

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 507

H.P. 382

House of Representatives, February 1, 2005

An Act To Establish Individual Medical Savings Accounts

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative McKANE of Newcastle.
Cosponsored by Representative McCORMICK of West Gardiner, Senator COURTNEY of York and Representatives: CLOUGH of Scarborough, FISCHER of Presque Isle, GLYNN of South Portland, LINDELL of Frankfort, MERRILL of Appleton, RICHARDSON of Warren, VAUGHAN of Durham, Senator: DOW of Lincoln.

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

4 **Sec. 1. 36 MRSA §5122, sub-§1, ¶V, as amended by PL 2003, c.**
705, §8, is further amended to read:

6 V. For tax years beginning on or after January 1, 2003 and
8 before January 1, 2006, the amount claimed as a federal
10 income adjustment for student loan interest under the Code,
Section 62 (a)(17), but only for interest paid after 60
months from the start of the loan repayment period; and

12 **Sec. 2. 36 MRSA §5122, sub-§1, ¶W, as enacted by PL 2003, c.**
705, §9, is amended to read:

14 W. For tax years beginning on or after January 1, 2004, for
16 an eligible individual as defined by the Code, Section 223
18 (c)(1), the amount of contributions to the eligible
individual's health savings account under the Code, Sections
20 106 and 223 to the extent that those contributions,
exclusive of rollovers, for the taxable year are not
22 included in the eligible individual's federal adjusted gross
income; and

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

26 X. Amounts withdrawn pursuant to section 7153, subsection 4
28 by the taxpayer during the taxable year from an individual
medical savings account established in the taxpayer's name.

30 **Sec. 4. 36 MRSA §5122, sub-§2, ¶Q, as corrected by RR 2003, c.**
1, §38, is amended to read:

32 Q. A fraction of any amount previously added back by the
34 taxpayer to federal adjusted gross income pursuant to
subsection 1, paragraph N.

36 (1) With respect to property first placed in service
38 during taxable years beginning in 2002, the adjustment
under this paragraph is available for each year during
40 the recovery period, beginning 2 years after the
beginning of the taxable year during which the property
42 was first placed in service. The fraction is equal to
the amount added back under subsection 1, paragraph N
44 with respect to the property, divided by the number of
years in the recovery period minus 2.

46 (2) With respect to all other property, for the
48 taxable year immediately following the taxable year
during which the property was first placed in service,
50 the fraction allowed by this paragraph is equal to 5%

2 of the amount added back under subsection 1, paragraph
N with respect to the property. For each subsequent
4 taxable year during the recovery period, the fraction
is equal to 95% of the amount added back under
6 subsection 1, paragraph N with respect to the property,
divided by the number of years in the recovery period
minus 2.

8
10 In the case of property expensed pursuant to Section 179 of
the Code, the term "recovery period" means the recovery
12 period that would have been applicable to the property had
Section 179 not been applied; and

14 **Sec. 5. 36 MRSA §5122, sub-§2, ¶T**, as amended by PL 2003, c.
705, §12 and affected by §14, is further amended to read:

16
18 T. For income tax years beginning on or after January 1,
2002 and before January 1, 2004, an amount equal to the
20 total premiums spent for long-term care insurance policies
certified under Title 24-A, section 5075-A as long as the
22 amount subtracted is reduced by the long-term care premiums
claimed as an itemized deduction pursuant to section 5125.

24 For income tax years beginning on or after January 1, 2004,
an amount equal to the total premiums spent for qualified
26 long-term care insurance contracts certified under Title
24-A, section 5075-A, as long as the amount subtracted is
28 reduced by any amount claimed as a deduction for federal
income tax purposes in accordance with the Code, Section
30 162(1) and by the long-term care premiums claimed as an
itemized deduction pursuant to section 5125; and

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

34 U. Contributions or deposits to an individual medical
36 savings account established under chapter 923 subject to the
following limitations.

38 (1) The taxpayer may subtract:

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

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

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

7 **Sec. 7. 36 MRSA §5164, sub-§1, as amended by PL 1999, c. 708,**
8 **§38, is further amended to read:**

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

21 Interest income earned on a trust that is established as an
22 individual medical savings account pursuant to chapter 923 is not
23 included as income if the interest income is received on
24 obligations of a state, territory or possession of the United
25 States or a political subdivision of a state, territory or
26 possession that is located outside of this State. Interest
27 earned by a trust that is established as an individual medical
28 savings account may be subtracted from the adjusted gross income
29 to the extent that the interest income is included in the trust's
30 Maine gross income during the taxable year.

