

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 1314

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H.P. 937

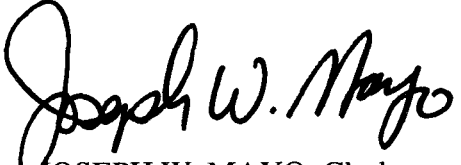
House of Representatives, February 16, 1999

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### An Act to Establish Medical Savings Accounts.

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Reference to the Committee on Taxation suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative WATERHOUSE of Bridgton.  
Cosponsored by Senator BENNETT of Oxford and  
Representatives: MAYO of Bath, WHEELER of Eliot, Senator: DAGGETT of Kennebec.

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

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**Sec. 1. 36 MRSA §5122, sub-§1, ¶J**, as amended by PL 1997, c. 746, §2 and affected by §24, is further amended to read:

J. The amount claimed as a business expense that is included in the investment credit for the high-technology investment tax credit; and

**Sec. 2. 36 MRSA §5122, sub-§1, ¶K**, as enacted by PL 1997, c. 746, §3 and affected by §24, is amended to read:

K. For income tax years beginning on or after January 1, 1997, all items of loss, deduction and other expense of a financial institution subject to the tax imposed by section 5206, to the extent that those items are passed through to the taxpayer for federal income tax purposes, including, if the financial institution is an S corporation, the taxpayer's pro rata share and, if the financial institution is a partnership or limited liability company, the taxpayer's distributive share. An addition may not be made under this paragraph for any losses recognized on the disposition by a taxpayer of an ownership interest in a financial institution.; and

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

L. Amounts withdrawn pursuant to section 6603, subsection 3 by the taxpayer during the taxable year from an individual medical savings account established in the taxpayer's name.

**Sec. 4. 36 MRSA §5122, sub-§2, ¶J**, as corrected by RR 1997, c. 2, §59, is amended to read:

J. Any amount constituting a qualified withdrawal from an account established pursuant to Title 20-A, chapter 417-E and used for paying higher education expenses; and

**Sec. 5. 36 MRSA §5122, sub-§2, ¶K**, as reallocated by RR 1997, c. 2, §60 and affected by §61, is amended to read:

K. For income tax years beginning on or after January 1, 1997, all items of income, gain, interest, dividends, royalties and other income of a financial institution subject to the tax imposed by section 5206, to the extent that those items are passed through to the taxpayer for federal income tax purposes, including, if the financial institution is an S corporation, the taxpayer's pro rata share and, if the financial institution is a partnership or limited liability company, the taxpayer's distributive

share. A subtraction may not be made under this paragraph  
for:

(1) Income of the taxpayer earned on interest-bearing  
or similar accounts of the taxpayer at a financial  
institution as a customer of that financial institution;

(2) Any dividends or other distributions with respect  
to a taxpayer's ownership interest in a financial  
institution; and

(3) Any gain recognized on the disposition by the  
taxpayer of an ownership interest in a financial  
institution; and

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

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

(1) The taxpayer may subtract:

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

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

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

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

**1. Fiduciary adjustment defined.** The fiduciary adjustment  
shall must be 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

2 included as income if the interest income is received on  
4 obligations of a state, territory or possession of the United  
6 States or a political subdivision of a state, territory or  
8 possession that is located outside of this State. Interest  
10 earned by a trust that is established as an individual medical  
12 savings account may be subtracted from the adjusted gross income  
14 to the extent that the income is included in the trust's Maine  
16 gross income during the taxable year.

10 **Sec. 8. 36 MRSA §5200-A, sub-§2, ¶H**, as amended by PL 1997, c.  
12 746, §11 and affected by §24, is further amended to read:

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

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

28 **Sec. 9. 36 MRSA §5200-A, sub-§2, ¶I**, as enacted by PL 1997, c.  
30 746, §12 and affected by §24, is amended to read:

32 I. For income tax years beginning on or after January 1,  
34 1997, all items of income, gain, interest, dividends,  
36 royalties and other income of a financial institution  
38 subject to the tax imposed by section 5206, to the extent  
40 that those items are passed through to the taxpayer for  
federal income tax purposes, including, if the financial  
institution is an S corporation, the taxpayer's pro rata  
share and, if the financial institution is a partnership or  
limited liability company, the taxpayer's distributive  
share. A subtraction may not be made under this paragraph  
for:

- 42 (1) Income of the taxpayer earned on interest-bearing  
44 or similar accounts of the taxpayer at a financial  
46 institution as a customer of that financial institution;
- 48 (2) Any dividends or other distributions with respect  
50 to a taxpayer's ownership interest in a financial  
institution; and

2 (3) Any gain recognized on the disposition by the  
taxpayer of an ownership interest in a financial  
institution; and

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

8 J. The amount of contributions made by the taxpayer during  
10 the taxable year to individual medical savings accounts  
12 established on behalf of the taxpayer's employees pursuant  
14 to chapter 914 to the extent that the contributions are not  
16 deductible under the Code.

