

Form **8889**

Health Savings Accounts (HSAs)

OMB No. 1545-0074

2009

Attachment Sequence No. **53**

Department of the Treasury
Internal Revenue Service

▶ **Attach to Form 1040 or Form 1040NR.**

▶ **See separate instructions.**

Name(s) shown on Form 1040 or Form 1040NR

Social security number of HSA beneficiary. If both spouses have HSAs, see page 3 of the instructions ▶

Before you begin: Complete Form 8853, Archer MSAs and Long-Term Care Insurance Contracts, if required.

Part I HSA Contributions and Deduction. See page 3 of the instructions before completing this part. If you are filing jointly and both you and your spouse each have separate HSAs, complete a separate Part I for each spouse.

1	Check the box to indicate your coverage under a high-deductible health plan (HDHP) during 2009 (see page 4 of the instructions) ▶	<input type="checkbox"/> Self-only	<input type="checkbox"/> Family
2	HSA contributions you made for 2009 (or those made on your behalf), including those made from January 1, 2010, through April 15, 2010, that were for 2009. Do not include employer contributions, contributions through a cafeteria plan, or rollovers (see page 4 of the instructions)	2	
3	If you were under age 55 at the end of 2009, and on the first day of every month during 2009, you were, or were considered, an eligible individual with the same coverage, enter \$3,000 (\$5,950 for family coverage). All others, see page 4 of the instructions for the amount to enter	3	
4	Enter the amount you and your employer contributed to your Archer MSAs for 2009 from Form 8853, lines 3 and 4. If you or your spouse had family coverage under an HDHP at any time during 2009, also include any amount contributed to your spouse's Archer MSAs	4	
5	Subtract line 4 from line 3. If zero or less, enter -0-	5	
6	Enter the amount from line 5. But if you and your spouse each have separate HSAs and had family coverage under an HDHP at any time during 2009, see the instructions on page 4 for the amount to enter	6	
7	If you were age 55 or older at the end of 2009, married, and you or your spouse had family coverage under an HDHP at any time during 2009, enter your additional contribution amount (see page 5 of the instructions)	7	
8	Add lines 6 and 7	8	
9	Employer contributions made to your HSAs for 2009	9	
10	Qualified HSA funding distributions	10	
11	Add lines 9 and 10	11	
12	Subtract line 11 from line 8. If zero or less, enter -0-	12	
13	HSA deduction. Enter the smaller of line 2 or line 12 here and on Form 1040, line 25, or Form 1040NR, line 25	13	
Caution: If line 2 is more than line 13, you may have to pay an additional tax (see page 5 of the instructions).			

Part II HSA Distributions. If you are filing jointly and both you and your spouse each have separate HSAs, complete a separate Part II for each spouse.

14a	Total distributions you received in 2009 from all HSAs (see page 6 of the instructions)	14a	
b	Distributions included on line 14a that you rolled over to another HSA. Also include any excess contributions (and the earnings on those excess contributions) included on line 14a that were withdrawn by the due date of your return (see page 6 of the instructions)	14b	
c	Subtract line 14b from line 14a	14c	
15	Unreimbursed qualified medical expenses (see page 6 of the instructions)	15	
16	Taxable HSA distributions. Subtract line 15 from line 14c. If zero or less, enter -0-. Also, include this amount in the total on Form 1040, line 21, or Form 1040NR, line 21. On the dotted line next to line 21, enter "HSA" and the amount	16	
17a	If any of the distributions included on line 16 meet any of the Exceptions to the Additional 10% Tax (see page 6 of the instructions), check here ▶ <input type="checkbox"/>		
b	Additional 10% tax (see page 6 of the instructions). Enter 10% (.10) of the distributions included on line 16 that are subject to the additional 10% tax. Also include this amount in the total on Form 1040, line 60, or Form 1040NR, line 57. On the dotted line next to Form 1040, line 60, or Form 1040NR, line 57, enter "HSA" and the amount	17b	

Part III **Income and Additional Tax for Failure To Maintain HDHP Coverage.** See page 6 of the instructions before completing this part. If you are filing jointly and both you and your spouse each have separate HSAs, complete a separate Part III for each spouse.

