

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 566, As Amended

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO MEDICAL SAVINGS ACCOUNTS; AMENDING SECTION 63-3022K, IDAHO
2 CODE, TO INCREASE THE MAXIMUM INCOME TAX DEDUCTION FOR CONTRIBUTIONS
3 MADE TO MEDICAL SAVINGS ACCOUNTS, TO INCREASE THE AMOUNT EMPLOYERS CAN
4 CONTRIBUTE TO MEDICAL SAVINGS ACCOUNTS FOR EMPLOYEES AND TO MAKE TECH-
5 NICAL CORRECTIONS; AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE
6 A DEDUCTION FOR AMOUNTS CONTRIBUTED TO HEALTH SAVINGS ACCOUNTS WITH A
7 MAXIMUM; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 63-3022K, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 63-3022K. MEDICAL SAVINGS ACCOUNT. (1) For taxable years commencing
13 on and after January 1, ~~1995~~ 2012, annual contributions to a medical savings
14 account not exceeding ~~two~~ five thousand dollars (\$~~25~~5,000) for the account
15 holder, if the account holder files his tax return separately or ten thou-
16 sand dollars (\$10,000) if the account holder is married filing jointly, and
17 interest earned on a medical savings account shall be deducted from taxable
18 income by the account holder, if such amount has not been previously deducted
19 or excluded in arriving at taxable income. ~~For married individuals the max-~~
20 ~~imum deduction shall be computed separately for each individual.~~ Contribu-
21 tions to the account shall not exceed the amount deductible under this sec-
22 tion.

23 (2) For the purpose of this section, the following terms have the fol-
24 lowing meanings unless the context clearly denotes otherwise:

25 (a) "Account holder" means an individual, in the case of married indi-
26 viduals each spouse, including a self-employed person, on whose behalf
27 the medical savings account is established.

28 (b) "Dependent" means a person for whom a deduction is permitted under
29 section 151(b) or (c) of the Internal Revenue Code if a deduction for the
30 person is claimed for that person on the account holder's Idaho income
31 tax return.

32 (c) "Dependent child" means a child or grandchild of the account holder
33 who is not a dependent if the account holder actually pays the eligible
34 medical expenses of the child or grandchild and the child or grandchild
35 is any of the following:

36 (i) Under twenty-one (21) years of age, or enrolled as a full-time
37 student at an accredited college or university.

38 (ii) Legally entitled to the provision of proper or necessary sub-
39 sistence, education, medical care or other care necessary for his
40 or her health, guidance or well-being and not otherwise emanci-
41 pated, self-supporting, married or a member of the armed forces of
42 the United States.

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

3 (d) "Depository" means a state or national bank, savings and loan asso-
4 ciation, credit union or trust company authorized to act as a fiduciary
5 or an insurance administrator or insurance company authorized to do
6 business in this state, a broker or investment advisor regulated by the
7 department of finance, a broker or insurance agent regulated by the
8 department of insurance or a health maintenance organization, frater-
9 nal benefit society, hospital and professional service corporation as
10 defined in section 41-3403, Idaho Code, or nonprofit mutual insurer
11 regulated under title 41, Idaho Code.

12 (e) "Eligible medical expense" means an expense paid by the taxpayer
13 for medical care described in section 213(d) of the Internal Revenue
14 Code, and long-term care expenses of the account holder and the spouse,
15 dependents and dependent children of the account holder.

16 (f) "Long-term care expenses" means expenses incurred in providing
17 custodial care in a nursing facility as defined in section 39-1301,
18 Idaho Code, and for insurance premiums relating to long-term care in-
19 surance under chapter 46, title 41, Idaho Code.

20 (g) "Medical savings account" means an account established with a de-
21 pository to pay the eligible medical expenses of the account holder and
22 the dependents and dependent children of the account holder. Medical
23 savings accounts shall carry the name of the account holder, a desig-
24 nated beneficiary or beneficiaries of the account holder and shall be
25 designated by the depository as a "medical savings account."

