

 [View Original Format](#)

**PRINCIPAL ISSUES:** Whether the credits allocated to a health care spending account that are unused as a result of the COVID-19 pandemic and expiring, may be carried forward without affecting the status of the plan as a PHSP?

LANGIND E

DOCNUM 2020-0846751E5

AUTHOR D'Angelo, Sandro

DESCKEY 25

RATEKEY 2

REFDATE 200525

SUBJECT HCSA unused credits

SECTION 6(1)(a), 248(1) - PHSP definition

SECTION

SECTION

SECTION

\$\$\$\$

Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the CRA. Prenez note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle de l'ARC.

**PRINCIPAL ISSUES:** Whether the credits allocated to a health care spending account that are unused as a result of the COVID-19 pandemic and expiring, may be carried forward without affecting the status of the plan as a PHSP?

**POSITION:** In these extraordinary circumstances (due to the COVID-19 pandemic), a HCSA that qualifies as a PHSP and which has unused credits expiring between March 15, 2020 and December 31, 2020, could allow a one-time carry forward of those unused credits for a reasonable period to allow members to access services that were otherwise restricted during the COVID-19 outbreak. A period of up to six months would generally be considered reasonable and would not, in and of itself, disqualify the HCSA from being a PHSP.

**REASONS:** See response.

XXXXXXXXXXXX 2020-084675

S. D'Angelo, CPA, CMA

May 25, 2020

Dear XXXXXXXXXXXX:

Re: Health care spending account – expiry of unused credits

This is in reply to your correspondence of April 29, 2020, and our telephone conversations (D'Angelo/XXXXXXXXXXXX), where you have asked whether in light of the COVID-19 pandemic, the Canada Revenue Agency ("CRA") would consider allowing a health care spending account ("HCSA"), which has unused credits expiring during the pandemic, to carry forward those credits for a reasonable period.

It is our understanding that due to the many restrictions placed on services during the COVID-19 pandemic, plan members may not be able to use the credits allocated to a HCSA before they expire. As a result of this, you have indicated that plan members are likely forfeiting credits which they would have otherwise used prior to their expiry.

Based on the information provided, the following are the three general models of HCSAs:

1. Use it or lose it model – the HCSA does not permit the carry forward of unreimbursed eligible medical expenses or unused credits
2. Carry-forward of credits – the HCSA permits the carry forward of unused credits to the next plan year (i.e., a period not exceeding 12 months)
3. Carry-forward of expenses – the HCSA permits the carry forward of unreimbursed eligible medical expenses to the next plan year (i.e., a period not exceeding 12 months).

#### Our Comments

This technical interpretation provides general comments about the provisions of the Income Tax Act ("Act") and related legislation (where referenced). It does not confirm the income tax treatment of a particular situation involving a specific taxpayer but is intended to assist you in making that determination. The income tax treatment of a particular transaction proposed by a specific taxpayer will only be confirmed by this Directorate in the context of an advance income tax ruling request submitted in the manner set out in Information Circular IC 70-6R9, Advance Income Tax Rulings and Technical Interpretations.

Paragraph 6(1)(a) of the Act includes in a taxpayer's income the value of board, lodging, and other benefits of any kind whatever received or enjoyed by the taxpayer in the year in respect of, in the course of, or by virtue of the taxpayer's office or employment. Subparagraph 6(1)(a)(i) of the Act, however, specifically excludes benefits derived from the contributions of the taxpayer's employer to or under a private health services plan ("PHSP").

A PHSP is defined in subsection 248(1) of the Act. As of January 1, 2015, the CRA considers a plan to be a PHSP, where all of the following conditions are met:

- \* All of the expenses covered under the plan are: medical and hospital expenses (medical expenses)
  - o expenses incurred in connection with a medical expense and within a reasonable time period following the medical expense (connected expenses)
  - o a combination of medical expenses and connected expenses
- \* All or substantially all of the premiums paid (generally 90% or more) relate to medical expenses that are eligible for the medical expense tax credit
- \* The plan meets the conditions outlined in paragraph 3 of the Interpretation Bulletin IT-339R, Meaning of private health services plan [1988 and subsequent taxation years].

Further, a HCSA must involve a reasonable element of risk to qualify as a PHSP. It is the view of the CRA (as outlined in paragraph 16 of Interpretation Bulletin IT-529, Flexible Employee Benefit Programs) that although a carry forward provision in a HCSA undoubtedly reduces the risk of loss to the employee, a HCSA which permits a carry forward of either unused credits or eligible medical expenses (but not both) for a period not exceeding 12 months will not generally disqualify the HCSA from being a PHSP.

However, we acknowledge that employees may not have been able to use the amounts in their HCSAs because of the restrictions placed on many services during the current COVID-19 outbreak. In these extraordinary circumstances, a HCSA that qualifies as a PHSP and which has unused credits expiring between March 15 and December 31, 2020, could temporarily permit the carry forward of those unused credits for a reasonable period to allow members to access services that were otherwise restricted during the COVID-19 outbreak. A carry-forward period of up to six months would generally be considered reasonable and would not, in and of itself, disqualify the HCSA from being a PHSP. This applies to the three general models of HCSAs as described by you. That being said, it is the terms of the particular HCSA that will determine whether an employee can carry forward any unused credits.

We trust these comments will be of assistance to you.

Yours truly,

Nerill Thomas-Wilkinson, CPA, CA

Manager

Business and Employment Income Section

Business and Employment Division

Income Tax Rulings Directorate

Document Information

Title:	CRA Views 2020-0846751E5: HCSA unused credits -- Section 6(1)(a), 248(1) - PHSP definition
Date Posted:	06/03/2020 08:45
Date Released:	06/03/2020 08:45
Areas of Interest:	Federal Income Tax
Document Source(s):	Canada Revenue Agency
Topic(s):	Capital gains/losses, Employment Income and Deductions
General Subject Area:	Income Tax (Federal)
Jurisdiction:	Federal

End of Document

© 2020 Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.