18	Qualified HSA distribution	18		
19	Last-month rule	19		
20	Qualified HSA funding distribution	20		
21	Total income. Add lines 18, 19, and 20. Include this amount on Form 1040, line 21, or Form 1040NR, line 21. On the dotted line next to Form 1040, line 21, or Form 1040NR, line 21, enter "HSA" and the amount	21		
22	Additional tax. Multiply line 21 by 10% (.10). Include this amount in the total on Form 1040, line 60, or Form 1040NR, line 57. On the dotted line next to Form 1040, line 60, or Form 1040NR, line 57, enter "HDHP" and the amount	22		



Instructions for Form 8889

Health Savings Accounts (HSAs)

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

General Instructions

Purpose of Form

Use Form 8889 to:

- Report health savings account (HSA) contributions (including those made on your behalf and employer contributions),
- Figure your HSA deduction,
- Report distributions from HSAs, and
- Figure amounts you must include in income and additional tax you may owe if you fail to be an eligible individual.

Additional information. See Pub. 969, Health Savings Accounts and Other Tax-Favored Health Plans, for more details on HSAs.

Who Must File

You must file Form 8889 if any of the following applies.

- You (or someone on your behalf, including your employer) made contributions for 2009 to your HSA.
- You received HSA distributions in 2009.
- You must include certain amounts in income because you failed to be an eligible individual during the testing period.
- You acquired an interest in an HSA because of the death of the account beneficiary. See *Death of Account Beneficiary* on page 2.



If you (or your spouse, if filing jointly) received HSA distributions in 2009, you must file Form 8889 with a Form 1040 even if you have no taxable income or any other reason for filing Form 1040.

Definitions

Eligible Individual

To be eligible to have contributions made to your HSA, you must be covered under a high deductible health plan (HDHP) and have no other health coverage except permitted coverage. If you are an eligible individual, anyone

can contribute to your HSA. However, you cannot be enrolled in Medicare or be claimed as a dependent on another person's tax return. You must be, or be considered, an eligible individual on the first day of a month to take an HSA deduction for that month (see *Last-month rule* next).

Last-month rule. If you are an eligible individual on the first day of the last month of your tax year (December 1 for most taxpayers), you are considered to be an eligible individual for the entire year.

Testing period. You must remain an eligible individual during the testing period. The testing period begins with the last month of your tax year and ends on the last day of the 12th month following that month (for example, December 1, 2009 – December 31, 2010). If you fail to remain an eligible individual during this period, other than because of death or becoming disabled, you will have to include in income the total contributions made that would not have been made except for the last-month rule. You include this amount in income in the year in which you fail to be an eligible individual. This amount is also subject to a 10% additional tax. (See *Part III*.)

Account Beneficiary

The account beneficiary is the individual on whose behalf the HSA was established.

HSA

Generally, an HSA is a health savings account set up exclusively for paying the qualified medical expenses of the account beneficiary or the account beneficiary's spouse or dependents.

Distributions From an HSA

Distributions from an HSA used exclusively to pay qualified medical expenses of the account beneficiary, spouse, or dependents are excludable from gross income. (See the line 15 instructions for information on medical expenses of dependents not claimed on your return.) You can receive distributions from an HSA even if you are not currently eligible to have

contributions made to the HSA. However, any part of a distribution not used to pay qualified medical expenses is includible in gross income and is subject to an additional 10% tax unless an exception applies.

Qualified Medical Expenses

Generally, qualified medical expenses for HSA purposes are unreimbursed medical expenses that could otherwise be deducted on Schedule A (Form 1040). See the Instructions for Schedule A and Pub. 502, Medical and Dental Expenses (Including the Health Coverage Tax Credit). However, even though non-prescription medicines (other than insulin) do not qualify for the medical and dental expenses deduction, they do qualify as expenses for HSA purposes. Expenses incurred before you establish your HSA are not qualified medical expenses. If, under the last-month rule, you are considered to be an eligible individual for the entire year for determining the contribution amount, only those expenses incurred after you actually establish your HSA are qualified medical expenses.

