

---

**By: Delegates Hixson, Franchot, and Dembrow**

Introduced and read first time: February 1, 1996

Assigned to: Ways and Means

---

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Savings Accounts**

3 FOR the purpose of authorizing individuals to establish health care savings accounts  
4 eligible for certain tax benefits for the purpose of paying certain health care  
5 expenses; authorizing an employer of an individual to contribute to an individual's  
6 health care savings account under certain circumstances; providing a subtraction  
7 modification under the Maryland income tax for certain amounts contributed to an  
8 individual's health care savings account and for certain income of a health care  
9 savings account; defining certain terms; providing an addition modification for  
10 certain amounts distributed from a health care savings account; requiring a trustee  
11 of a health care savings account to submit certain reports to certain persons;  
12 providing for the application of this Act; and generally relating to the Maryland  
13 income taxation of health care savings accounts.

14 BY repealing and reenacting, without amendments,

- 15 Article - Tax - General
- 16 Section 10-205(a) and 10-208(a)
- 17 Annotated Code of Maryland
- 18 (1988 Volume and 1995 Supplement)

19 BY adding to

- 20 Article - Tax - General
- 21 Section 10-205(h) and 10-208(g-1); and 10-224 to be under the amended part "Part
- 22 IV. Deductions; Miscellaneous"
- 23 Annotated Code of Maryland
- 24 (1988 Volume and 1995 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, That the Laws of Maryland read as follows:

27 **Article - Tax - General**

28 10-205.

29 (a) In addition to the modification under § 10-204 of this subtitle, the amounts  
30 under this section are added to the federal adjusted gross income of a resident to  
31 determine Maryland adjusted gross income.

1 (H) (1) FOR AN INDIVIDUAL WHO IS AT LEAST 60 YEARS OLD AT THE END  
2 OF THE TAXABLE YEAR OR FOR AN INDIVIDUAL'S ESTATE, THE ADDITION UNDER  
3 SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT OF NONQUALIFYING  
4 DISTRIBUTIONS FOR THE TAXABLE YEAR FROM THE INDIVIDUAL'S HEALTH CARE  
5 SAVINGS ACCOUNT AS DETERMINED UNDER § 10-224 OF THIS SUBTITLE.

6 (2) FOR AN INDIVIDUAL WHO IS LESS THAN 60 YEARS OF AGE AT THE  
7 END OF THE TAXABLE YEAR, THE ADDITION UNDER SUBSECTION (A) OF THIS  
8 SECTION INCLUDES AN AMOUNT EQUAL TO TWICE THE AMOUNT DETERMINED  
9 UNDER PARAGRAPH (1) OF THIS SUBSECTION.

10 10-208.

11 (a) In addition to the modification under § 10-207 of this subtitle, the amounts  
12 under this section are subtracted from the federal adjusted gross income of a resident to  
13 determine Maryland adjusted gross income.

14 (G-1) (1) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION  
15 INCLUDES:

16 (I) SUBJECT TO THE LIMITATION UNDER PARAGRAPH (2) OF THIS  
17 SUBSECTION, THE AMOUNT CONTRIBUTED FOR THE TAXABLE YEAR TO THE  
18 INDIVIDUAL'S HEALTH CARE SAVINGS ACCOUNT UNDER § 10-224 OF THIS SUBTITLE;  
19 AND

20 (II) ANY INTEREST, DIVIDENDS, AND OTHER INCOME OF A  
21 HEALTH CARE SAVINGS ACCOUNT THAT IS INCLUDED IN THE INDIVIDUAL'S  
22 FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE YEAR.

23 (2) THE SUBTRACTION ALLOWED UNDER PARAGRAPH (1)(I) OF THIS  
24 SUBSECTION:

25 (I) DOES NOT INCLUDE AMOUNTS CONTRIBUTED BY AN  
26 INDIVIDUAL'S EMPLOYER ON BEHALF OF THE INDIVIDUAL UNLESS THOSE  
27 AMOUNTS ARE INCLUDED IN THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS  
28 INCOME;

29 (II) DOES NOT INCLUDE ANY TRANSFER CONTRIBUTIONS FROM  
30 ANOTHER HEALTH CARE SAVINGS ACCOUNT; AND

31 (III) MAY NOT EXCEED \$3,000 FOR ANY TAXABLE YEAR.

32 Part IV. Deductions [and Tax Preference Items]; MISCELLANEOUS.

33 10-224.

34 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
35 INDICATED.

36 (2) (I) "ELIGIBLE HEALTH CARE EXPENSES" MEANS ALL EXPENSES  
37 PAID BY THE INDIVIDUAL FOR HEALTH CARE OF THE INDIVIDUAL OR OF THE  
38 INDIVIDUAL'S SPOUSE OR DEPENDENTS, WITHIN THE MEANING OF § 152 OF THE  
39 INTERNAL REVENUE CODE.

