

2008 -- S 2671

LC01705

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

A N A C T

RELATING TO TAXATION – PERSONAL INCOME TAX

Introduced By: Senators Raptakis, Maselli, McCaffrey, Walaska, and Blais

Date Introduced: February 26, 2008

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 44-30 of the General Laws entitled "Personal Income Tax" is
2 hereby amended by adding thereto the following section:

3 **44-30-25.2. Modification relating to medical savings accounts. – (a) As used in this**
4 **section:**

5 (1) "Account administrator" means any of the following:

6 (i) A state chartered bank, savings and loan association, credit union, or trust company
7 authorized to act as fiduciary in this state; or a national banking association or federal savings and
8 loan association or credit union authorized to act as fiduciary in this state;

9 (ii) An insurance company authorized to do business in this state.

10 (2) "Account holder" means a resident individual of the state of Rhode Island who
11 establishes a medical savings account.

12 (3) "Deductible" means the total deductible for an employee or account holder and all the
13 dependents of that employee or account holder for a calendar year.

14 (4) "Dependent" means the spouse of the employee or account holder or a child of the
15 employee or account holder if the child is any of the following:

16 (i) Under twenty-three (23) years of age and enrolled as a full-time student at an
17 accredited college or university or under nineteen (19) years of age;

18 (ii) Legally entitled to the provision of proper or necessary subsistence, education,
19 medical care, or other care necessary for his or her health, guidance or well-being and not

1 otherwise emancipated, self-supporting, married, or a member of the Armed Forces of the United
2 States; and

3 (iii) Mentally or physically incapacitated to the extent that he or she is not self-sufficient.

4 (5) "Eligible medical expense" means an expense paid by the taxpayer for medical care
5 described in 213(d) of the Internal Revenue Code, 26 U.S.C. 213(d).

6 (6) "Employee" means an individual for whose benefit or for the benefit of whose
7 dependents an employer has established a medical savings account is established.

8 (7) "ERISA" means the Employee Retirement Income Security Act of 1974, 29 U.S.C.
9 1001 et seq.

10 (8) "Higher deductible" means an annual deductible in the applicable amount (as
11 adjusted) set forth in 220(c)(2)(A) of the Internal Revenue Code, 26 U.S.C. 220(c)(2)(A).

12 (9) "Medical savings account" or "account" means: (i) an account established in this state
13 pursuant to a medical savings account program to pay the eligible medical expenses of an
14 employee or account holder and the dependents of the employee or account holder; or (ii) an
15 account as defined in 220(d) of the Internal Revenue Code, 26 U.S.C. 220(d).

16 (10) "Medial savings account program" or "program" means one of the following
17 program:

18 (i) A program established by an employer that previously provided a health coverage
19 policy, certificate or contract or self insured health plan that includes all of the following:

20 (a) The purchase by an employer of a qualified higher deductible health plan for the
21 benefit of an employee or an employee and his or her dependents; and

22 (b) The contribution on behalf of an employee into a medical savings account by his or
23 her employer of all or part of the higher deductible of the plan purchased pursuant to
24 subparagraph (a) of this paragraph. The employee may contribute into the account in addition to
25 a contribution by the employer all or part of the difference between the employer's contribution
26 and the amount of the higher deductible.

27 (ii) A program established by an employer that did not previously provide a health
28 coverage policy, certificate or contract or self insured health plan that includes the following"

29 (a) The purchase by an employer of a qualified higher deductible health plan for the
30 benefit of an employee or an employee and his or her dependents; and

31 (b) The contribution on behalf of an employee into a medical savings account by his or
32 her employer of all or part of the higher deductible of the plan purchased pursuant to
33 subparagraph (a) of this paragraph. The employee may contribute to the account in addition to a
34 contribution by the employer all or part of the difference between the employer's contribution and

1 the amount of the higher deductible.

2 (iii) A program established by an account holder that includes all of the following:

3 (a) The purchase by the account holder of a qualified higher deductible health plan for the

4 benefit of the account holder or the account holder and his or her dependents; and

5 (b) A contribution by the account holder into a medical savings account of an amount not

6 more than the amount of the higher deductible.

7 (11) "Qualified higher deductible health plan" means a health coverage policy, certificate,

8 or contract or health plan that provides for payments for covered benefits that exceed the higher

9 deductible and that is purchased or established by an account holder or by an employer for the

10 benefit of an account holder or employee for whom the account holder or employer makes

11 deposits into a medical savings account.

12 (b)(1) For tax years beginning after December 31, 2008, both of the following apply:

13 (i) An employee, except as otherwise provide by statute, contract, or a collective

14 beginning agreement, may offer a medical savings account program to the employer's employees

15 and their dependents; and

16 (ii) A resident individual of the state of Rhode Island may establish a medical savings

17 account program for himself or herself and his or her dependents.

18 (2) Before making any contributions, an employer that offers a medical savings account

19 program shall inform all employees in writing of the state and federal tax status of contributions

20 made pursuant to this section.

21 (4) Upon agreement between an employer and an employee, an employee may have his

22 or her employer contribute either to the employee's medical savings account or continue to make

23 contributions under the employer's existing health insurance policy program.

24 (c)(1) An account administrator shall administer the medical savings account from which

25 the payment of claims is made and has a fiduciary duty (including the duty to prudently invest

26 uncommitted funds on deposit in medical savings accounts) to the person for whose benefit the

27 account administrator administers an account.

28 (2) Not more than thirty (30) days after an account administrator begins to administer an

29 account, the account administrator shall notify, in writing, each employee and account holder on

30 whose behalf the account administrator administers an account of the date of the last business day

31 of the account administrator's business year.

