

MAINE STATE LEGISLATURE

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R.O.S.

L.D. 1554

DATE: *4-1-02*

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "*A*" to COMMITTEE AMENDMENT "A" to H.P. 1151, L.D. 1554, Bill, "An Act to Allow Health Insurance Premiums to be Eligible for Medical Savings Accounts"

Amend the amendment in section 1 in that part designated "§2763." by inserting after subsection 5 the following:

'6. State tax consequences. The tax treatment of an individual medical savings account is governed by Title 36, chapter 914.'

Amend the amendment in section 1 in that part designated "§2763." by renumbering the subsections to read consecutively.

Further amend the amendment by inserting after section 1 the following:

'Sec. 2. 36 MRSA §5122, sub-§1, ¶¶M and N, as enacted by PL 2001, c. 559, Pt. GG, §10, are amended to read:

M. The absolute value of the amount of any net operating loss arising from a tax year beginning or ending in 2001 that the taxpayer, pursuant to Section 102 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147, carries back more than 2 years to the taxable year for federal income tax purposes; and

N. For any taxable year beginning in 2002, an amount equal to the net increase in depreciation attributable to a 30% bonus depreciation deduction claimed by the taxpayer pursuant to Section 101 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147 with respect to property placed in service during the taxable

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year, multiplied by the factor obtained by subtracting from the number 1.0 the conformity factor calculated by the State Tax Assessor under section 112, subsection 12,; and

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

O. Amounts withdrawn pursuant to section 6601, subsection 3 by the taxpayer during the taxable year from an individual medical savings account established in the taxpayer's name.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, ¶O, as enacted by PL 2001, c. 439, Pt. KK, §1 and affected by §2, is amended to read:

O. A Holocaust victim settlement payment received by a Holocaust victim to the extent included in federal adjusted gross income. This paragraph applies only to a taxpayer who is the first recipient of a Holocaust victim settlement payment. For purposes of this paragraph, the following terms have the following meanings.

(1) "Holocaust victim" means an individual who died, lost property or was a victim of persecution as a result of discriminatory laws, policies or actions targeted against discrete groups of individuals based on race, religion, ethnicity, sexual orientation or national origin, whether or not the individual was actually a member of any of those groups, or because the individual assisted or allegedly assisted any of those groups, between January 1, 1929 and December 31, 1945, in Nazi Germany or in any European country allied with or occupied by Nazi Germany. "Holocaust victim" includes the spouse or descendant of such an individual.

(2) "Holocaust victim settlement payment" means a payment received:

(a) As a result of the taxpayer's status as a Holocaust victim;

(b) As a result of the settlement of any other Holocaust claim, including an insurance claim, a claim relating to looted art, a claim relating to looted financial assets, a claim relating to slave labor wages or a class action lawsuit claim against Swiss banks; or

(c) As interest on any payment under division (a) or (b) accumulated or accrued through the date of payment.;

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2 **Sec. 5. 36 MRSA §5122, sub-§2, ¶Q**, as enacted by PL 2001, c.
559, Pt. GG, §12, is amended to read:

4 Q. For tax years beginning in 2003, 2004 or 2005, an amount
6 equal to 1/3 of any amount added back to federal adjusted
8 gross income by the taxpayer for the 2002 tax year pursuant
10 to subsection 1, paragraph N, except with respect to 3-year
12 property, in which case this paragraph does not apply to
2005 tax years and the amount to be subtracted pursuant to
this paragraph in the 2004 tax year is an amount equal to
2/3 of the amount added back pursuant to subsection 1,
paragraph N; and

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

16 R. Amounts deposited by the taxpayer in an individual
18 medical savings account during the taxable year included in
the taxpayer's federal adjusted gross income.

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

22 1. **Fiduciary adjustment defined.** The fiduciary adjustment
24 is the net amount of the modifications described in section 5122,
including subsection 3 if the estate or trust is a beneficiary of
26 another estate or trust, which relates to items of income or
deduction of an estate or trust. Income taxes imposed by this
28 State or any other taxing jurisdiction and interest or expenses
incurred in the production of income exempt from tax under this
30 Part deducted in arriving at federal taxable income must be added
back to the fiduciary adjustment. Interest or expenses incurred
32 in the production of income taxable under this Part but exempt
from federal income tax must be subtracted from the fiduciary
34 adjustment.

