

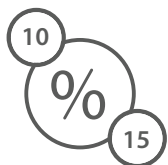
## Plan Limits



CRA does not provide a definitive guide to plan limits, the only determination is whether the plan limits are “reasonable” to the employee’s income with respect to their position within the company. “Incorporated businesses, including shareholder employees and all other corporate employees, are eligible to participate in an HSA. Corporations with as few as one employee can be eligible as well. However, the HSA cannot be solely for shareholders unless the shareholders are also employees earning a T4 income.<sup>1</sup>”

“ **2.3** Unless the particular facts establish otherwise, there is a general presumption that an employee-shareholder receives a benefit or an allowance in their capacity as a shareholder when the individual can significantly influence business policy. This presumption may not apply if:

- the benefit or allowance is available to all employees of the corporation; or
- all of the employees are shareholders or individuals related to a shareholder, and the benefit or allowance is comparable (in nature and amount) to benefits and allowances generally offered to non-shareholder employees of similar-sized businesses, who perform similar services and have similar responsibilities.



The PHSP industry leaders have determined that 10-15% percent of the employee’s income is considered reasonable. This does not necessarily mean 10-15% of T4 income; rather it should be based on a reasonable income an employee would be compensated for operating in this role.

### Tax implications to employee-shareholders

“ **1.40** An individual who is both an employee and a shareholder of a corporation can receive benefits under a health and welfare trust. In order to determine the appropriate tax treatment of these benefits, it is necessary to establish whether the benefits have been conferred on the individual in the capacity of an employee or in the capacity of a shareholder.

**1.41** Unless the particular facts establish otherwise, there is a general presumption that an employee-shareholder receives benefits in the capacity of a shareholder when the individual can significantly influence business policy. A negative answer to one or more of the following questions may also suggest that benefits have been provided to an individual in the capacity of a shareholder:

- When all participating employees are shareholders or persons related to a shareholder, is the benefit coverage comparable (in nature, amount, and cost-sharing ratio) to coverage given to non-shareholder employees of similar-sized businesses, who perform similar services and have similar responsibilities?
- Is participation in the plan open to all employees, including those who are neither shareholders nor related to a shareholder? If not, is there a logical reason to exclude some employees?
- Is the benefit coverage for shareholders or persons related to a shareholder, comparable (in nature, amount, and cost-sharing ratio) to coverage given to other participating non-shareholder employees of the business, who perform similar services and have similar responsibilities?

<sup>1</sup> CRA, Tax Tips, Media Release - 04-18-2019