

---

**By: Delegates Kelly, Beck, Bissett, Brinkley, Crumlin, DeCarlo, Dypski, Dembrow, Elliott, Fry, Harkins, Jacobs, Leopold, Mohorovic, Mossburg, D. Murphy, Ports, Rzepkowski, Schade, and Stocksdale**

Introduced and read first time: January 31, 1997

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 1996 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 1996 Supplement)

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

2

1 **Article - Tax - General**

2 10-205.

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

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

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

15 10-208.

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

19 (G-1) (1) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION  
20 INCLUDES:

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

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

28 (2) THE SUBTRACTION ALLOWED UNDER PARAGRAPH (1)(I) OF THIS  
29 SUBSECTION:

30 (I) DOES NOT INCLUDE AMOUNTS CONTRIBUTED BY AN  
31 INDIVIDUAL'S EMPLOYER ON BEHALF OF THE INDIVIDUAL UNLESS THOSE  
32 AMOUNTS ARE INCLUDED IN THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS  
33 INCOME;

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

36 (III) FOR ANY TAXABLE YEAR, MAY NOT EXCEED THE LESSER OF:

37 1. THE DEDUCTIBLE UNDER ANY HEALTH PLAN COVERING  
38 THE INDIVIDUAL DURING THE TAXABLE YEAR; AND

39 2. \$3,000.

3

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

2 10-224.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
4 INDICATED.

5 (2) "DEDUCTIBLE" MEANS THE TOTAL AGGREGATE ANNUAL  
6 DEDUCTIBLE REQUIRED TO BE PAID FOR ALL INDIVIDUALS COVERED BY A HEALTH  
7 PLAN.

8 (3) "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS COVERED  
9 UNDER A HIGH DEDUCTIBLE HEALTH PLAN DURING THE TAXABLE YEAR.

10 (4) (I) "ELIGIBLE HEALTH CARE EXPENSES" MEANS ALL EXPENSES  
11 PAID BY THE INDIVIDUAL FOR HEALTH CARE OF THE INDIVIDUAL OR OF THE  
12 INDIVIDUAL'S SPOUSE OR DEPENDENTS, WITHIN THE MEANING OF § 152 OF THE  
13 INTERNAL REVENUE CODE.

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

15 1. ANY AMOUNT PAID FOR HEALTH CARE THAT IS  
16 REIMBURSED TO THE INDIVIDUAL BY INSURANCE, THROUGH A TAX-SHELTERED  
17 HEALTH CARE SPENDING ACCOUNT, OR OTHERWISE; OR

18 2. THE HEALTH CARE EXPENSES OF A SPOUSE OR  
19 DEPENDENT WHO HAS A HEALTH CARE SAVINGS ACCOUNT, EXCEPT TO THE  
20 EXTENT THE ELIGIBLE HEALTH CARE EXPENSES OF THE SPOUSE OR DEPENDENT  
21 EXCEED THE BALANCE IN THE HEALTH CARE SAVINGS ACCOUNT OF THE SPOUSE  
22 OR DEPENDENT.

23 (5) "HEALTH CARE" MEANS MEDICAL CARE WITHIN THE MEANING OF §  
24 213(D)(1) OF THE INTERNAL REVENUE CODE, INCLUDING INSURANCE COVERING  
25 MEDICAL CARE.

26 (6) "HEALTH CARE SAVINGS ACCOUNT" MEANS A TRUST CREATED OR  
27 ORGANIZED IN THE UNITED STATES TO PAY ELIGIBLE MEDICAL CARE EXPENSES,  
28 UNDER THE TERMS OF WHICH:

29 (I) EXCEPT FOR TRANSFER CONTRIBUTIONS FROM ANOTHER  
30 HEALTH CARE SAVINGS ACCOUNT:

31 1. ONLY CASH CONTRIBUTIONS MAY BE ACCEPTED; AND

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

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

38 (III) THE TRUST FUNDS MAY NOT BE INVESTED IN LIFE INSURANCE  
39 CONTRACTS;

4

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

3 (V) THE ASSETS OF THE TRUST MAY NOT BE COMMINGLED WITH  
4 OTHER PROPERTY EXCEPT IN A COMMON TRUST FUND OR A COMMON INVESTMENT  
5 FUND.

6 (7) "HIGH DEDUCTIBLE HEALTH PLAN" MEANS A HEALTH PLAN THAT  
7 HAS A DEDUCTIBLE OF AT LEAST \$1,000 BUT NOT MORE THAN \$3,000.

8 (B) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, AN ELIGIBLE  
9 INDIVIDUAL MAY ESTABLISH A HEALTH CARE SAVINGS ACCOUNT QUALIFYING FOR  
10 SPECIAL TAX BENEFITS UNDER THIS SUBTITLE FOR THE PURPOSE OF PAYING  
11 ELIGIBLE HEALTH CARE EXPENSES.

12 (C) BY AGREEMENT BETWEEN AN EMPLOYER AND EMPLOYEE AN EMPLOYER  
13 MAY:

14 (1) CONTRIBUTE TO THE EMPLOYEE'S HEALTH CARE SAVINGS  
15 ACCOUNT;

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

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

20 (D) FOR ANY TAXABLE YEAR, AN INDIVIDUAL OR AN INDIVIDUAL'S  
21 EMPLOYER MAY NOT CONTRIBUTE TO A HEALTH CARE SAVINGS ACCOUNT SINGLY  
22 OR IN COMBINATION MORE THAN THE LESSER OF:

23 (1) THE DEDUCTIBLE UNDER ANY HEALTH PLAN COVERING THE  
24 INDIVIDUAL DURING THE TAXABLE YEAR; AND

25 (2) \$3,000.

