

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 256

H.P. 211

House of Representatives, January 23, 2003

An Act to Establish and Permit Medical Savings Accounts

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CRESSEY of Baldwin.
Cosponsored by Senator MAYO of Sagadahoc and
Representatives: DUPREY of Hampden, GLYNN of South Portland, MARRACHÉ of
Waterville, SHIELDS of Auburn, SNOWE-MELLO of Poland, VAUGHAN of Durham,
YOUNG of Limestone, Senator: WOODCOCK of Franklin.

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

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Sec. 1. 36 MRSA §5122, sub-§1, ¶¶O and P, as enacted by PL 2001, c. 700, §4 and affected by §10, are amended to read:

O. The amount of the contribution to a qualified scholarship organization that is included in the credit base of the educational attainment investment tax credit under section 5219-U to the extent that the contribution has been used to adjust federal adjusted gross income; ~~and~~

P. The amount of the loan repayment included in the credit base of the recruitment credit under section 5219-V to the extent that the repayment has been used to adjust federal adjusted gross income; ~~and~~

Sec. 2. 36 MRSA §5122, sub-§1, ¶Q is enacted to read:

O. Amounts withdrawn pursuant to section 6603, subsection 3 by the taxpayer during the taxable year from an individual medical savings account established in the taxpayer's name.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. 3. 36 MRSA §5122, sub-§2, ¶¶R and S, as enacted by PL 2001, c. 714, Pt. AA, §4, are amended to read:

R. For tax years beginning in 2005, 2006 or 2007, an amount equal to 1/3 of any amount added back to federal adjusted gross income by the taxpayer for the 2003 tax year pursuant to subsection 1, paragraph N, except with respect to 3-year property, in which case this paragraph does not apply to 2006 or 2007 tax years and the amount to be subtracted pursuant to this paragraph in the 2005 tax year is an amount equal to the amount added back pursuant to subsection 1, paragraph N for tax years beginning in 2003; ~~and~~

S. For tax years beginning in 2006, 2007 or 2008, an amount equal to 1/3 of any amount added back to federal adjusted gross income by the taxpayer for the 2004 tax year pursuant to subsection 1, paragraph N, except with respect to 3-year property, in which case this paragraph does not apply to 2007 or 2008 tax years and the amount to be subtracted pursuant to this paragraph in the 2006 tax year is in an amount equal to the amount added back pursuant to subsection 1, paragraph N for tax years beginning in 2004; ~~i~~

Sec. 4. 36 MRSA §5122, sub-§2, ¶¶T and U are enacted to read:

2 T. Interest or dividends on obligations or securities of
4 this State and its political subdivisions and authorities to
6 the extent included in federal adjusted gross income; and

8 U. Contributions or deposits to an individual medical
10 savings account established under chapter 914 subject to the
12 following limitations.

14 (1) The taxpayer may subtract:

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

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

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

42 **Sec. 5. 36 MRS §5164, sub-§1**, as amended by PL 1999, c. 708,
44 §38, is further amended to read:

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

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

2 to the extent that the income is included in the trust's Maine
3 gross income during the taxable year.

4 **Sec. 6. 36 MRSA §5200-A, sub-§2, ¶¶N and O**, as enacted by PL
5 2001, c. 714, Pt. AA, §7, are amended to read:

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7 N. For tax years beginning in 2005, 2006 or 2007, an amount
8 equal to 1/3 of any amount added back to federal taxable
9 income by the taxpayer for the 2003 tax year pursuant to
10 subsection 1, paragraph N, except with respect to 3-year
11 property, in which case this paragraph does not apply to
12 2006 or 2007 tax years and the amount to be subtracted
13 pursuant to this paragraph in the 2005 tax year is an amount
14 equal to the amount added back pursuant to subsection 1,
15 paragraph N; and