32 (3) The employee or account holder shall utilize the funds held in a medical savings

33 account solely for the purpose of paying the eligible medical expenses of the employee or account

34 holder or his or her dependents or to purchase a health coverage policy, certificate or contract.

Funds held in a medical savings account shall not be used to pay medical expenses of the employee or account holder or his or her dependents that are otherwise reimbursable, including, but not limited to, medical expenses payable pursuant to an automobile insurance policy, workers compensation insurance policy or self insured plan, or another health coverage policy, certificate or contract.

(4) The employee or account holder may submit documentation of medical expenses paid by the employee or account holder in the tax year to the account administrator, and the account administrator shall reimburse the employee or account holder from the employee's or account holder's account for eligible medical expenses. Other methods for payment of eligible medical expenses, including the use of a swipe card or checkbook, shall also be allowed.

(5) If an employer makes contributions to a medical savings account program on a periodic installment basis, the employer may advance to an employee, interest free, the amount necessary to cover medical expenses incurred that exceed the amount in the employee's medical savings account at the time the expense is incurred if the employee agrees to repay the advance from future installments or when he or she ceases to be an employee of the employer.

(d)(1) The portion of any contribution to a medical savings account, to the extent it is deemed taxable income under the Internal Revenue Code, shall be a modification decreasing federal adjusted gross income of the participant for the purpose of determining his or her Rhode Island income tax liability in the year of the contribution. Provided, the modification shall not exceed an amount that would otherwise be allowed based on the maximum contribution under 220 of the Internal Revenue Code, 26 U.S.C. 220. Income, including gains and losses, on a medical savings account shall be exempt from taxation under this chapter.

(2) An employee or account holder may withdraw money from his or her medical savings account for any purpose other than a purpose described in subdivision (c)(3) of this section without incurring the penalty under paragraph (3)(ii) of this subsection only when the withdrawal is made on the last business day of the account administrator's business year; provided, the money withdrawn on that date shall not be eligible for the modification or the exemption provided under subdivision (1) of this subsection and the amount of any such withdrawal shall, to the extent that any earlier contribution(s) or income was claimed as a modification decreasing federal adjusted gross income for Rhode Island purposes shall be a modification increasing federal adjusted gross income of the account holder or employee for the purpose of determining his or her Rhode Island income tax liability in the year of the withdrawal or withdrawals.

(3) Subject to subdivision (4) of this subsection, if an employee or account holder withdraws money from a medical savings account: (i) for any purpose other than a purpose

1 described in subdivision (c)(3) of this section at any time other than the last business day of the
2 account administrator, or (ii) in an amount that exceeds any applicable limit for medical savings
3 accounts pursuant to 220 of the Internal Revenue Code 26 U.S.C. 220, the following shall apply:

4 (i) The money withdrawn shall not be eligible for the modification or the exemption
5 provided under subdivision (1) of this subsection and the amount of any such withdrawal shall, to
6 the extent that any earlier contribution(s) or income was claimed as a modification decreasing
7 federal adjusted gross income for Rhode Island purposes shall be a modification increasing
8 federal adjusted gross income of the account holder or employee for the purpose of determining
9 his or her Rhode Island income tax liability in the year of the withdrawal(s); and

10 (ii) The account administrator shall withhold from the amount of the withdrawal and on
11 behalf of the account holder or employee, shall pay a penalty to the Rhode Island division of
12 taxation equal to ten percent (10%) of the amount of the withdrawal.

13 (4) The amount of a disbursement of any assets of a medical savings account pursuant to
14 a filing for protection under title 11 of the United States Code, 11 u.S.C. 101 to 1330, by an
15 employee, account holder, or person for whose benefit the account was established is not
16 considered a withdrawal for purposes of this section.

17 (5) Upon the death of the account holder or employee, the account administrator shall
18 distribute the principal and accumulated interest of the medical savings account to the estate of
19 the account holder or employee.

20 (6) If an employee is no longer employed by the employer who established a medical
21 savings account for his/her benefit and the employee, not more than sixty (60) days after his or
22 her final day of employment, transfers the account to a new account administrator or requests in
23 writing to the employers' account administrator that the account remain with that administrator
24 and that account administrator agrees to retain the account, the money in the medical savings
25 account may be utilized for the benefit of the employee or the employee and his or her
26 dependents subject to this section. Not more than thirty (30) days after the expiration of the sixty
27 (60) days, if an account administrator has not accepted the former employee's account, the
28 employer shall mail a check to the former employee at the employee's last known address equal
29 to the amount in the account on that day. If an employee becomes employed with a different
30 employer that participates in a medical savings account program, the employee may transfer his
31 or her medical savings account to that new employer's account administrator. If an account holder
32 becomes an employer that participates in the medical savings account program, the account
33 holder may transfer his or her account to the employer's account administrator.

34 (7) Amounts in a medical savings account at the end of a year may be used to pay eligible

1 medical expenses in future years, and any such amounts shall not reduce the amount that must be
2 contributed by an employer.

3 (8) After an account holder or employee reaches fifty-nine and one-half (59 ½) years of
4 age, withdrawals shall not be subject to the ten percent (10%) penalty.

5 (9) An account holder whose account consists solely of his or her own funds and no funds
6 from an employer, shall be entitled to a tax credit of two hundred dollars (\$200) in each year the
7 account holder makes the maximum contributions to his or her account.

8 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION – PERSONAL INCOME TAX

- 1 This act would provide for a modification to the state personal income tax for medical
- 2 savings accounts.
- 3 This act would take effect upon passage.

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