

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 203

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H.P. 192

House of Representatives, January 18, 2001

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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.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative WATERHOUSE of Bridgton.

Cosponsored by Representative CRESSEY of Baldwin, President Pro Tem BENNETT of Oxford and

Representatives: BRUNO of Raymond, DORR of Camden, LaVERDIERE of Wilton, MAYO of Bath, MITCHELL of Vassalboro, SCHNEIDER of Durham, TRAHAN of Waldoboro, Senator: SMALL of Sagadahoc.

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

2  
3       **Sec. 1. 36 MRSA §5122, sub-§1, ¶J,** as amended by PL 1999, c.  
4 731, Pt. X, §1 and affected by §§4 and 5, is further amended to  
5 read:

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

9  
10       **Sec. 2. 36 MRSA §5122, sub-§1, ¶K,** as amended by PL 1999, c.  
11 731, Pt. X, §2 and affected by §§4 and 5, is further amended to  
12 read:

13           K. For income tax years beginning on or after January 1,  
14 1997, all items of loss, deduction and other expense of a  
15 financial institution subject to the tax imposed by section  
16 5206, to the extent that those items are passed through to  
17 the taxpayer for federal income tax purposes, including, if  
18 the financial institution is an S corporation, the  
19 taxpayer's pro rata share and, if the financial institution  
20 is a partnership or limited liability company, the  
21 taxpayer's distributive share. An addition may not be made  
22 under this paragraph for any losses recognized on the  
23 disposition by a taxpayer of an ownership interest in a  
24 financial institution; and

25  
26       **Sec. 3. 36 MRSA §5122, sub-§1, ¶M** is enacted to read:

27           M. Amounts withdrawn pursuant to section 6603, subsection 3  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

30  
31       **Sec. 4. 36 MRSA §5122, sub-§2, ¶L,** as amended by PL 1999, c.  
32 708, §35 and c. 731, Pt. S, §2 and affected by §4 and amended by  
33 c. 790, Pt. A, §49, is repealed and the following enacted in its  
34 place:

35           L. For income tax years beginning on or after January 1,  
36 2000, an amount equal to the total premiums spent for  
37 qualified long-term care insurance contracts as defined in  
38 the Code, Section 7702B(b), as long as the amount subtracted  
39 is reduced by the long-term care premiums claimed as an  
40 itemized deduction pursuant to section 5125;

41  
42       **Sec. 5. 36 MRSA §5122, sub-§2, ¶M,** as enacted by PL 1999, c.  
43 708, §36 and c. 731, Pt. S, §3 and affected by §4, is repealed  
44 and the following enacted in its place:

2 M. An amount, for each recipient of benefits under an  
3 employee retirement plan, that is the lesser of:

4 (1) Six thousand dollars reduced by the total amount  
5 of social security benefits and railroad retirement  
6 benefits paid by the United States, but not less than  
7 \$0; or

8  
9  
10 (2) The aggregate of benefits received under employee  
11 retirement plans and included in federal adjusted gross  
12 income. For purposes of this paragraph, "employee  
13 retirement plan" means a state, federal or military  
14 retirement plan or any other retirement benefit plan  
15 established and maintained by an employer for the  
16 benefit of its employees under Section 401(a), Section  
17 403 or Section 457(b) of the Code. "Employee  
18 retirement plan" does not include an individual  
19 retirement account under Section 408 of the Code, a  
20 Roth IRA under Section 408A of the Code, a rollover  
21 individual retirement account, a simplified employee  
22 pension under Section 408(k) of the Code or an  
23 ineligible deferred compensation plan under Section  
24 457(f) of the Code;

25 **Sec. 6. 36 MRSA §5122, sub-§2, ¶¶N and O** are enacted to read:

26  
27 N. Interest or dividends on obligations or securities of  
28 this State and its political subdivisions and authorities to  
29 the extent included in federal adjusted gross income; and

30  
31 O. Contributions or deposits to an individual medical  
32 savings account established under chapter 914 subject to the  
33 following limitations.

34 (1) The taxpayer may subtract:

35  
36 (a) The amount of contributions made by the  
37 taxpayer's employer during the taxable year to the  
38 taxpayer's individual medical savings account to  
39 the extent that the employer contributions are  
40 included in the taxpayer's federal adjusted gross  
41 income; and

42  
43 (b) The amount deposited by the taxpayer in the  
44 account during the taxable year.

45  
46  
47 (2) The taxpayer's employer may subtract the amount of  
48 contributions made by the employer to an individual  
49 medical savings account established on the taxpayer's

2 behalf to the extent that the contributions are not  
3 deductible under the Code.

4 **Sec. 7. 36 MRSA §5164, sub-§1**, as amended by PL 1999, c. 708,  
5 §38, is further amended to read:

6  
7 1. **Fiduciary adjustment defined.** The fiduciary adjustment  
8 is the net amount of the modifications described in section 5122,  
9 including subsection 3 if the estate or trust is a beneficiary of  
10 another estate or trust, which relates to items of income or  
11 deduction of an estate or trust. Income taxes imposed by this  
12 State or any other taxing jurisdiction and interest or expenses  
13 incurred in the production of income exempt from tax under this  
14 Part deducted in arriving at federal taxable income must be added  
15 back to the fiduciary adjustment. Interest or expenses incurred  
16 in the production of income taxable under this Part but exempt  
17 from federal income tax must be subtracted from the fiduciary  
18 adjustment.

