

# Medical Savings Accounts Announcement 97-79

## *Purpose*

Sections 220(i) and (j) of the Internal Revenue Code provide that if the number of medical savings accounts (MSAs) established as of April 30, 1997, exceeds 375,000, then September 1, 1997, is a “cut-off” date for the MSA pilot project. The Internal Revenue Service has determined that the applicable number of MSAs established as of April 30, 1997, is 7,383. Consequently, September 1, 1997 is not a “cut-off” date for the MSA pilot project. A second determination of whether 1997 will be a cut-off year, based on whether the number of MSAs established as of June 30, 1997 exceeds 525,000, will be made by October 1, 1997. See section 220(j)(1)(B) of the Code.

## *Background*

The Health Insurance Portability and Accountability Act of 1996 added section 220 to the Code to permit eligible individuals to establish MSAs under a pilot project effective January 1, 1997. The pilot project has a scheduled “cut-off” year of 2000, but may have an earlier “cut-off” year if the number of individuals who have established MSAs exceeds certain numerical limitations. See sections 220(i) and (j).

If a year is a “cut-off” year, section 220(i)(1) generally provides that no individual will be eligible for a deduction or exclusion for MSA contributions for any taxable year beginning after the cut-off year unless the individual (A) was an active MSA participant for any taxable year ending on or before the close of the cut-off year, or (B) first became an active MSA participant for a taxable year ending after the cut-off year by reason of coverage under a high deductible health plan of an MSA-participating employer.

Section 220(j)(1) provides that the numerical limitation for 1997 is exceeded if the number of MSAs established as of April 30, 1997, is more than 375,000, or if the number of MSAs established as of June 30, 1997, is more than 525,000. Under section 220(j)(3), in determining whether any calendar year is a cut-off

year, the MSA of any previously uninsured individual is not taken into account. In addition, section 220(j)(4)(D) specifies that, to the extent practical, all MSAs established by an individual are aggregated and two married individuals opening separate MSAs are to be treated as having a single MSA for purposes of determining the number of MSAs.

Based on Forms 8851 provided by MSA trustees and custodians, it has been determined that 9,720 taxpayers have established MSAs as of April 30, 1997. Of this total, 1,787 taxpayers were reported as previously uninsured, and are therefore not taken into account in determining whether 1997 is a cut-off year. In addition, 550 taxpayers were reported as excludable from the count because their spouse also established an MSA. Accordingly, because the applicable number of MSAs established as of April 30, 1997, 7,383 (9,720 minus (1,787 plus 550)) is less than 375,000, 1997 is not a cut-off year for the MSA pilot project. The Service intends to publish another announcement, not later than October 1, 1997, concerning whether 1997 is a cut-off year based on the number of MSAs established as of June 30, 1997.

Questions regarding this announcement may be directed to Felix Zech in the Office of Associate Chief Counsel (Employee Benefits and Exempt Organizations) at (202) 622-4606 (not a toll free number).