16
17 O. For tax years beginning in 2006, 2007 or 2008, an amount
18 equal to 1/3 of any amount added back to federal taxable
19 income by the taxpayer for the 2004 tax year pursuant to
20 subsection 1, paragraph N, except with respect to 3-year
21 property, in which case this paragraph does not apply to
22 2007 or 2008 tax years and the amount to be subtracted
23 pursuant to this paragraph in the 2006 tax year is an amount
24 equal to the amount added back pursuant to subsection 1,
25 paragraph N; and

26
27 **Sec. 7. 36 MRSA §5200-A, sub-§2, ¶P** is enacted to read:

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29 P. The amount of contributions made by the taxpayer during
30 the taxable year to individual medical savings accounts
31 established on behalf of the taxpayer's employees pursuant
32 to chapter 914 to the extent that the contributions are not
33 deductible under the Code.

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35 **Sec. 8. 36 MRSA c. 914** is enacted to read:

36
37 **CHAPTER 914**

38
39 **INDIVIDUAL MEDICAL SAVINGS ACCOUNT ACT**

40
41 **§6601. Short title**

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

45
46 **§6602. Definitions**

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

2 1. Account administrator. "Account administrator" means:

4 A. A financial institution authorized to do business in
6 this State as defined in Title 9-B, section 131, subsection
8 17-A;

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

14 C. A nonprofit hospital or medical service organization
16 authorized to do business in this State pursuant to Title
18 24; or

20 D. An employer, if the employer has a self-insured health
22 plan that meets the requirements of the federal Employee
24 Retirement Income Security Act of 1974, 29 United States
26 Code, Sections 1001 to 1461, as amended.

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

32 3. Eligible medical expenses. "Eligible medical expenses"
34 means expenses paid by or on behalf of an account holder for
36 medical care that are described in the Code, Section 213(d).
38 "Eligible medical expenses" includes health insurance premiums
40 and deductibles.

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

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

§6603. Establishment and procedures

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

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

2. Account establishment. A resident may establish an
individual medical savings account for taxable years beginning
after December 31, 2003. The account must be established as a
trust under the laws of this State and must be placed with an
account administrator. At the time of establishment, the account

2 administrator shall notify the account holder of potential
3 federal income tax liability that may be associated with the
4 account.

6 3. Payment of eligible medical expenses. The account
7 administrator may use the funds in an account solely to pay
8 eligible medical expenses of the account holder and members of
9 the account holder's household that are not otherwise covered
10 under the account holder's existing medical coverage. Funds held
11 in an account may not be used to cover medical expenses of the
12 account holder or members of the account holder's household that
13 are otherwise covered, including, but not limited to, medical
14 expenses covered pursuant to an automobile insurance policy, a
15 workers' compensation insurance policy or a self-insured plan.
16 If the account holder submits appropriate documentation to the
17 account administrator, the account administrator may reimburse
18 the account holder from account funds for eligible medical
19 expenses paid directly by the account holder during the taxable
20 year.

22 4. Withdrawals for other purposes. The account holder may
23 withdraw funds from the account for purposes other than those
24 expenses allowed under subsection 3 on the last business day of
25 the calendar year without incurring a withdrawal penalty. If an
26 account holder withdraws funds at any other time, other than for
27 those purposes allowed under subsection 3, the account holder
28 must pay a penalty equal to 10% of the amount withdrawn. The
29 penalty must be paid to the Bureau of Revenue Services at the
30 time the account holder files an income tax return under this
31 Title for the taxable year in which the funds were withdrawn.
32 The State Tax Assessor shall credit all penalties received to the
33 General Fund.

34 5. Employer accounts. Upon agreement between an employer
35 and an employee, an employer may:

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

38 B. Make or continue to make contributions to the employee's
39 medical coverage; or

40 C. Contribute to both the employee's individual medical
41 savings account and the employee's medical coverage.

42 6. No limit. In each taxable year, there is no limit to
43 the total deposits that may be made to an account by or on behalf
44 of an account holder.
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2 7. Death of account holder. Upon the death of an account
holder, the account administrator shall distribute the principal
and accumulated interest of the individual medical savings
4 account to the estate of the account holder.

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

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SUMMARY

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