19 Interest income earned on a trust that is established as an  
20 individual medical savings account pursuant to chapter 914 is not  
21 included as income if the interest income is received on  
22 obligations of a state, territory or possession of the United  
23 States or a political subdivision of a state, territory or  
24 possession that is located outside of this State. Interest  
25 earned by a trust that is established as an individual medical  
26 savings account may be subtracted from the adjusted gross income  
27 to the extent that the income is included in the trust's Maine  
28 gross income during the taxable year.

29  
30 **Sec. 8. 36 MRSA §5200-A, sub-§2, ¶J**, as amended by PL 1999, c.  
31 708, §40, is further amended to read:

32  
33 J. An amount equal to an income tax refund to the taxpayer  
34 by this State or another state of the United States that is  
35 included in that taxpayer's federal taxable income for the  
36 taxable year under the Code, but only to the extent that:

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

38  
39 (2) The amount to be refunded from this State or  
40 another state of the United States has not been  
41 previously used as a modification pursuant to this  
42 subsection.  
43

44  
45 If this modification amount results in Maine net income that  
46 is less than zero for the taxable year, the negative  
47 modification amount may be carried back or forward in the  
48 same manner as a net operating loss deduction carry-back or  
49 carry-forward to a taxable year that is within the allowable  
50

2 federal period for a carry-back or carry-forward, subject to  
the above limitations; and

4 **Sec. 9. 36 MRSA §5200-A, sub-§2, ¶K**, as enacted by PL 1999, c.  
708, §41, is amended to read:

6 K. Interest or dividends on obligations or securities of  
8 this State and its political subdivisions and authorities to  
the extent included in federal taxable income; and

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

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

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

22 **CHAPTER 914**

24 **INDIVIDUAL MEDICAL SAVINGS ACCOUNT**

26 **§6601. Short title**

28 This chapter may be known and cited as the "Individual  
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  
of the following entities:

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

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

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

50 D. An employer, if the employer has a self-insured health  
plan that meets the requirements of the federal Employee

2           Retirement Income Security Act of 1974, 29 United States  
3           Code, Sections 101 to 1461, as amended.

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

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

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

15           5. Individual medical savings account. "Individual medical  
16           savings account" or "account" means a trust created or organized  
17           to pay eligible medical expenses.

18           **§6603. Establishment and procedures**

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

21           1. Health insurance coverage. Before establishing an  
22           individual medical savings account, the prospective account  
23           holder must obtain or have health insurance coverage.

24           2. Account establishment. A resident may establish an  
25           individual medical savings account for taxable years beginning  
26           after December 31, 2001. The account must be established as a  
27           trust under the laws of this State and must be placed with an  
28           account administrator. At the time of establishment, the account  
29           administrator shall notify the account holder of potential  
30           federal income tax liability that may be associated with the  
31           account.

32           3. Payment of eligible medical expenses. The account  
33           administrator may use the funds in an account solely to pay  
34           eligible medical expenses of the account holder and members of  
35           the account holder's household that are not otherwise covered  
36           under the account holder's existing medical coverage. Funds held  
37           in an account may not be used to cover medical expenses of the  
38           account holder or members of the account holder's household who  
39           are otherwise covered, including, but not limited to, medical  
40           expenses covered pursuant to an automobile insurance policy, a  
41           workers' compensation insurance policy or a self-insured plan.  
42           If the account holder submits appropriate documentation to the  
43           account administrator, the account administrator may use the funds  
44           in an account solely to pay eligible medical expenses of the  
45           account holder and members of the account holder's household that  
46           are not otherwise covered under the account holder's existing  
47           medical coverage. Funds held in an account may not be used to  
48           cover medical expenses of the account holder or members of the  
49           account holder's household who are otherwise covered, including,  
50           but not limited to, medical expenses covered pursuant to an  
          automobile insurance policy, a workers' compensation insurance  
          policy or a self-insured plan. If the account holder submits  
          appropriate documentation to the account administrator, the  
          account administrator may use the funds in an account solely to  
          pay eligible medical expenses of the account holder and members  
          of the account holder's household that are not otherwise covered  
          under the account holder's existing medical coverage.

2 account administrator, the account administrator may reimburse  
3 the account holder from account funds for eligible medical  
4 expenses paid directly by the account holder during the taxable  
5 year.

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

18 **5. Employer accounts.** Upon agreement between an employer  
19 and an employee, an employer may:

20 **A. Contribute to the employee's individual medical savings**  
21 **account;**

22 **B. Make or continue to make contributions to the employee's**  
23 **medical coverage; or**

24 **C. Contribute to both the employee's individual medical**  
25 **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.

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

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

39



## SUMMARY

2

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