

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 831

H.P. 621

House of Representatives, March 14, 1995

An Act to Establish Individual Medical Savings Accounts.

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative BARTH of Bethel.

Cosponsored by Representatives: CAMPBELL of Holden, DONNELLY of Presque Isle, GUERRETTE of Pittston, LANE of Enfield, LUMBRA of Bangor, ROBICHAUD of Caribou, UNDERWOOD of Oxford, VIGUE of Winslow, Senators: ABROMSON of Cumberland, BUTLAND of Cumberland, PARADIS of Aroostook, SMALL of Sagadahoc.

Be it enacted by the People of the State of Maine as follows:

2 **Sec. 1. 36 MRSA §5122, sub-§1, ¶G**, as corrected by RR 1991, c.
4 2, §138, is amended to read:

6 G. Pick-up contributions paid by the taxpayer's employer on
8 the taxpayer's behalf to the Maine State Retirement System
as defined in Title 5, section 17001, subsection 28-A; and

10 **Sec. 2. 36 MRSA §5122, sub-§1, ¶H**, as amended by PL 1991, c.
12 591, Pt. N, §5 and affected by §6, is further amended to read:

14 H. The absolute value of the amount of any net operating
16 loss arising from tax years beginning on or after January 1,
18 1989, but before January 1, 1993, that arises from an S
20 Corporation with total assets for the year of at least
\$1,000,000 and that pursuant to the United States Internal
Revenue Code, Section 172 is being carried back for federal
income tax purposes to the taxable year by the taxpayer; ~~and~~

22 **Sec. 3. 36 MRSA §5122, sub-§1, ¶I** is enacted to read:

24 I. Amounts withdrawn pursuant to section 6603, subsection 4
by the taxpayer during the taxable year from an individual
medical savings account established in the taxpayer's name.

26 **Sec. 4. 36 MRSA §5122, sub-§2, ¶G**, as enacted by PL 1989, c.
28 880, Pt. G, §4, is amended to read:

30 G. For income tax years commencing on or after January 1,
32 1989, an amount equal to the total premiums spent for
insurance policies for long-term care ~~which~~ that have been
34 certified by the Superintendent of Insurance as complying
with Title 24-A, chapter 68; and

36 **Sec. 5. 36 MRSA §5122, sub-§2, ¶H**, as amended by PL 1991, c.
38 591, Pt. N, §7 and affected by §8, is further amended to read:

40 H. For each taxable year subsequent to the year of the
42 loss, an amount equal to the absolute value of any net
operating loss arising from tax years beginning on or after
44 January 1, 1989, but before January 1, 1993, for which
federal adjusted gross income was increased in accordance
46 with subsection 1, paragraph H and that pursuant to the
United States Internal Revenue Code, Section 172 was carried
back for federal income tax purposes, but only to the extent
that:

48 (1) Maine net income is not reduced below zero;

50 (2) The taxable year is within the allowable federal
52 period for carry-over; and

2 (3) The amount has not been previously used as a
modification pursuant to this subsection,; and

4 **Sec. 6. 36 MRSA §5122, sub-§2, ¶I** is enacted to read:

6 I. Contributions or deposits to an individual medical
8 savings account established under chapter 914 subject to the
following limitations.

10 (1) The taxpayer may subtract:

12 (a) The amount of contributions made by the
14 taxpayer's employer during the taxable year to the
16 taxpayer's individual medical savings account to
18 the extent that the employer contributions are
included in the taxpayer's federal adjusted gross
income; and

20 (b) The amount deposited by the taxpayer in the
account during the taxable year.

22 (2) The taxpayer's employer may subtract the amount of
24 contributions made by the employer to an individual
26 medical savings account established on the taxpayer's
behalf to the extent that the contributions are not
deductible under the Code.

28 **Sec. 7. 36 MRSA §5164, sub-§1**, as enacted by P&SL 1969, c.
30 154, §F, is amended to read:

32 **1. Fiduciary adjustment defined.** The fiduciary adjustment
34 shall--be is the net amount of the modifications described in
section 5122, including subsection 3 if the estate or trust is a
beneficiary of another estate or trust, which relates to items of
income or deduction of an estate or trust.