26 (3) Upon agreement between an employer and employee, an employer may
27 establish and contribute to the employee's medical savings account or con-
28 tribute to an employee's existing medical savings account. The total com-
29 bined annual contributions by an employer and the account holder shall not
30 exceed ~~two~~ five thousand dollars (\$25,000) for the account holder, if the ac-
31 count holder files his income tax return separately or ten thousand dollars
32 (\$10,000) if the account holder is married filing jointly. Employer contri-
33 butions to an employee's medical savings account shall be owned by the em-
34 ployee.

35 (4) Funds held in a medical savings account may be withdrawn by the ac-
36 count holder at any time. Withdrawals for the purpose of paying eligible
37 medical expenses shall not be subject to the tax imposed in this chapter. The
38 burden of proving that a withdrawal from a medical savings account was made
39 for an eligible medical expense is upon the account holder and not upon the
40 depository or the employer of the account holder. Other withdrawals shall be
41 subject to the following restrictions and penalties:

42 (a) There shall be a distribution penalty for withdrawal of funds by the
43 account holder for purposes other than the payment of eligible medical
44 expenses. The penalty shall be ten percent (10%) of the amount of with-
45 drawal from the account and, in addition, the amount withdrawn shall be
46 subject to the tax imposed in this chapter. The direct transfer of funds
47 from a medical savings account to a medical savings account at a differ-
48 ent depository shall not be considered a withdrawal for purposes of this
49 section. Charges relating to the administration and maintenance of the

1 account by the depository are not withdrawals for purposes of this sec-
2 tion.

3 (b) After an account holder reaches fifty-nine and one-half (59 1/2)
4 years of age, withdrawals may be made for eligible medical expenses or
5 for any other reason without penalty, but subject to the tax imposed by
6 this section.

7 (c) Upon the death of an account holder, the account principal, as
8 well as any interest accumulated thereon, shall be distributed without
9 penalty to the designated beneficiary or beneficiaries.

10 (d) Funds withdrawn which are later reimbursed shall be taxable unless
11 redeposited into the account within sixty (60) days of the reimburse-
12 ment. Deposits of reimbursed eligible medical expenses shall not be in-
13 cluded in calculating the amount deductible.

14 (e) Funds deposited in a medical savings account which are deposited
15 in error or unintentionally and which are withdrawn within thirty (30)
16 days of being deposited shall be treated as if the amounts had not been
17 deposited in the medical savings account. Funds withdrawn from a medi-
18 cal savings account which are withdrawn in error or unintentionally and
19 which are redeposited within thirty (30) days of being withdrawn shall
20 be treated as if the amounts had not been withdrawn from the medical sav-
21 ings account.

22 (f) Funds withdrawn which are, not later than the sixtieth day after
23 the day of the withdrawal, deposited into another medical savings ac-
24 count for the benefit of the same account holder are not a withdrawal for
25 purposes of this section and shall not be included in calculating the
26 amount deductible.

27 (5) Reporting. Depositories, in the case of medical savings accounts,
28 shall provide to the state tax commission, in the routine fashion used for
29 all interest-bearing accounts, the same information that is provided for
30 any interest-bearing bank account. So as to minimize the burden of report-
31 ing, the information shall be provided in the format in which information is
32 provided for any interest-bearing bank account to the state tax commission.
33 There shall be no other reporting requirements. Account holders shall pro-
34 vide on any state income tax form in which they take a deduction for a medical
35 savings account the account number of their medical savings account and the
36 depository at which the account is held.

37 (6) Any medical care savings account established pursuant to chapter
38 53, title 41, Idaho Code, as enacted by chapter 186, laws of 1994, may be con-
39 tinued pursuant to the provisions of this section and all duties, privileges
40 and liabilities imposed in this section upon account holders of medical care
41 savings accounts and the beneficiaries of those accounts shall apply to ac-
42 count holders of medical care savings accounts and their beneficiaries es-
43 tablished pursuant to chapter 53, title 41, Idaho Code, as enacted by chapter
44 186, laws of 1994, as if the medical care savings account were a medical sav-
45 ings account established pursuant to this section.

46 (7) (a) If the account holder's surviving spouse acquires the account
47 holder's interest in a medical savings account by reason of being the
48 designated beneficiary of such account at the death of the account
49 holder, the medical savings account shall be treated as if the spouse
50 were the account holder.