3

1 (II) "ELIGIBLE HEALTH CARE EXPENSES" DOES NOT INCLUDE:

2 1. INSURANCE PREMIUMS;

3 2. ANY AMOUNT PAID FOR HEALTH CARE THAT IS  
4 REIMBURSED TO THE INDIVIDUAL BY INSURANCE, THROUGH A TAX-SHELTERED  
5 HEALTH CARE SPENDING ACCOUNT, OR OTHERWISE; OR

6 3. THE HEALTH CARE EXPENSES OF A SPOUSE OR  
7 DEPENDENT WHO HAS A HEALTH CARE SAVINGS ACCOUNT, EXCEPT TO THE  
8 EXTENT THE ELIGIBLE HEALTH CARE EXPENSES OF THE SPOUSE OR DEPENDENT  
9 EXCEED THE BALANCE IN THE HEALTH CARE SAVINGS ACCOUNT OF THE SPOUSE  
10 OR DEPENDENT.

11 (3) "HEALTH CARE SAVINGS ACCOUNT" MEANS A TRUST CREATED OR  
12 ORGANIZED IN THE UNITED STATES TO PAY ELIGIBLE MEDICAL CARE EXPENSES,  
13 UNDER THE TERMS OF WHICH:

14 (I) EXCEPT FOR TRANSFER CONTRIBUTIONS FROM ANOTHER  
15 HEALTH CARE SAVINGS ACCOUNT:

16 1. ONLY CASH CONTRIBUTIONS MAY BE ACCEPTED; AND

17 2. CONTRIBUTIONS MAY NOT BE ACCEPTED FOR ANY  
18 TAXABLE YEAR ON BEHALF OF ANY INDIVIDUAL IN EXCESS OF \$3,000;

19 (II) THE TRUSTEE IS A BANK, AS DEFINED IN § 408(N) OF THE  
20 INTERNAL REVENUE CODE, OR ANOTHER PERSON WHO DEMONSTRATES TO THE  
21 SATISFACTION OF THE COMPTROLLER THAT THE PERSON WILL ADMINISTER THE  
22 TRUST IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION;

23 (III) THE TRUST FUNDS MAY NOT BE INVESTED IN LIFE INSURANCE  
24 CONTRACTS;

25 (IV) THE INTEREST OF AN INDIVIDUAL IN THE BALANCE OF THE  
26 INDIVIDUAL'S ACCOUNT IS NONFORFEITABLE; AND

27 (V) THE ASSETS OF THE TRUST MAY NOT BE COMMINGLED WITH  
28 OTHER PROPERTY EXCEPT IN A COMMON TRUST FUND OR A COMMON INVESTMENT  
29 FUND.

30 (4) "HEALTH CARE" MEANS MEDICAL CARE WITHIN THE MEANING OF §  
31 213(D)(1) AND (2) OF THE INTERNAL REVENUE CODE.

32 (B) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, AN INDIVIDUAL MAY  
33 ESTABLISH A HEALTH CARE SAVINGS ACCOUNT ELIGIBLE FOR SPECIAL TAX  
34 BENEFITS UNDER THIS SUBTITLE FOR THE PURPOSE OF PAYING ELIGIBLE HEALTH  
35 CARE EXPENSES.

36 (C) BY AGREEMENT BETWEEN AN EMPLOYER AND EMPLOYEE AN EMPLOYER  
37 MAY:

38 (1) CONTRIBUTE TO THE EMPLOYEE'S HEALTH CARE SAVINGS  
39 ACCOUNT;

4

1 (2) MAKE OR CONTINUE TO MAKE CONTRIBUTIONS TOWARD AN  
2 EMPLOYEE'S MEDICAL COVERAGE; OR

3 (3) CONTRIBUTE A COMBINATION OF MONEYS TO THE EMPLOYEE'S  
4 HEALTH CARE SAVINGS ACCOUNT AND MEDICAL COVERAGE.

5 (D) FOR ANY TAXABLE YEAR, AN INDIVIDUAL OR AN INDIVIDUAL'S  
6 EMPLOYER MAY NOT CONTRIBUTE SINGLY OR IN COMBINATION MORE THAN \$3,000  
7 TO A HEALTH CARE SAVINGS ACCOUNT.

8 (E) EXCEPT AS PROVIDED IN § 10-205(H) OF THIS SUBTITLE:

9 (1) A HEALTH CARE SAVINGS ACCOUNT SHALL BE EXEMPT FROM  
10 TAXATION UNDER THIS TITLE; AND

11 (2) AS PROVIDED UNDER § 10-208(G-1) OF THIS SUBTITLE,  
12 CONTRIBUTIONS TO AN INDIVIDUAL HEALTH CARE SAVINGS ACCOUNT UNDER  
13 SUBSECTION (C) OF THIS SECTION AND THE INCOME OF AN INDIVIDUAL HEALTH  
14 CARE SAVINGS ACCOUNT MAY NOT BE CONSIDERED INCOME TO THE EMPLOYEE  
15 UNTIL WITHDRAWN FROM THE ACCOUNT.