You cannot treat insurance premiums as qualified medical expenses unless the premiums are for:

1. Long-term care (LTC) insurance,
2. Health care continuation coverage (such as coverage under COBRA),
3. Health care coverage while receiving unemployment compensation under federal or state law, or
4. Medicare and other health care coverage if you were 65 or older (other than premiums for a Medicare supplemental policy, such as Medigap).



Coverage under (2) and (3) can be for your spouse or a dependent meeting the requirement. For (4), if you, the account beneficiary, are under age 65, Medicare premiums for your spouse or dependents (who are age 65 or older) generally are not qualified medical expenses.

High Deductible Health Plan

An HDHP is a health plan that meets the following requirements.

	Self-only coverage	Family coverage
Minimum annual deductible	\$1,150	\$2,300
Maximum annual out-of-pocket expenses*	\$5,800	\$11,600

* This limit does not apply to deductibles and expenses for out-of-network services if the plan uses a network of providers. Instead, only deductibles and out-of-pocket expenses (such as copayments and other amounts, but not premiums) for services within the network should be used to figure whether the limit is reached.

An HDHP can provide preventive care and certain other benefits with no deductible or a deductible below the minimum annual deductible. For more details, see Pub. 969. An HDHP does not include a plan if substantially all of the coverage is for accidents, disability, dental care, vision care, or long-term care. An HDHP also cannot be insurance that you are permitted to have in addition to an HDHP. See *Other Health Coverage* next.

Other Health Coverage

If you have an HSA, you (and your spouse, if you have family coverage) generally cannot have any health coverage other than an HDHP. But your spouse can have health coverage other than an HDHP if you are not covered by that plan. If you have a health flexible spending arrangement or health reimbursement arrangement, see Pub. 969.

Exceptions. You can have additional insurance that provides benefits only for:

- Liabilities under workers' compensation laws, tort liabilities, or liabilities arising from the ownership or use of property,
- A specific disease or illness, or
- A fixed amount per day (or other period) of hospitalization.

You can also have coverage (either through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

For information on prescription drug plans, see Pub. 969.

Disabled

An individual generally is considered disabled if he or she is unable to engage in any substantial gainful activity due to a physical or mental impairment which can be expected to result in death or to continue indefinitely.

Death of Account Beneficiary

If the account beneficiary's surviving spouse is the designated beneficiary, the HSA is treated as if the surviving spouse were the account beneficiary. The surviving spouse completes Form 8889 as though the HSA belonged to him or her.

If the designated beneficiary is not the account beneficiary's surviving spouse, or there is no designated beneficiary, the account ceases to be an HSA as of the date of death. The beneficiary completes Form 8889 as follows.

- Enter "Death of HSA account beneficiary" across the top of Form 8889.
- Enter the name(s) shown on your tax return and your SSN in the spaces provided at the top of the form and skip Part I.
- On line 14a, enter the fair market value of the HSA as of the date of death.
- On line 15, for a beneficiary other than the estate, enter qualified medical expenses incurred by the account beneficiary before the date of death that you paid within 1 year after the date of death.
- Complete the rest of Part II.

If the account beneficiary's estate is the beneficiary, the value of the HSA as of the date of death is included on the account beneficiary's final income tax return. Complete Form 8889 as described above, except you should complete Part I, if applicable.

The distribution is not subject to the additional 10% tax. Report any earnings on the account after the date of death as income on your tax return.

Note. If, during the tax year, you are the beneficiary of two or more HSAs or you are a beneficiary of an HSA and you have your own HSA, you must complete a separate Form 8889 for each HSA. Enter "statement" at the top of each Form 8889 and complete the form as instructed. Next, complete a controlling Form 8889, combining the amounts shown on each of the statement Forms 8889. Attach the statements to your tax return after the controlling Form 8889.

Deemed Distributions From HSAs

The following situations result in deemed distributions from your HSA.

- You engaged in any transaction prohibited by section 4975 with respect to any of your HSAs, at any time in 2009. Your account ceases to be an HSA as of January 1, 2009, and you must include the fair market value of all

assets in the account as of January 1, 2009, on line 14a.

- You used any portion of any of your HSAs as security for a loan at any time in 2009. You must include the fair market value of the assets used as security for the loan as income on line 21 of Form 1040 or Form 1040NR.