31 **Sec. 8. 36 MRSA §5200-A, sub-§2, ¶L, as amended by PL 2003, c.**
32 **20, Pt. EE, §3, is further amended to read:**

33 **L.** An amount equal to the absolute value of any net
34 operating loss arising from a tax year beginning or ending
35 in 2001 for which federal taxable income was increased under
36 subsection 1, paragraph M and that, pursuant to Section 102
37 of the federal Job Creation and Worker Assistance Act of
38 2002, Public Law 107-147, was carried back more than 2 years
39 to the taxable year for federal income tax purposes, but
40 only to the extent that:

41 (1) Maine taxable income is not reduced below zero;

42 (2) The taxable year is either within 2 years prior to
43 the year in which the loss arose or within the

2 allowable federal period for carry-over of net
operating losses; and

4 (3) The amount has not been previously used as a
modification pursuant to this subsection; and

6
8 **Sec. 9. 36 MRSA §5200-A, sub-§2, ¶M**, as repealed and replaced
by PL 2003, c. 479, §6, is amended to read:

10 M. A fraction of any amount previously added back by the
taxpayer to federal taxable income pursuant to subsection 1,
12 paragraph N.

14 (1) With respect to property first placed in service
during taxable years beginning in 2002, the adjustment
16 under this paragraph is available for each year during
the recovery period, beginning 2 years after the
18 beginning of the taxable year during which the property
was first placed in service. The fraction is equal to
20 the amount added back under subsection 1, paragraph N
with respect to the property, divided by the number of
22 years in the recovery period minus 2.

24 (2) With respect to all other property, for the
taxable year immediately following the taxable year
26 during which the property was first placed in service,
the fraction allowed by this paragraph is equal to 5%
28 of the amount added back under subsection 1, paragraph
N with respect to the property. For each subsequent
30 taxable year during the recovery period, the fraction
is equal to 95% of the amount added back under
32 subsection 1, paragraph N with respect to the property,
divided by the number of years in the recovery period
34 minus 2.

36 In the case of property expensed pursuant to Section 179 of
the Code, the term "recovery period" means the recovery
38 period that would have been applicable to the property had
Section 179 not been applied; and

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

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44 P. 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
46 to chapter 923 to the extent that the contributions are not
deductible under the Code.

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50 **Sec. 11. 36 MRSA c. 923** is enacted to read:

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CHAPTER 923

INDIVIDUAL MEDICAL SAVINGS ACCOUNT ACT

§7151. Short title

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

§7152. Definitions

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

1. Account administrator. "Account administrator" means:

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

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

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 1001 to 1461, as amended.

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

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

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

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

2 **§7153. Establishment and procedures**

4 Individual medical savings accounts may be established according to this section.

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

10 2. Account establishment. A resident may establish an individual medical savings account for taxable years beginning after December 31, 2005. 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 administrator shall notify the account holder of potential federal income tax liability that may be associated with the account.

18 3. Payment of eligible medical expenses. 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. Funds held in an account may not be used to cover medical expenses of the account holder or members of the account holder's household that are otherwise covered, including, 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 reimburse the account holder from account funds for eligible medical expenses paid directly by the account holder during the taxable year.

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

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

- 2 A. Contribute to the employee's individual medical savings
 account;
- 4 B. Make or continue to make contributions to the employee's
 medical coverage; or
- 6 C. Contribute to both the employee's individual medical
8 savings account and the employee's medical coverage.
- 10 6. Limit. In each taxable year, there is a \$20,000 limit
12 on the total deposits that may be made to an account by or on
 behalf of an account holder.
- 14 7. Death of account holder. Upon the death of an account
16 holder, the account administrator shall distribute the principal
 and accumulated interest of the individual medical savings
18 account to the estate of the account holder.
- 20 8. Tax consequences. Any amount deposited into an account
22 established under this chapter may be subtracted from taxable
24 income of the account holder during the same tax year up to the
 limit established in subsection 6. Funds withdrawn pursuant to
 subsection 4 must be considered income to the account holder for
 the purpose of computing adjusted gross income.

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SUMMARY

30 This bill allows residents of the State to establish
32 individual medical savings accounts for payment of eligible
34 medical expenses, including the payment of health insurance
 premiums and deductibles. Contributions to, interest earned on
 and qualified withdrawals from individual medical savings
 accounts are exempt from Maine state income tax up to \$20,000 per
 tax year.