1 (b) If, by reason of the death of the account holder, any person ac-
 2 quires the account holder's interest in a medical savings account in a
 3 case to which ~~subparagraph~~ subsection (7) (a) of this section does not
 4 apply:

5 (i) Such account shall cease to be a medical savings account as of
 6 the date of death; and

7 (ii) An amount equal to the fair market value of the assets in such
 8 account on such date shall be includable, if such person is not the
 9 estate of such holder, in such person's Idaho taxable income for
 10 the taxable year which includes such date, or if such person is the
 11 estate of such holder, in such holder's Idaho taxable income for
 12 the last taxable year of such holder.

13 (c) The amount includable in Idaho taxable income ~~under subparagraph~~
 14 ~~(b) of this~~ pursuant to subsection (7) (b) of this section by any person,
 15 other than the estate, shall be reduced by the amount of qualified med-
 16 ical expenses which were incurred by the decedent before the date of the
 17 decedent's death and paid by such person within one (1) year after such
 18 date.

19 SECTION 2. That Section 63-3022, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtrac-
 22 tions set forth in this section, and in sections 63-3022A through 63-3022Q,
 23 Idaho Code, are to be applied to the extent allowed in computing Idaho tax-
 24 able income:

25 (a) Add any state and local taxes, as defined in section 164 of the In-
 26 ternal Revenue Code and, measured by net income, paid or accrued during the
 27 taxable year adjusted for state or local tax refunds used in arriving at tax-
 28 able income.

29 (b) Add the net operating loss deduction used in arriving at taxable in-
 30 come.

31 (c) (1) A net operating loss for any taxable year commencing on and
 32 after January 1, 2000, shall be a net operating loss carryback not to
 33 exceed a total of one hundred thousand dollars (\$100,000) to the two (2)
 34 immediately preceding taxable years. Any portion of the net operating
 35 loss not subtracted in the two (2) preceding years may be subtracted
 36 in the next twenty (20) years succeeding the taxable year in which the
 37 loss arises in order until exhausted. The sum of the deductions may not
 38 exceed the amount of the net operating loss deduction incurred. At the
 39 election of the taxpayer, the two (2) year carryback may be foregone and
 40 the loss subtracted from income received in taxable years arising in
 41 the next twenty (20) years succeeding the taxable year in which the loss
 42 arises in order until exhausted. The election shall be made as under
 43 section 172 (b) (3) of the Internal Revenue Code. An election under this
 44 subsection must be in the manner prescribed in the rules of the state tax
 45 commission and once made is irrevocable for the year in which it is made.
 46 The term "income" as used in this subsection (c) means Idaho taxable
 47 income as defined in this chapter as modified by section 63-3021 (b) (2),
 48 (3) and (4), Idaho Code.

1 (2) Net operating losses incurred by a corporation during a year in
2 which such corporation did not transact business in Idaho or was not
3 included in a group of corporations combined under subsection (t) of
4 section 63-3027, Idaho Code, may not be subtracted. However, if at
5 least one (1) corporation within a group of corporations combined under
6 subsection (t) of section 63-3027, Idaho Code, was transacting business
7 in Idaho during the taxable year in which the loss was incurred, then the
8 net operating loss may be subtracted. Net operating losses incurred by
9 a person, other than a corporation, in activities not taxable by Idaho
10 may not be subtracted.

11 (d) In the case of a corporation, add the amount deducted under the pro-
12 visions of sections 243(a) and (c), 244, 245 and 246A of the Internal Revenue
13 Code (relating to dividends received by corporations) as limited by section
14 246(b) (1) of said code.

15 (e) In the case of a corporation, subtract an amount determined under
16 section 78 of the Internal Revenue Code to be taxable as dividends.

17 (f) Subtract the amount of any income received or accrued during the
18 taxable year which is exempt from taxation by this state, under the provi-
19 sions of any other law of this state or a law of the United States, if not pre-
20 viously subtracted in arriving at taxable income.

21 (g) For the purpose of determining the Idaho taxable income of the bene-
22 ficiary of a trust or of an estate:

23 (1) Distributable net income as defined for federal tax purposes shall
24 be corrected for the other adjustments required by this section.

25 (2) Net operating losses attributable to a beneficiary of a trust or es-
26 tate under section 642 of the Internal Revenue Code shall be a deduction
27 for the beneficiary to the extent that income from the trust or estate
28 would be attributable to this state under the provisions of this chap-
29 ter.

