

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 300 Session of  
2005

INTRODUCED BY ARMSTRONG, JUBELIRER, BRIGHTBILL, MADIGAN,  
RHOADES, SCARNATI, WAUGH, PILEGGI, KASUNIC, WENGER, THOMPSON,  
EARLL, WONDERLING, CORMAN, RAFFERTY, KITCHEN, GREENLEAF,  
TOMLINSON, PUNT, VANCE, PIPPY, GORDNER, PICCOLA, LEMMOND,  
D. WHITE, COSTA, CONTI, M. WHITE, BOSCOLA, ERICKSON, ROBBINS,  
ORIE, O'PAKE, C. WILLIAMS AND REGOLA, FEBRUARY 15, 2005

AS RE-REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 21, 2006

AN ACT

1 ~~Authorizing the establishment and maintenance of health savings~~ <—  
2 ~~accounts; providing for special tax provision; and imposing~~  
3 ~~restrictions on health savings accounts.~~  
4 AMENDING THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), ENTITLED "AN <—  
5 ACT RELATING TO TAX REFORM AND STATE TAXATION BY CODIFYING  
6 AND ENUMERATING CERTAIN SUBJECTS OF TAXATION AND IMPOSING  
7 TAXES THEREON; PROVIDING PROCEDURES FOR THE PAYMENT,  
8 COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF; PROVIDING  
9 FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS AND  
10 IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN  
11 EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS  
12 AND OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND  
13 PENALTIES," FURTHER PROVIDING, IN PERSONAL INCOME TAX, FOR  
14 MEDICAL AND HEALTH SAVINGS ACCOUNTS; AND REPEALING PROVISIONS  
15 RELATING TO TAXATION OF MEDICAL AND HEALTH SAVINGS ACCOUNTS.

16 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

17 IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ADDRESS THE  
18 PERSONAL INCOME TAX TREATMENT OF HEALTH SAVINGS ACCOUNTS  
19 PURSUANT TO SECTION 223 OF THE INTERNAL REVENUE CODE OF 1986  
20 (PUBLIC LAW 99-514, 26 U.S.C. § 223).

21 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ~~Section 1. Short title.~~

<—

3 ~~This act shall be known and may be cited as the Health~~  
4 ~~Savings Account Act.~~

5 ~~Section 2. Legislative intent.~~

6 ~~It is the intent of the General Assembly to extend to health~~  
7 ~~savings accounts established in this Commonwealth pursuant to~~  
8 ~~section 223 of the Internal Revenue Code of 1986 (Public Law 99-~~  
9 ~~514, 26 U.S.C. § 223).~~

10 ~~Section 3. Definitions.~~

11 ~~The following words and phrases when used in this act shall~~  
12 ~~have the meanings given to them in this section unless the~~  
13 ~~context clearly indicates otherwise:~~

14 ~~"Account beneficiary." As defined in section 223(d)(3) of~~  
15 ~~the Internal Revenue Code of 1986 (Public Law 99 514, 26 U.S.C.~~  
16 ~~§ 223(d)(3)).~~

17 ~~"Excess contribution distribution." A distribution described~~  
18 ~~in section 223(f)(3) of the Internal Revenue Code of 1986~~  
19 ~~(Public Law 99 514, 26 U.S.C. § 223(f)(3)). The term shall not~~  
20 ~~include amounts of income attributable to such distribution.~~

21 ~~"Health insurance policy." An individual or group health,~~  
22 ~~sickness or accident policy or subscriber contract or~~  
23 ~~certificate issued by an entity subject to any one of the~~  
24 ~~following:~~

25 ~~(1) The act of May 17, 1921 (P.L.682, No.284), known as~~  
26 ~~The Insurance Company Law of 1921.~~

27 ~~(2) The act of December 29, 1972 (P.L.1701, No.364),~~  
28 ~~known as the Health Maintenance Organization Act.~~

29 ~~(3) The act of May 18, 1976 (P.L.123, No.54), known as~~  
30 ~~the Individual Accident and Sickness Insurance Minimum~~

1 ~~Standards Act.~~

2 ~~(4) 40 Pa.C.S. Ch. 61 (relating to hospital plan~~  
3 ~~corporations) or 63 (relating to professional health services~~  
4 ~~plan corporations).~~

5 ~~"Health savings account." As defined in section 223(d) of~~  
6 ~~the Internal Revenue Code of 1986 (Public Law 99 514, 26 U.S.C.~~  
7 ~~§ 223(d)).~~

8 ~~"Qualified medical expenses." As defined in section 223(d)~~  
9 ~~of the Internal Revenue Code of 1986 (Public Law 99 514, 26~~  
10 ~~U.S.C. § 223(d)).~~

11 ~~Section 4. Special tax provisions.~~

12 ~~(a) General rule. The following shall be excluded from~~  
13 ~~taxation under Article III of the act of March 4, 1971 (P.L.6,~~  
14 ~~No.2), known as the Tax Reform Code of 1971:~~