Any deemed distribution will not be treated as used to pay qualified medical expenses. Generally, these distributions are subject to the additional 10% tax.

Rollovers

A rollover is a tax-free distribution (withdrawal) of assets from one HSA or Archer MSA that is reinvested in another HSA. Generally, you must complete the rollover within 60 days after you received the distribution. You can make only one rollover contribution to an HSA during a 1-year period. See Pub. 590, Individual Retirement Arrangements (IRAs), for more details and additional requirements regarding rollovers.

Note. If you instruct the trustee of your HSA to transfer funds directly to the trustee of another HSA, the transfer is not considered a rollover. There is no limit on the number of these transfers. Do not include the amount transferred in income, deduct it as a contribution, or include it as a distribution on line 14a.

Qualified HSA distribution. This is a distribution from a health flexible spending arrangement (FSA) or health reimbursement arrangement (HRA) that is contributed by your employer directly to your HSA. This is a one-time distribution from any of these arrangements. The distribution is treated as a rollover contribution to the HSA and is subject to the testing period rules shown below. See *Pub. 969* for more information.

Testing period. You must remain an eligible individual during the testing period. The testing period begins with the month in which the qualified HSA distribution is contributed to the HSA and ends on the last day of the 12th month following that month. For example, if the distribution is contributed on June 12, 2009, the testing period ends on June 30, 2010. If you fail to remain an eligible individual during this period, other than because of death or becoming disabled, you will have to include the qualified HSA distribution in income in the year in which you fail to be an eligible individual. This amount is also subject to a 10% additional tax. (See *Part III*.)

Specific Instructions

Name and social security number (SSN). Enter your name(s) as shown on your tax return and the SSN of the HSA beneficiary. If married filing jointly and both you and your spouse have HSAs, complete a separate Form 8889 for each of you.

Part I—HSA Contributions and Deductions

Use Part I to figure:

- Your HSA deduction,
- Any excess contributions you made (or those made on your behalf), and
- Any excess contributions made by an employer (see *Excess Employer Contributions* beginning on page 5).

Figuring Your HSA Deduction

The maximum amount that can be contributed to your HSA depends on the type of HDHP coverage you have. If you have self-only coverage, your maximum contribution is \$3,000. If you have family coverage, your maximum contribution is \$5,950.

Note. If you are age 55 or older at the end of 2009, you can make an additional contribution of \$1,000.

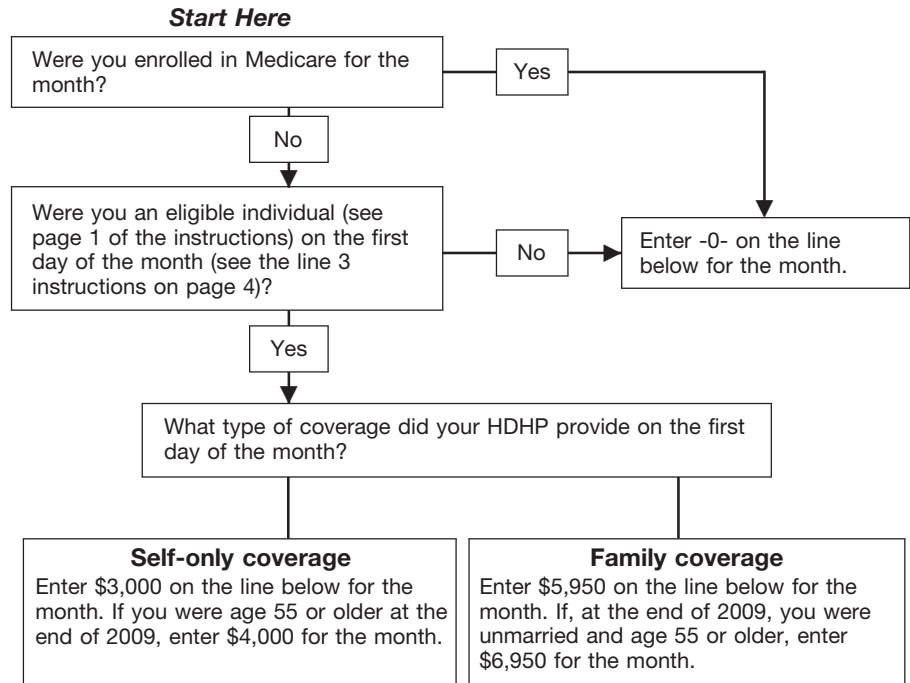
Your maximum contribution is reduced by any employer contributions to your HSA, any contributions made to your Archer MSA, and any qualified HSA funding distributions.