36 Interest income earned on a trust that is established as an
38 individual medical savings account pursuant to chapter 914 is not
included as income if the interest income is received on
40 obligations of a state, territory or possession of the United
States or a political subdivision of a state, territory or
42 possession that is located outside this State. For such interest
income, interest earned by a trust that is established as an
44 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.

46 **Sec. 8. 36 MRSA §5204-C** is enacted to read:

48 §5204-C. Nonqualified withdrawal from an individual medical
50 savings account

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2 The tax imposed under this Part on any individual as a
4 result of a withdrawal of funds from an individual medical
6 savings account other than for the payment of eligible medical
 expenses must be increased by an amount equal to 10% of the
 amount withdrawn.

8 **Sec. 9. 36 MRSA §5220, sub-§1, ¶A,** as repealed and replaced by
10 PL 1987, c. 504, §33, is amended to read:

12 A. Who is required to file a federal income tax return for
 the taxable year; or

14 **Sec. 10. 36 MRSA §5220, sub-§1, ¶B,** as amended by PL 1987, c.
16 819, §10, is further amended to read:

18 B. Who, pursuant to this Part, has a Maine individual
 income tax liability for the taxable year; or

20 **Sec. 11. 36 MRSA §5220, sub-§1, ¶D** is enacted to read:

22 D. Who is subject to the penalty imposed by section 5204-C.

24 **Sec. 12. 36 MRSA c. 914** is enacted to read:

26 **CHAPTER 914**
28 **INDIVIDUAL MEDICAL SAVINGS ACCOUNTS**

30 **§6601. Individual medical savings accounts**

32 1. Definitions. As used in this chapter, unless the
34 context otherwise indicates, the following terms have the same
 meaning as in Title 24-A, chapter 33-A: "account administrator,"
 "account holder," "eligible medical expenses" and "individual
 medical savings account."

36 2. Deposits; deduction. An amount deposited into an
38 individual medical savings account in accordance with Title 24-A,
40 section 2763, subsection 4 may be subtracted from taxable income
42 of the account holder during the same tax year. Funds withdrawn
 pursuant to subsection 3 must be considered income for the
 purpose of computing adjusted gross income.

44 3. Withdrawals. If an account holder withdraws funds from
46 an individual medical savings account at any time other than for
 the payment of eligible medical expenses, the withdrawal is
48 subject to income tax. The account administrator shall withhold
 the amount of income tax payable on any withdrawal under this
 subsection.

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2 4. Contingent repeal. This chapter is repealed upon the
3 repeal of federal legislation authorizing individual medical
4 savings accounts, 26 United States Code, Section 220.'

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8 **FISCAL NOTE**

2002-03

10 **REVENUES**

12	General Fund	(\$1,936)
14	Other Funds	(105)

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18 The establishment of a tax exemption associated with medical
19 savings accounts will decrease individual income tax collections
20 by \$2,041 in fiscal year 2002-03, \$6,566 in fiscal year 2003-04
21 and \$11,649 in fiscal year 2004-05. The decrease of these tax
22 collections will decrease the amounts transferred to the Local
23 Government Fund for state-municipal revenue sharing in those
24 years by \$105, \$341 and \$606, respectively. The resulting net
25 decrease of General Fund revenue will be \$1,936 in fiscal year
26 2002-03, \$6,225 in fiscal year 2003-04 and \$11,043 in fiscal year
2004-05.

28 **SUMMARY**

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32 This amendment makes contributions to, interest earned on
33 and qualified withdrawals from individual medical savings
34 accounts exempt from Maine state income tax. The provision is
35 repealed upon the repeal of federal legislation authorizing
36 individual medical savings accounts.

38 SPONSORED BY: *Harry Waterhouse*
40 (Representative WATERHOUSE)

42 TOWN: Bridgton