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

20 **CHAPTER 914**

22 **INDIVIDUAL MEDICAL SAVINGS ACCOUNT**

24 **§6601. Short title**

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

30 **§6602. Definitions**

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

36 1. Account administrator. "Account administrator" means any  
38 of the following entities:

40 A. A financial institution authorized to do business in  
42 this State as defined in Title 9-B, section 131, subsection  
44 17-A;

46 B. An insurance company authorized to do business in this  
48 State pursuant to Title 24-A;

50 C. A nonprofit hospital or medical service organization  
authorized to do business in this State pursuant to Title  
24; or

D. 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.

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

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

7           4. Household. "Household" means the taxpayer, the  
8 taxpayer's spouse and any member of the taxpayer's household for  
9 whom the taxpayer is entitled to claim an exemption as a  
10 dependent under Part 8.

11           5. Individual medical savings account. "Individual medical  
12 savings account" or "account" means a trust created or organized  
13 to pay eligible medical expenses.

14 **§6603. Establishment and procedures**

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

17           1. Health insurance coverage. Before establishing an  
18 individual medical savings account, the prospective account  
19 holder must obtain or have health insurance coverage.

20           2. Account establishment. A resident may establish an  
21 individual medical savings account for taxable years beginning  
22 after December 31, 1999. The account must be established as a  
23 trust under the laws of this State and must be placed with an  
24 account administrator. At the time of establishment, the account  
25 administrator shall notify the account holder of potential  
26 federal income tax liability that may be associated with the  
27 account.

28           3. Payment of eligible medical expenses. The account  
29 administrator may use the funds in an account solely to pay  
30 eligible medical expenses of the account holder and members of  
31 the account holder's household who are not otherwise covered  
32 under the account holder's existing medical coverage. Funds held  
33 in an account may not be used to cover medical expenses of the  
34 account holder or members of the account holder's household who  
35 are otherwise covered by, including, but not limited to, medical  
36 expenses covered pursuant to an automobile insurance policy,  
37 workers' compensation insurance policy or self-insured plan. If  
38 the account holder submits appropriate documentation to the  
39 account administrator, the account administrator may reimburse  
40 the account holder from account funds for eligible medical  
41 expenses paid directly by the account holder during the taxable  
42 year.

2           4. Withdrawals for other purposes. The account holder may  
3 withdraw funds from the account for purposes other than those  
4 expenses allowed under subsection 3 on the last business day of  
5 the calendar year without incurring a withdrawal penalty. If an  
6 account holder withdraws funds at any other time, other than for  
7 those purposes allowed under subsection 3, the account holder  
8 must pay a penalty equal to 10% of the amount withdrawn. The  
9 penalty must be paid to the Bureau of Revenue Services at the  
10 time the account holder files an income tax return under this  
11 Title for the taxable year in which the funds were withdrawn.  
12 The State Tax Assessor shall credit all penalties received to the  
13 General Fund.

14           5. Employer accounts. Upon agreement between an employer  
15 and an employee, an employer may:

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

20           B. Make or continue to make contributions to the employee's  
21 medical coverage; or

22           C. Contribute to both the employee's individual medical  
23 savings account and the employee's medical coverage.

26           6. No limit. In each taxable year, there is no limit to  
27 the total deposits that may be made to an account by or on behalf  
28 of an account holder.

30           7. Death of an account holder. Upon the death of an  
31 account holder, the account administrator shall distribute the  
32 principal and accumulated interest of the individual medical  
33 savings account to the estate of the account holder.

34           8. Tax consequences. Any amount deposited into an account  
35 established under this chapter may be subtracted from taxable  
36 income of the account holder during the same tax year. Funds  
37 withdrawn pursuant to subsection 4 must be considered income to  
38 the account holder for the purpose of computing adjusted gross  
39 income.  
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## SUMMARY

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45           This bill allows residents of the State to establish medical  
46 savings accounts for payment of eligible medical expenses,  
47 including the payment of health insurance premiums and  
48 deductibles. Contributions to, interest earned on and qualified  
49 withdrawals from medical savings accounts are exempt from Maine  
50 state income tax.