You can make deductible contributions to your HSA even if your employer made contributions. However, if you (or someone on your behalf) made contributions in addition to any employer contributions and qualified HSA funding distributions, you may have to pay an additional tax. See *Excess Contributions You Make* on page 5.

You cannot deduct any contributions for any month in which you were enrolled in Medicare. Also, you cannot deduct contributions if you can be claimed as a dependent on someone else's 2009 tax return.

Line 3 Limitation Chart and Worksheet

Before you begin: See the instructions for line 3 on page 4.
Go through this chart for each month of 2009.
(Keep for your records)



Month in 2009	Amount from chart above
January	_____
February	_____
March	_____
April	_____
May	_____
June	_____
July	_____
August	_____
September	_____
October	_____
November	_____
December	_____
Total for all months	_____
Limitation. Divide the total by 12. Enter here and on line 3.	_____

How To Complete Part I

Complete lines 1 through 13 as instructed on the form. However, if you, and your spouse if filing jointly, are both eligible individuals and either of you have an HDHP with family coverage, you both are treated as having only the family coverage plan. Disregard any plans with self-only coverage.

Complete a separate Form 8889 for each spouse. Combine the amounts on line 13 of both Forms 8889 and enter this amount on Form 1040, line 25; or Form 1040NR, line 25. Be sure to attach both Forms 8889 to your tax return.

Line 1

If you were covered, or considered covered, by a self-only HDHP and a family HDHP at different times during the year, check the box for the plan that was in effect for a longer period. If you were covered by both a self-only HDHP and a family HDHP at the same time, you are treated as having family coverage during that period. If, on the first day of the last month of your tax year, December 1 for most taxpayers, you had family coverage, check the "family" box.

Line 2

Include on line 2 only those amounts you, or others on your behalf, contributed to your HSA. Also, include those contributions made from January 1, 2010, through April 15, 2010, that were for 2009. Do not include employer contributions (see line 9) or amounts rolled over from another HSA or Archer MSA, or a qualified HSA distribution. See *Rollovers* on page 2. Also, do not include any qualified HSA funding distributions (see line 10). Contributions to an employee's account through a cafeteria plan are treated as employer contributions and are not included on line 2.

Line 3

When figuring the amount to enter on line 3, apply the following rules.

1. Use the family coverage amount if you or your spouse had an HDHP with family coverage. Disregard any plan with self-only coverage.

2. If the last-month rule (see page 1) applies, you are considered an eligible individual for the entire year. You are treated as having the same HDHP coverage for the entire year as you had on the first day of the last month of your tax year.

3. If you were, or were considered, an eligible individual for the entire year and you did not change your type of coverage, enter \$3,000 for a self-only HDHP or \$5,950 for a family HDHP on line 3. (See (6) below.)

4. If you were, or were considered, an eligible individual for the entire year and you changed your type of coverage during the year, enter on line 3 (see (6) below) the greater of:

a. The limitation shown on the last line of the *Line 3 Limitation Chart and Worksheet* on page 3, or

b. The maximum amount that can be contributed based on the type of HDHP coverage you had on the first day of the last month of your tax year.



If you had family coverage on the first day of the last month, you do not need to use the worksheet; enter \$5,950 on line 3.

5. If you were not an eligible individual on the first day of the last month of your tax year, use the *Line 3 Limitation Chart and Worksheet* on page 3 to determine the amount to enter on line 3. (See (6) below.)

6. If, at the end of 2009, you were age 55 or older and unmarried or married with self-only HDHP coverage for the entire year, you can increase the amount determined in (3) or (4) by \$1,000 (the additional contribution amount). For (5), the additional contribution amount is taken into account for each month you are an eligible individual.

Note. If you are married and had family coverage at any time during the year, the additional contribution amount is figured on line 7 and is not included on line 3.