30 (h) In the case of an individual who is on active duty as a full-time
31 officer, enlistee or draftee, with the armed forces of the United States,
32 which full-time duty is or will be continuous and uninterrupted for one hun-
33 dred twenty (120) consecutive days or more, deduct compensation paid by the
34 armed forces of the United States for services performed outside this state.
35 The deduction is allowed only to the extent such income is included in tax-
36 able income.

37 (i) In the case of a corporation, including any corporation included
38 in a group of corporations combined under subsection (t) of section 63-3027,
39 Idaho Code, add any capital loss deducted which loss was incurred during any
40 year in which such corporation did not transact business in Idaho. However,
41 do not add any capital loss deducted if a corporation, including any corpo-
42 ration in a group of corporations combined under subsection (t) of section
43 63-3027, Idaho Code, was transacting business in Idaho during the taxable
44 year in which the loss was incurred. In the case of persons, other than cor-
45 porations, add any capital loss deducted which was incurred in activities
46 not taxable by Idaho at the time such loss was incurred. In computing the in-
47 come taxable to an S corporation or partnership under this section, deduc-
48 tion shall not be allowed for a carryover or carryback of a net operating loss
49 provided for in subsection (c) of this section or a capital loss provided for
50 in section 1212 of the Internal Revenue Code.

1 (j) In the case of an individual, there shall be allowed as a deduction
2 from gross income either (1) or (2) at the option of the taxpayer:

3 (1) The standard deduction as defined in section 63, Internal Revenue
4 Code.

5 (2) Itemized deductions as defined in section 63 of the Internal Rev-
6 enue Code except state or local taxes measured by net income and general
7 sales taxes as either is defined in section 164 of the Internal Revenue
8 Code.

9 (k) Add the taxable amount of any lump sum distribution excluded from
10 gross income for federal income tax purposes under the ten (10) year averag-
11 ing method. The taxable amount will include the ordinary income portion and
12 the amount eligible for the capital gain election.

13 (l) Deduct any amounts included in gross income under the provisions of
14 section 86 of the Internal Revenue Code relating to certain social security
15 and railroad benefits.

16 (m) In the case of a self-employed individual, deduct the actual cost
17 of premiums paid to secure worker's compensation insurance for coverage in
18 Idaho, if such cost has not been deducted in arriving at taxable income.

19 (n) In the case of an individual, deduct the amount contributed to a
20 college savings program pursuant to chapter 54, title 33, Idaho Code, but not
21 more than four thousand dollars (\$4,000) per tax year. If the contribution
22 is made on or before April 15, 2001, it may be deducted for tax year 2000 and
23 an individual can make another contribution and claim the deduction accord-
24 ing to the limits provided in this subsection during 2001 for tax year 2001,
25 as long as the contribution is made on or before December 31, 2001.

26 (o) In the case of an individual, add the amount of a nonqualified with-
27 drawal from an individual trust account or savings account established pur-
28 suant to chapter 54, title 33, Idaho Code, less any amount of such nonqual-
29 ified withdrawal included in the individual's federal gross income pursuant
30 to section 529 of the Internal Revenue Code.

31 (p) In the case of an individual, add the amount of a withdrawal from an
32 individual trust account or savings account established pursuant to chapter
33 54, title 33, Idaho Code, transferred to a qualified tuition program, as de-
34 fined in section 529 of the Internal Revenue Code, that is operated by a state
35 other than Idaho. The addition provided in this subsection is limited to the
36 amount of the contributions to the Idaho individual trust account or savings
37 account by the account owner that were deducted on the account owner's income
38 tax return for the year of the transfer and the prior taxable year.

39 (q) In the case of an individual, deduct the amount contributed to
40 a health savings account that is qualified under federal law for payment
41 of qualifying medical expenses up to the amount of five thousand dollars
42 (\$5,000) annually for an individual filing separately and ten thousand dol-
43 lars (\$10,000) annually for a taxpayer who is married filing jointly if such
44 amount has not been deducted in arriving at taxable income.

45 SECTION 3. An emergency existing therefor, which emergency is hereby
46 declared to exist, this act shall be in full force and effect on and after its
47 passage and approval, and retroactively to January 1, 2012.