many changes to the IRA laws (or laws affecting IRAs) are proposed every year. President Bush has recently announced he wants the law changes he proposed in February again considered in early 2004.

Set forth below are some changes which may also be considered again in 2004, as it looks like they will not be enacted in 2003.

1. H.R. 584: To amend the Internal Revenue Code of 1986 to allow penalty-free distributions from qualified retirement plans on account of the death or disability of the participant's spouse.

2. H.R. 584: To amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from individual retirement plans for adoption expenses.

3. H.R. 798: To amend the Internal Revenue Code of 1986 to repeal the inclusion in gross income of unemployment compensation.

4. H.R. 1640: To amend the Internal Revenue Code of 1986 to allow a married couple who operates an unincorporated business as co-owners to file separate returns for purposes of the self-employment tax, and for other purposes.

5. H.R. 1725: To change the deadline for income tax returns for calendar year taxpayers from the 15th of April to the first Monday in November.

6. H.R. 1776: To amend the Internal Revenue Code of 1986 to make today's retirement savings opportunities permanent, to expand and improve retirement savings vehicles, to extend pension coverage through regulatory simplification and small business incentives, to enhance fairness and pension portability, to revitalize defined benefit plans, to provide additional defined contribution plan protections, to assist individuals in preserving their income throughout retirement, and for other purposes.

7. H.R. 2222: To amend title I of the Employee Retirement Income Security Act and the Internal Revenue Code to allow for alienation of benefits to satisfy court judgments, decrees, or orders requiring restitution for embezzlement of State or local government funds.

8. H.R. 2230: To amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

9. H.R. 2240: To amend the Internal Revenue Code of 1986 to assist individuals who have lost their 401(k) savings to make additional retirement savings through individual retirement account contributions and for other purposes.

10. H.R. 2375: To amend the Internal Revenue Code of 1986 to increase the contribution limits applicable to SIMPLE retirement accounts.

11. H.R. 2439: To amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits and to increase the age at which distributions must commence from certain retirement plans from 70½ to 80.

12. H.R. 2545: To amend the Internal Revenue Code of 1986 to waive the 10 percent additional tax on early distributions from section 401(k) plans in the case of hardship of certain employees due to facility closures or employers in bankruptcy.

13. H.R. 2784: To amend the Internal Revenue Code of 1986 to allow certain individuals who have attained age 50 and who are unemployed to receive distributions from qualified retirement plans without incurring a 10 percent additional tax.

14. H.R. 2958: To amend title 31, United States Code, to allow certain State and local tax debt to be collected through the reduction of Federal tax refunds.

15. H.R. 3230: To amend the Internal Revenue Code of 1986 to allow a lump-sum contribution to Coverdell education savings accounts whenever the contribution limit is increased.

16. H.R. 3318: To amend the Internal Revenue Code of 1986 to exclude from gross income employer contributions to college tuition plans and education savings accounts.

IRS Issues 2004 COLAs

IRS Announces Cost-of-Living Adjustments for 2004
The IRS in News Release 2002-111 Released its 2003 Adjustments as Follows:

	2002	2003	2004
Taxable Wage Base — OASDA Only	$84,900	$87,000	$87,900
SEP and Qualified Plan Maximum Compensation Cap – 401(a)(17) & 404(e)	$200,000	$200,000	$205,000
Elective (Salary) Deferral Limit – 401(k) & SAR-SEP	$11,000	$12,000	$13,000
Elective Deferral Catch-up Limit	$1,000	$2,000	$3,000
SIMPLE Deferral Limit – 408(p)(2)(A)	$7,000	$8,000	$9,000
SIMPLE Catch-up Limit	$500	$1,000	$1,500
Highly-Compensated Employees (Compensation as Indexed)	$90,000	$90,000	$90,000
Compensation (Key Employee/Officer)	$130,000	$130,000	$130,000
Defined Benefit Limit – Section 415(b)(1)(A)	$160,000	$160,000	$165,000
Defined Contribution Limit – Section 415(c)(1)(A)	$40,000	$40,000	$41,000
SEP Minimum Compensation Threshold – 408(k)(2)(c)	$450	$450	$450