See *Pub. 969* for more information.



If you must complete the line 3 worksheet, and your eligibility and coverage did not change from one month to the next, enter the same number you entered for the previous month.

Line 6

Spouses who have separate HSAs and had family coverage under an HDHP at any time during 2009, use the following rules to figure the amount on line 6.

• If you are treated as having family coverage for each month, divide the amount on line 5 equally between you and your spouse, unless you both agree on a different allocation (such as allocating nothing to one spouse). Enter your allocable share on line 6.

Example. In 2009, you are an eligible individual and have self-only HDHP coverage. In March you marry and as of April 1 you have family HDHP coverage. Neither you nor your spouse qualify for the additional contribution amount. Your spouse has a separate HSA and is an eligible individual from April 1 to December 31, 2009. Because you and your spouse are considered to have family coverage on December 1,

your contribution limit is \$5,950 (the family coverage maximum). You and your spouse can divide this amount in any allocation to which you agree (such as allocating nothing to one spouse).

• If you are not treated as having family coverage for each month, use the following steps to determine the amount to enter on line 6.

Step 1. Refigure the contribution limit that would have been entered on line 5 if you had entered on line 3 the total of the worksheet amounts only for the months you were treated as having family coverage. When refiguring line 5, use the same amount you previously entered on line 4.

Step 2. Divide the refigured contribution limit from *Step 1* equally between you and your spouse, unless you both agree on a different allocation (such as allocating nothing to one spouse).

Step 3. Subtract the part of the contribution limit allocated to your spouse in *Step 2* from the amount determined in *Step 1*.

Step 4. Determine any other contribution limits that apply for the tax year and add that amount to the result in *Step 3*. Enter the total on line 6.

Example. In 2009, you are an eligible individual and have family HDHP coverage. In March you divorce and change your coverage as of April 1 to self-only. Neither you nor your ex-spouse qualify for the additional contribution amount. Your ex-spouse continued to have family HDHP coverage and was an eligible individual for the entire year. The contribution limit for the 3 months you both were considered to have family coverage is \$1,487.50 ($\$5,950 \times 3 \div 12$). You and your ex-spouse decide to divide the family coverage contribution in the following manner: 75% to your ex-spouse and 25% to you. Your contribution limit for 9 months of self-only coverage is \$2,250 ($\$3,000 \times 9 \div 12$). This amount is not divided between you and your spouse.

Because you are covered under a self-only policy on December 1, you will show \$3,000 on line 6 (the greater of either (a) \$2,621.87 (\$1,487.50 family coverage + \$2,250 self-only coverage – \$1,115.63 spousal allocation) or (b) the maximum amount that can be contributed (\$3,000 for self-only coverage)). Your ex-spouse would show \$5,950 on line 6 (the greater of either (a) \$5,578.13 (\$1,487.50 family coverage for the 3 months prior to the divorce + \$4,462.50 family coverage maintained after the divorce – \$371.87 spousal allocation) or (b) the maximum amount that can be contributed (\$5,950 for family coverage)).

Line 7

Additional Contribution Amount

If, at the end of 2009, you were age 55 or older and married, use the Additional Contribution Amount Worksheet on this page if both of the following apply.

- 1. You or your spouse had family coverage under an HDHP and were, or were considered to be, an eligible individual on the first day of the month.
- 2. You were not enrolled in Medicare for the month.

Enter the result on line 7.



If items (1) and (2) apply to all months during 2009, enter \$1,000 on line 7.

Additional Contribution Amount Worksheet

- 1. \$1,000 × number of months eligible _____
- 2. Divide line 1 by 12. Enter here and on line 7 _____

Example. At the end of 2009, you were age 55 and married. You had family coverage under an HDHP from January 1 through June 30, 2009 (6 months). You were not enrolled in Medicare in 2009. You would enter an additional contribution amount of \$500 on line 7 ($\$1,000 \times 6 \div 12$).

Line 9

Employer Contributions

Employer contributions (including contributions through a cafeteria plan) include any amount an employer contributes to any HSA for you for 2009. These contributions should be shown in box 12 of Form W-2 with code W. If either of the following apply, complete the Employer Contribution Worksheet below.

