

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1554

H.P. 1151

House of Representatives, March 13, 2001

An Act to Allow Health Insurance Premiums to be Eligible for Medical Savings Accounts.

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative GLYNN of South Portland.

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

2

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

6

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

10

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

14

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

16

18

20

22

24

26

28

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

30

M. Amounts withdrawn pursuant to section 6603, subsection 3 by the taxpayer during the taxable year from an individual medical savings account established in the taxpayer's name.

32

34

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 A, §49, is repealed and the following enacted in its place:

38

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

40

42

44

46

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 S, §3 and affected by §4, is repealed and the following enacted in its place:

48

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 (2) The aggregate of benefits received under employee
9 retirement plans and included in federal adjusted gross
10 income.

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

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

23 N. Interest or dividends on obligations or securities of
24 this State and its political subdivisions and authorities to
25 the extent included in federal adjusted gross income; and

26 O. Contributions or deposits to an individual medical
27 savings account established under chapter 914 subject to the
28 following limitations.

29 (1) The taxpayer may subtract:

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

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

38 (2) The taxpayer's employer may subtract the amount of
39 contributions made by the employer to an individual
40 medical savings account established on the taxpayer's
41 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 (2) The amount to be refunded from this State or
39 another state of the United States has not been
40 previously used as a modification pursuant to this
41 subsection.

42
43 If this modification amount results in Maine net income that
44 is less than zero for the taxable year, the negative
45 modification amount may be carried back or forward in the
46 same manner as a net operating loss deduction carry-back or
47 carry-forward to a taxable year that is within the allowable
48
49
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
8 K. Interest or dividends on obligations or securities of
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
14 L. The amount of contributions made by the taxpayer during
the taxable year to individual medical savings accounts
established on behalf of the taxpayer's employees pursuant
to chapter 914 to the extent that the contributions are not
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
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, health maintenance organization or
44 3rd-party administrator authorized to do business in this
State pursuant to Title 24-A;

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

2 D. An employer, if the employer has a self-insured health
3 plan that meets the requirements of the federal Employee
4 Retirement Income Security Act of 1974, 29 United States
5 Code, Sections 101 to 1461, as amended.

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

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

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

19
20 5. Individual medical savings account. "Individual medical
21 savings account" or "account" means a trust created or organized
22 to pay eligible medical expenses.

23 **§6603. Establishment and procedures**

24
25 Individual medical savings accounts may be established
26 subject to the following procedures.

27
28 1. Health insurance coverage. Before establishing an
29 individual medical savings account, the prospective account
30 holder must obtain or have health insurance or medical coverage.

31
32 2. Account establishment. A resident may establish an
33 individual medical savings account for taxable years beginning
34 after December 31, 2001. The account must be established as a
35 trust under the laws of this State and must be placed with an
36 account administrator. At the time of establishment, the account
37 administrator shall notify the account holder of potential
38 federal income tax liability that may be associated with the
39 account.

40
41 3. Payment of eligible medical expenses. The account
42 administrator may use the funds in an account solely to pay
43 eligible medical expenses of the account holder and members of
44 the account holder's household that are not otherwise covered
45 under the account holder's existing health insurance or medical
46 coverage. Funds held in an account may not be used to cover
47 medical expenses of the account holder or members of the account
48 holder's household that are otherwise covered, including, but not
49 limited to, medical expenses covered pursuant to an automobile
50 insurance policy.

2 insurance policy, a workers' compensation insurance policy or a
3 self-insured workers' compensation plan. If the account holder
4 submits appropriate documentation to the account administrator,
5 the account administrator may reimburse the account holder from
6 account funds for eligible medical expenses paid directly by the
7 account holder during the taxable year.

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

20 **5. Employer accounts.** Upon agreement between an employer
21 and an employee, an employer may:

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

24 B. Make or continue to make contributions to the employee's
25 health insurance or medical coverage; or

26 C. Contribute to both the employee's individual medical
27 savings account and the employee's health insurance or
28 medical coverage.

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

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

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

2

SUMMARY

4

6

8

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