15 ~~(1) any contribution to a health savings account by an~~  
16 ~~account beneficiary or the employer of that account~~  
17 ~~beneficiary that conforms to section 223(a) and (b) of the~~  
18 ~~Internal Revenue Code of 1986 (Public Law 99 514, 26 U.S.C. §~~  
19 ~~223(a) and (b));~~

20 ~~(2) any income of a health savings account;~~

21 ~~(3) any amount paid or distributed out of a health~~  
22 ~~savings account that is used exclusively to pay the qualified~~  
23 ~~medical expenses of the account beneficiary; and~~

24 ~~(4) any amount paid or distributed out of a health~~  
25 ~~savings account that is used exclusively to reimburse an~~  
26 ~~account beneficiary for qualified medical expenses.~~

27 ~~(b) Taxable distributions. The following shall be included~~  
28 ~~in the income of the account beneficiary and shall be subject to~~  
29 ~~taxation under Article III of the Tax Reform Code of 1971:~~

30 ~~(1) Any amount paid or distributed out of a health~~

~~savings account that is used for any purpose other than to pay the qualified medical expenses of the account beneficiary.~~

~~(2) Any excess contribution distribution that has not previously been included in the account beneficiary's income.~~

~~(3) Any amount of the account beneficiary's income attributable to an excess contribution distribution.~~

~~Section 5. Mandated benefits.~~

~~(a) General rule. A health insurance policy that would qualify as a high deductible health plan under section 223(c)(2) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 223(c)(2)) shall be subject to any provision of law mandating a minimum health insurance benefit or reimbursement.~~

~~(b) Construction. Nothing in this act shall be construed to prohibit or prevent a health insurance policy that would qualify as a high deductible health plan under section 223(c)(2) of the Internal Revenue Code of 1986 from applying deductibles or copayments to benefits offered under these mandated minimum health insurance benefits.~~

~~Section 6. Applicability.~~

~~Section 4 shall apply to taxable years beginning after December 31, 2004.~~

~~Section 7. Effective date.~~

~~This act shall take effect in 60 days.~~

SECTION 1. SECTION 303(A)(6) OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, AMENDED JULY 7, 2005 (P.L.149, NO.40), IS AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

SECTION 303. CLASSES OF INCOME.--(A) THE CLASSES OF INCOME REFERRED TO ABOVE ARE AS FOLLOWS:

1 \* \* \*

2 (6) INTEREST DERIVED FROM OBLIGATIONS WHICH ARE NOT  
3 STATUTORILY FREE FROM STATE OR LOCAL TAXATION UNDER ANY OTHER  
4 ACT OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA  
5 OR UNDER THE LAWS OF THE UNITED STATES AND ANY AMOUNT PAID UNDER  
6 CONTRACT OF LIFE INSURANCE OR ENDOWMENT OR ANNUITY CONTRACT,  
7 WHICH IS INCLUDABLE IN GROSS INCOME FOR FEDERAL INCOME TAX  
8 PURPOSES[.] AND ANY AMOUNT PAID OUT OF THE ARCHER MEDICAL  
9 SAVINGS ACCOUNT OR HEALTH SAVINGS ACCOUNT THAT IS INCLUDABLE IN  
10 THE GROSS INCOME OF AN ACCOUNT BENEFICIARY FOR FEDERAL INCOME  
11 TAX PURPOSES.

12 \* \* \*

13 (A.6) EXCEPT AS PROVIDED IN THIS ARTICLE AND WITHOUT REGARD  
14 TO SECTIONS 220(F)(4) AND 223(F)(4) OF THE INTERNAL REVENUE CODE  
15 OF 1986, THE REQUIREMENTS OF SECTIONS 106(B) AND (D), 220 AND  
16 223 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED TO JANUARY  
17 1, 2005, SHALL BE APPLICABLE.

18 \* \* \*

19 SECTION 2. REPEALS ARE AS FOLLOWS:

20 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEALS UNDER  
21 THIS SECTION ARE NECESSARY TO EFFECTUATE THE AMENDMENT OF  
22 SECTION 303 OF THE ACT.

23 (2) SECTIONS 2 AND 3 OF THE ACT OF DECEMBER 19, 1996  
24 (P.L.1335, NO.179), KNOWN AS THE MEDICAL CARE SAVINGS ACCOUNT  
25 ACT, ARE REPEALED.

26 (3) SECTION 4 OF THE ACT OF JULY 14, 2005 (P.L.278,  
27 NO.48), KNOWN AS THE HEALTH SAVINGS ACCOUNT ACT, IS REPEALED.

28 SECTION 3. THIS ACT SHALL APPLY TO TAX YEARS BEGINNING AFTER  
29 DECEMBER 31, 2005.

30 SECTION 4. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.