- Employer contributions for 2008 are included in the amount reported in box 12 of Form W-2 with code W.
- Employer contributions for 2009 are made in 2010.

If your employer made excess contributions, you may have to report the excess as income. See *Excess Employer Contributions* on this page.

Line 10

Enter on line 10 any qualified HSA funding distribution made during the year. This is a distribution from your traditional IRA or Roth IRA to your HSA in a direct trustee-to-trustee transfer. This distribution is not included in your income, is not deductible, and reduces the amount that can be contributed to your HSA. This distribution cannot be made from an ongoing SEP IRA or SIMPLE IRA. For this purpose, a SEP IRA or SIMPLE IRA is ongoing if an employer contribution is made for the plan year ending with or within your tax year in which the distribution would be made.

The maximum amount that can be excluded from income is based on your age at the end of the year and your HDHP coverage (self-only or family) at the time of the distribution. You can make only one qualified HSA funding distribution during your lifetime. However, if you make the distribution during a month when you have self-only HDHP coverage, you can make another qualified HSA funding distribution in a later month in that tax year if you change to family HDHP coverage.

A qualified HSA funding distribution made during your tax year reduces the amount that can be contributed from other sources (including employer contributions) to your HSA. See the discussions under *Line 13* for the treatment of excess contributions.

See *Pub. 969* for more information.

Testing period. You must remain an eligible individual during the testing period. The testing period begins with the month in which the qualified HSA funding distribution is contributed to the HSA and ends on the last day of the 12th month following that month. For example, if the distribution is contributed on June 12, 2009, the testing period ends on June 30, 2010. If you fail to remain an eligible individual during this period, other than because of death or becoming disabled, you will have to include the qualified HSA funding distribution in income in the

year in which you fail to be an eligible individual. This amount is also subject to a 10% additional tax. (See *Part III*.)

Line 13

If you or someone on your behalf (or your employer) contributed more to your HSA than is allowable, you may have to pay an additional tax on the excess contributions. Figure the excess contributions using the instructions below. See Form 5329, Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts, to figure the additional tax.

Excess Contributions You Make

To figure your excess contributions (including those made on your behalf), subtract your deductible contributions (line 13) from your actual contributions (line 2). However, you can withdraw some or all of your excess contributions for 2009 and they will be treated as if they had not been contributed if:

- You make the withdrawal by the due date, including extensions, of your 2009 tax return (but see the *Note* under *Excess Employer Contributions* below),
- You do not claim a deduction for the amount of the withdrawn contributions, and
- You also withdraw any income earned on the withdrawn contributions and include the earnings in "Other income" on your tax return for the year you withdraw the contributions and earnings.

Excess Employer Contributions

Excess employer contributions are the excess, if any, of your employer's contributions over your limitation on line 8. If you made a qualified HSA funding distribution (line 10) during the tax year, reduce your limitation (line 8) by that distribution before you determine whether you have excess employer contributions. If the excess was not included in income on Form W-2, you must report it as "Other income" on your tax return. However, you can withdraw some or all of the excess employer contributions for 2009 and they will be treated as if they had not been contributed if:

Employer Contribution Worksheet

Keep for Your Records



1. Enter the employer contributions reported in box 12 of Form W-2, with code W	1. _____
2. Enter employer contributions made in 2009 for tax year 2008	2. _____
3. Subtract line 2 from line 1	3. _____
4. Enter employer contributions made in 2010 for tax year 2009	4. _____
5. Employer contributions for 2009. Add lines 3 and 4. Enter here and on Form 8889, line 9	5. _____

- You make the withdrawal by the due date, including extensions, of your 2009 tax return (but see the *Note* below),
- You do not claim an exclusion from income for the amount of the withdrawn contributions, and
- You also withdraw any income earned on the withdrawn contributions and include the earnings in “Other income” on your tax return for the year you withdraw the contributions and earnings.

Note. If you timely filed your return without withdrawing the excess contributions, you can still make the withdrawal no later than 6 months after the due date of your tax return, excluding extensions. If you do, file an amended return with “Filed pursuant to section 301.9100-2” written at the top. Include an explanation of the withdrawal. Make all necessary changes on the amended return (for example, if you reported the contributions as excess contributions on your original return, include an amended Form 5329 reflecting that the withdrawn contributions are no longer treated as having been contributed).

