

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 1007

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H.P. 743

House of Representatives, February 11, 1997

**An Act to Establish Medical Savings Accounts.**

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative JOYNER of Hollis.  
Cosponsored by Senator HARRIMAN of Cumberland and  
Senator: KIEFFER of Aroostook.

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

2  
3       **Sec. 1. 36 MRSA §5122, sub-§1, ¶G**, as amended by PL 1995, c.  
4 641, §1 and affected by §7, is further amended to read:

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

10       **Sec. 2. 36 MRSA §5122, sub-§1, ¶H**, as amended by PL 1995, c.  
11 641, §2 and affected by §7, is further amended to read:

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

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

21       J. Amounts withdrawn pursuant to section 6603, subsection 4  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

24       **Sec. 4. 36 MRSA §5122, sub-§2, ¶H**, as amended by PL 1995, c.  
25 639, §16, is further amended to read:

26       H. For each taxable year subsequent to the year of the  
27 loss, an amount equal to the absolute value of the net  
28 operating loss arising from tax years beginning on or after  
29 January 1, 1989, but before January 1, 1993, for which  
30 federal adjusted gross income was increased in accordance  
31 with subsection 1, paragraph H and that pursuant to the  
32 Code, Section 172 was carried back for federal income tax  
33 purposes, but only to the extent that:

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

39       **Sec. 5. 36 MRSA §5122, sub-§2, ¶I**, as enacted by PL 1995, c.  
40 639, §17, is amended to read:

2 I. For income tax years beginning on or after January 1,  
4 1991, an amount equal to the amount by which federal taxable  
6 income was reduced because of vessel earnings from fishing  
8 operations that were contributed to a capital construction  
10 fund; and

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

14 J. Contributions or deposits to an individual medical  
16 savings account established under chapter 914 subject to the  
18 following limitations.

20 (1) The taxpayer may subtract:

22 (a) The amount of contributions made by the  
24 taxpayer's employer during the taxable year to the  
26 taxpayer's individual medical savings account to  
28 the extent that the employer contributions are  
30 included in the taxpayer's federal adjusted gross  
32 income; and

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

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

48 **Sec. 7. 36 MRSA §5164, sub-§1**, as enacted by P&SL 1969, c.  
50 154, §F, §1, is amended to read:

1. **Fiduciary adjustment defined.** The fiduciary adjustment  
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.

Interest income earned on a trust that is established as an  
individual medical savings account pursuant to chapter 914 is not  
included as income if the interest income is received on  
obligations of a state, territory or possession of the United  
States or a political subdivision of a state, territory or  
possession that is located outside of this State. Interest  
earned by a trust that is established as an individual medical  
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.

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

4           G. Fifty percent of the apportionable dividend income the  
6 taxpayer received during the taxable year from an affiliated  
8 corporation that is not included with the taxpayer in a  
Maine combined report, except that this modification must be  
phased in over 5 years in accordance with the following  
schedule:

10           Taxable year beginning	Subtractable
12           in:	dividend income:
14                    1989	10%
1990	20%
16                    1991	30%
1992	40%
18                    1993 or thereafter	50%; and

20           **Sec. 9. 36 MRSA §5200-A, sub-§2, ¶H**, as amended by PL 1995, c.  
639, §20, is further amended to read:

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

30                   (1) Maine taxable income is not reduced below zero;

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

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

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

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

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

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CHAPTER 914

INDIVIDUAL MEDICAL SAVINGS ACCOUNT ACT

**§6601. Short title**

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

**§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, the taxpayer's spouse and members of the taxpayer's 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, 29 United States Code, Sections 101 to 1461, as amended.

**§6603. Establishment and procedures**

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

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

20 Funds deposited into the account may not be used to pay the  
premiums of the health insurance coverage required under  
22 subsection 1 if the premiums are for coverage for the same year  
in which the account was established. Funds from the account may  
24 be used to pay for health insurance coverage for subsequent  
years. If at any time the health insurance lapses, the trustee  
26 may use funds deposited in the account to pay the premium  
required to restore the coverage, subject to the limitations of  
28 this subsection.

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

42           5. Employer accounts. Upon agreement between an employer  
44 and an employee, the employer may:

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

48           B. Make or continue to make contributions to the employee's  
50 medical coverage; or

2           C. Contribute to both the employee's individual medical  
3           savings account and the employee's medical coverage.

4           Employer contributions to an employee's account are not  
5           considered income to the employee until they are withdrawn from  
6           the account.

8           6. Limits. In each taxable year, total deposits made to  
9           the account may not exceed \$4,000.

10           7. Trustee reports. A trustee of an individual medical  
11           savings account shall make reports regarding the account to the  
12           Bureau of Taxation and to the account holder detailing  
13           contributions, income earned during the taxable year,  
14           distributions and other related information the bureau may  
15           require by regulation. The report must be furnished to the  
16           bureau at the time and in the manner prescribed by the bureau.  
17           The report to the account holder must be provided by January 31st  
18           of the year following the calendar year to which the report  
19           relates.

22           8. Death of account holder. Upon the death of the account  
23           holder, the trustee shall distribute the principal and  
24           accumulated interest of the individual medical savings account to  
25           the estate of the account holder.

26           9. Tax consequences. Any amount deposited into the  
27           account, within the limits established in this chapter, may be  
28           subtracted from taxable income of the account holder during the  
29           same tax year. Funds withdrawn pursuant to subsection 4 must be  
30           considered as income to the account holder for the purpose of  
31           computing adjusted gross income.

34           **§6604. Individual medical savings accounts option for state**  
35           **employees**

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

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

46           2. Limit funding. Refrain from spending public funds for  
47           those officers and employees who choose the option under  
48           those officers and employees who choose the option under  
49           those officers and employees who choose the option under  
50           those officers and employees who choose the option under



2 subsection 1 in excess of funds spent on nonparticipating  
3 officers and employees;

4 3. Limit deposits. Ensure that deposits made to the  
5 individual medical savings accounts do not exceed the limitations  
6 established by this chapter; and

8 4. Report. Report on a regular basis to the joint standing  
9 committee of the Legislature having jurisdiction over insurance  
10 matters regarding the development and implementation of the  
11 coverage option under this section.

12  
13  
14 **SUMMARY**

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