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

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

29 (2) AS PROVIDED UNDER § 10-208(G-1) OF THIS SUBTITLE,  
30 CONTRIBUTIONS TO AN INDIVIDUAL HEALTH CARE SAVINGS ACCOUNT UNDER  
31 SUBSECTION (C) OF THIS SECTION AND THE INCOME OF AN INDIVIDUAL HEALTH  
32 CARE SAVINGS ACCOUNT MAY NOT BE CONSIDERED INCOME TO THE EMPLOYEE  
33 UNTIL WITHDRAWN FROM THE ACCOUNT.

34 (F) EXCEPT TO PAY OR REIMBURSE ELIGIBLE HEALTH CARE EXPENSES, A  
35 WITHDRAWAL OR DISTRIBUTION MAY NOT BE MADE FROM A HEALTH CARE  
36 SAVINGS ACCOUNT UNLESS THE BALANCE IN THE ACCOUNT AFTER THE  
37 WITHDRAWAL OR DISTRIBUTION IS AT LEAST 90% OF THE DEDUCTIBLE UNDER THE  
38 INDIVIDUAL'S HIGH DEDUCTIBLE HEALTH CARE PLAN.

5

1 (G) IF A WITHDRAWAL OR DISTRIBUTION IS MADE IN VIOLATION OF  
2 SUBSECTION (F) OF THIS SECTION OR IF AN INDIVIDUAL OR THE INDIVIDUAL'S  
3 SPOUSE OR DEPENDENT ENGAGES IN A PROHIBITED TRANSACTION, WITHIN THE  
4 MEANING OF § 4975 OF THE INTERNAL REVENUE CODE, WITH RESPECT TO A HEALTH  
5 CARE SAVINGS ACCOUNT ESTABLISHED BY THE INDIVIDUAL:

6 (1) THE ACCOUNT SHALL CEASE TO BE A HEALTH CARE SAVINGS  
7 ACCOUNT FOR PURPOSES OF THIS SUBTITLE AS OF THE FIRST DAY OF THE TAXABLE  
8 YEAR IN WHICH THE PROHIBITED WITHDRAWAL OR DISTRIBUTION OR THE  
9 PROHIBITED TRANSACTION OCCURS; AND

10 (2) AN AMOUNT EQUAL TO THE FULL FAIR MARKET VALUE OF ALL THE  
11 ASSETS IN THE ACCOUNT SHALL BE DEEMED TO HAVE BEEN DISTRIBUTED OUT OF  
12 THE ACCOUNT ON THE FIRST DAY OF THE TAXABLE YEAR IN WHICH THE  
13 PROHIBITED WITHDRAWAL OR DISTRIBUTION OR THE PROHIBITED TRANSACTION  
14 OCCURS.

15 (H) IF ANY PART OF A HEALTH CARE SAVINGS ACCOUNT IS USED AS  
16 SECURITY FOR A LOAN, AN AMOUNT EQUAL TO THE LESSER OF THE AMOUNT OF  
17 THE LOAN OR THE FULL FAIR MARKET VALUE OF THE ASSETS IN THE ACCOUNT  
18 SHALL BE DEEMED TO HAVE BEEN DISTRIBUTED OUT OF THE ACCOUNT ON THE  
19 DATE OF THE LOAN.

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

25 (2) THE AMOUNT PAID OR DISTRIBUTED OUT OF A HEALTH CARE  
26 SAVINGS ACCOUNT DOES NOT INCLUDE AMOUNTS TRANSFERRED DIRECTLY FROM  
27 ONE HEALTH CARE SAVINGS ACCOUNT OF AN INDIVIDUAL TO ANOTHER HEALTH  
28 CARE SAVINGS ACCOUNT OF THE SAME INDIVIDUAL.

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

34 (K) (1) EACH YEAR THE TRUSTEE OF A HEALTH CARE SAVINGS ACCOUNT  
35 SHALL SUBMIT A REPORT TO THE COMPTROLLER AND THE INDIVIDUAL  
36 REGARDING THE ACCOUNT CONCERNING CONTRIBUTIONS, INCOME EARNED  
37 DURING THE TAXABLE YEAR, DISTRIBUTIONS, AND ANY OTHER INFORMATION  
38 THAT THE COMPTROLLER MAY REQUIRE BY REGULATION.

39 (2) THE REPORT SHALL BE:

40 (I) FILED WITH THE COMPTROLLER AT THE TIME AND IN THE  
41 MANNER REQUIRED BY THE COMPTROLLER; AND

6

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

4                    (L) ON THE DEATH OF AN INDIVIDUAL, AFTER TAKING INTO ACCOUNT  
5 QUALIFYING DISTRIBUTIONS MADE ON OR BEFORE THE DATE REQUIRED FOR  
6 FILING THE INDIVIDUAL'S LAST INCOME TAX RETURN, THE TRUSTEE OF THE  
7 ACCOUNT SHALL DISTRIBUTE ANY AMOUNT REMAINING IN THE INDIVIDUAL'S  
8 HEALTH CARE SAVINGS ACCOUNT TO THE INDIVIDUAL'S ESTATE.

9                    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 July 1, 1997 and shall be applicable to all taxable years beginning after December 31,  
11 1996.