16 (F) IF AN INDIVIDUAL OR THE INDIVIDUAL'S SPOUSE OR DEPENDENT  
17 ENGAGES IN A PROHIBITED TRANSACTION, WITHIN THE MEANING OF § 4975 OF THE  
18 INTERNAL REVENUE CODE, WITH RESPECT TO A HEALTH CARE SAVINGS ACCOUNT  
19 ESTABLISHED BY THE INDIVIDUAL:

20 (1) THE ACCOUNT SHALL CEASE TO BE A HEALTH CARE SAVINGS  
21 ACCOUNT FOR PURPOSES OF THIS SUBTITLE AS OF THE FIRST DAY OF THE TAXABLE  
22 YEAR IN WHICH THE PROHIBITED TRANSACTION OCCURS; AND

23 (2) AN AMOUNT EQUAL TO THE FULL FAIR MARKET VALUE OF ALL THE  
24 ASSETS IN THE ACCOUNT SHALL BE DEEMED TO HAVE BEEN DISTRIBUTED OUT OF  
25 THE ACCOUNT ON THE FIRST DAY OF THE TAXABLE YEAR IN WHICH THE  
26 PROHIBITED TRANSACTION OCCURS.

27 (G) IF ANY PART OF A HEALTH CARE SAVINGS ACCOUNT IS USED AS  
28 SECURITY FOR A LOAN, AN AMOUNT EQUAL TO THE LESSER OF THE AMOUNT OF  
29 THE LOAN OR THE FULL FAIR MARKET VALUE OF THE ASSETS IN THE ACCOUNT  
30 SHALL BE DEEMED TO HAVE BEEN DISTRIBUTED OUT OF THE ACCOUNT ON THE  
31 DATE OF THE LOAN.

32 (H) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, FOR ANY  
33 TAXABLE YEAR, ANY AMOUNT PAID OR DISTRIBUTED OUT OF A HEALTH CARE  
34 SAVINGS ACCOUNT IN EXCESS OF THE AMOUNT OF THE ELIGIBLE HEALTH CARE  
35 EXPENSES FOR THE TAXABLE YEAR IS A NONQUALIFYING DISTRIBUTION SUBJECT  
36 TO THE ADDITION MODIFICATION UNDER § 10-205(H) OF THIS SUBTITLE.

37 (2) THE AMOUNT PAID OR DISTRIBUTED OUT OF A HEALTH CARE  
38 SAVINGS ACCOUNT DOES NOT INCLUDE AMOUNTS TRANSFERRED DIRECTLY FROM  
39 ONE HEALTH CARE SAVINGS ACCOUNT OF AN INDIVIDUAL TO ANOTHER HEALTH  
40 CARE SAVINGS ACCOUNT OF THE SAME INDIVIDUAL.

1 (I) FOR PURPOSES OF THIS SUBTITLE, AN INDIVIDUAL MAY ELECT TO TREAT  
2 ANY OR ALL CONTRIBUTIONS TO OR DISTRIBUTIONS OUT OF A HEALTH CARE  
3 SAVINGS ACCOUNT THAT ARE MADE ON OR BEFORE THE DATE REQUIRED BY LAW  
4 FOR FILING THE RETURN FOR A TAXABLE YEAR, NOT INCLUDING EXTENSIONS, AS  
5 HAVING BEEN MADE ON THE LAST DAY OF THAT TAXABLE YEAR.

6 (J) (1) EACH YEAR THE TRUSTEE OF A HEALTH CARE SAVINGS ACCOUNT  
7 SHALL SUBMIT A REPORT TO THE COMPTROLLER AND THE INDIVIDUAL  
8 REGARDING THE ACCOUNT CONCERNING CONTRIBUTIONS, INCOME EARNED  
9 DURING THE TAXABLE YEAR, DISTRIBUTIONS, AND ANY OTHER INFORMATION  
10 THAT THE COMPTROLLER MAY REQUIRE BY REGULATION.

11 (2) THE REPORT SHALL BE:

12 (I) FILED WITH THE COMPTROLLER AT THE TIME AND IN THE  
13 MANNER REQUIRED BY THE COMPTROLLER; AND

14 (II) ON OR BEFORE JANUARY 31 OF THE CALENDAR YEAR TO  
15 WHICH THE REPORT RELATES, FURNISHED TO THE INDIVIDUAL IN THE MANNER  
16 REQUIRED BY THE COMPTROLLER.

17 (K) ON THE DEATH OF AN INDIVIDUAL, AFTER TAKING INTO ACCOUNT  
18 QUALIFYING DISTRIBUTIONS MADE ON OR BEFORE THE DATE REQUIRED FOR  
19 FILING THE INDIVIDUAL'S LAST INCOME TAX RETURN, THE TRUSTEE OF THE  
20 ACCOUNT SHALL DISTRIBUTE ANY AMOUNT REMAINING IN THE INDIVIDUAL'S  
21 HEALTH CARE SAVINGS ACCOUNT TO THE INDIVIDUAL'S ESTATE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 July 1, 1996 and shall be applicable to all taxable years beginning after December 31,  
24 1995.