36 Interest income earned on a trust that is established as an
38 individual medical savings account pursuant to chapter 914 is not
40 included as income if the interest income is received on
42 obligations of a state, territory or possession of the United
States or a political subdivision of a state, territory or
44 possession that is located outside of this State. Interest
earned by a trust that is established as an individual medical
46 savings account may be subtracted from the adjusted gross income
to the extent that the income is included in the trust's Maine
gross income during the taxable year.

48 **Sec. 8. 36 MRSA §5200-A, sub-§2, ¶G**, as amended by PL 1991, c.
50 548, Pt. A, §29, is further amended to read:

52 G. Fifty percent of the apportionable dividend income the
taxpayer received during the taxable year from an affiliated

2 corporation that is not included with the taxpayer in a
3 Maine combined report, except that this modification must be
4 phased in over 5 years in accordance with the following
5 schedule:

6 Taxable year beginning 7 in:	8	9 Subtractable 10 dividend income:
11 1989		12 10%
13 1990		14 20%
15 1991		16 30%
17 1992		18 40%
19 1993 or thereafter		20 50%; and

21 **Sec. 9. 36 MRSA §5200-A, sub-§2, ¶H**, as amended by PL 1991, c.
22 591, Pt. N, §12 and affected by §13, is further amended to read:

23 H. For each taxable year subsequent to the year of the
24 loss, an amount equal to the absolute value of any net
25 operating loss arising from tax years beginning on or after
26 January 1, 1989 but before January 1, 1993 and that,
27 pursuant to the United States Internal Revenue Code, Section
28 172, was carried back for federal income tax purposes, but
29 only to the extent that:

- 30 (1) Maine net income is not reduced below zero;
- 31 (2) The taxable year is within the allowable federal
32 period for carry-over; and
- 33 (3) The amount has not been previously used as a
34 modification pursuant to this subsection; and

35 **Sec. 10. 36 MRSA §5200-A, sub-§2, ¶I** is enacted to read:

36 I. The amount of contributions by the taxpayer during the
37 taxable year to individual medical savings accounts
38 established on behalf of the taxpayer's employees pursuant
39 to chapter 914 to the extent that the contributions are not
40 deductible under the Code.

41 **Sec. 11. 36 MRSA c. 914** is enacted to read:

42 **CHAPTER 914**

43 **INDIVIDUAL MEDICAL SAVINGS ACCOUNT ACT**

44 **§6601. Short title**

45 This chapter may be known and cited as the "Individual
46 Medical Savings Account Act."

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§6602. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Account holder. "Account holder" means an individual on whose behalf an individual medical savings account is established.

2. Eligible medical expenses. "Eligible medical expenses" means expenses paid by or on behalf of an account holder for medical care that is described in the Internal Revenue Code, Section 213(d). "Eligible medical expenses" includes health insurance premiums and deductibles.

3. Household. "Household" means the taxpayer and spouse and members of the household for whom the taxpayer is entitled to claim an exemption as a dependent under Part 8.

4. Individual medical savings account. "Individual medical savings account" or "account" means a trust created or organized to pay eligible medical expenses.

5. Trustee. "Trustee" means:

A. A financial institution that is authorized to conduct business in this State as a fiduciary;

B. An insurance company that is authorized to conduct insurance business in this State; or

C. An employer, if the employer has a self-insured health plan that meets the requirements of the federal Employee Retirement Income Security Act of 1974, as amended.

§6603. Establishment and procedure

Individual medical savings accounts may be established subject to the following procedures.

1. Health insurance coverage. Prior to establishing an individual medical savings account, the prospective account holder must obtain or have health care coverage.

2. Trust establishment. A resident may establish an individual medical savings account for taxable years beginning after December 31, 1995. The account must be established as a trust under the laws of this State and placed with a trustee. At the time of establishment, the trustee shall notify the account holder of potential federal income tax liability that may be associated with the account.