Deducting an Excess Contribution in a Later Year

You may be able to deduct excess contributions for previous years that are still in your HSA. The excess contributions you can deduct in the current year is the lesser of the following two amounts.

- Your maximum HSA contribution limit for the year minus any amounts contributed to your HSA for the year.
- The total excess contributions in your HSA at the beginning of the year.

Any excess contribution remaining at the end of the tax year is subject to the additional tax. See Form 5329.

Part II—HSA Distributions

Line 14a

Enter the total distributions you received in 2009 from all HSAs. Your total distributions include amounts paid with a debit card that restricts payments to health care and amounts withdrawn by other individuals that you have designated. These amounts should be shown in box 1 of Form 1099-SA.

Line 14b

Include on line 14b any distributions you received in 2009 that qualified as a rollover contribution to another HSA. See *Rollovers* on page 2. Also include any excess contributions (and the earnings on those excess contributions)

included on line 14a that were withdrawn by the due date, including extensions, of your return. See the instructions for line 13 on page 5.

Line 15



Only include on line 15 distributions from your HSA that were used to pay you for qualified medical expenses (see page 1) not reimbursed by insurance or other coverage and that you incurred after the HSA was established. Do not include the distribution of an excess contribution taken out after the due date, including extensions, of your return even if used for qualified medical expenses.

In general, include on line 15 distributions from all HSAs in 2009 that were used for the qualified medical expenses (see page 1) of:

1. Yourself and your spouse.
2. All dependents you claim on your tax return.
3. Any person you could have claimed as a dependent on your return except that:
 - a. The person filed a joint return.
 - b. The person had gross income of \$3,650 or more.
 - c. You, or your spouse if filing jointly, could be claimed as a dependent on someone else’s return.



For this purpose, a child of parents that are divorced, separated, or living apart for the last 6 months of the calendar year is treated as the dependent of both parents whether or not the custodial parent releases the claim to the child’s exemption.



You cannot take a deduction on Schedule A (Form 1040) for any amount you include on line 15.

Lines 17a and 17b

Additional 10% Tax

HSA distributions included in income (line 16) are subject to an additional 10% tax unless one of the following exceptions applies.

Exceptions to the Additional 10% Tax

The additional 10% tax does not apply to distributions made after the account beneficiary—

- Dies,
- Becomes disabled (see page 2), or
- Turns age 65.

If any of the exceptions apply to any of the distributions included on line 16,

check the box on line 17a. Enter on line 17b only 10% (.10) of any amount included on line 16 that does not meet any of the exceptions.

Example 1. You turned age 63 in 2009 and received a distribution from an HSA that is included in income. Do not check the box on line 17a because you (the account beneficiary) did not meet the age exception for the distribution. Enter 10% of the amount from line 16 on line 17b.

Example 2. You turned age 65 in 2009. You received distributions that are included in income both before and after you turned age 65. Check the box on line 17a because the additional 10% tax does not apply to the distributions made after the date you turned age 65. However, the additional 10% tax does apply to the distributions made on or before the date you turned age 65. Enter on line 17b, 10% of the amount of these distributions included in line 16.

Part III—Income and Additional Tax for Failure to Maintain HDHP Coverage

Use Part III to figure any income and additional tax that must be reported on Form 1040 or Form 1040NR for failure to be an eligible individual during the testing period for:

- A qualified HSA distribution (see page 2),
- Last-month rule (see page 1), and
- A qualified HSA funding distribution (see page 5).

See the discussions on the pages indicated to determine the testing period for each of these items. Include the amount in income in the year in which you fail to be an eligible individual.

Line 18

Enter the total of any qualified HSA distribution.

Line 19

You can use the *Line 3 Limitation Chart and Worksheet* in the Instructions for Form 8889 for the year the contribution was made to determine the contribution you could have made if the last-month rule did not apply. Enter on line 19 the excess of the amount contributed over the redetermined amount. Examples of this computation are in Pub. 969.

Line 20

Enter the total of any qualified HSA funding distribution.

Paperwork Reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act

unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The average time and expenses required to complete and file this form

will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.