2 3. Payment of medical expenses. The trustee may use the
3 funds in an account solely to pay medical expenses of the account
4 holder and members of the account holder's household that are not
5 otherwise covered under the account holder's existing medical
6 coverage. If the account holder submits appropriate
7 documentation to the trustee, the trustee may also from account
8 funds reimburse the account holder for eligible medical expenses
9 paid directly by the account holder during the taxable year.

10 Funds deposited into the account may not be used to pay the
11 premiums of the health insurance coverage required under
12 subsection 1 if the premiums are for coverage for the same year
13 in which the account was established. Funds from the account may
14 be used to pay for health insurance coverage for subsequent
15 years. If at any time the health insurance lapses, the trustee
16 may use funds deposited in the account to pay the premium
17 required to restore the coverage, subject to the limitations of
18 this subsection.

19 4. Withdrawals for other purposes. The account holder may
20 withdraw funds from the account for purposes other than those
21 expenses allowed under subsection 3 on the last business day of
22 the calendar year without incurring a withdrawal penalty. If an
23 account holder withdraws funds at any other time, other than for
24 those purposes allowed in subsection 3, the account holder must
25 pay a penalty equal to 10% of the amount withdrawn. The penalty
26 must be paid to the Bureau of Taxation at the same time the
27 account holder files an income tax return under this Title for
28 the taxable year in which the funds were withdrawn. The State
29 Tax Assessor must credit all penalties received to the General
30 Fund.

31 5. Employer accounts. Upon agreement between an employer
32 and an employee, the employer may:

33 A. Contribute to the employee's individual medical savings
34 account;

35 B. Make or continue to make contributions to the employee's
36 medical coverage; or

37 C. Contribute to both the employee's individual medical
38 savings account and the employee's medical coverage.

39 Employer contributions to an employee's account are not
40 considered income to the employee until they are withdrawn from
41 the account.

42 6. Limits. In each taxable year, total deposits made to
43 the account may not exceed \$4,000.
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2 7. Trustee reports. A trustee of an individual medical
3 savings account shall make reports regarding the account to the
4 Bureau of Taxation and to the account holder detailing
5 contributions, income earned during the taxable year,
6 distributions and other related information the bureau may
7 require by regulation. The report must be furnished to the
8 bureau at the time and in the manner prescribed by the bureau.
9 The report to the account holder must be provided by January 31st
10 of the year following the calendar year to which the report
relates.

12 8. Death of account holder. Upon the death of the account
13 holder, the trustee shall distribute the principal and
14 accumulated interest of the individual medical savings account to
the estate of the account holder.

16 9. Tax consequences. Any amount deposited into the
17 account, within the limits established in this chapter, may be
18 subtracted from taxable income of the account holder during the
19 same tax year. Funds withdrawn pursuant to subsection 4 must be
20 considered income to the account holder for the purpose of
21 computing adjusted gross income.

24 **§6604. Individual medical savings accounts option for state**
25 **employees**

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27 The Commissioner of Administrative and Financial Services,
28 in order to allow state employees to participate in an individual
29 medical services account plan, shall do the following:

30
31 1. Establish option. Obtain a health and accident coverage
32 option for full-time officers and employees of this state and its
33 departments and agencies that combines a high deductible plan
34 with an individual medical savings account established under this
35 chapter. This option must be made available to full-time
36 officers and employees any time after December 31, 1995 but no
later than January 1, 1999;

38
39 2. Limit funding. Refrain from spending public funds for
40 those officers and employees who choose the option under
41 subsection 1 in excess of funds spent on nonparticipating
42 officers and employees;

44 3. Limit deposits. Ensure that deposits made to the
45 individual medical savings accounts do not exceed the limitations
46 established by this chapter; and

48 4. Reports. Report on a regular basis to the joint
49 standing committee of the Legislature having jurisdiction over
50 insurance matters regarding the development and implementation of
51 the coverage option under this section.
52

STATEMENT OF FACT

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4 This bill establishes an individual medical savings account
6 to allow an employee or an employer for the credit of the
8 employee, or both, to deposit up to \$4,000 per year in an
10 interest-earning trust account for payment of certain medical
expenses. Amounts deposited in the account are not considered
income for state income tax purposes until withdrawn from the
account for any other reason than payment of permissible medical
expenses.