

No. 2005-48

AN ACT

HB 107

Authorizing the establishment and maintenance of health savings accounts; providing for special tax provisions; and imposing restrictions on health savings accounts.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

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

Section 2. Legislative intent.

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

Section 3. Definitions.

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

“Account beneficiary.” As defined in section 223(d)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 223(d)(3)).

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

“Health insurance policy.” An individual or group health, sickness or accident policy or subscriber contract or certificate issued by an entity subject to any one of the following:

- (1) The act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.
- (2) The act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.
- (3) The act of May 18, 1976 (P.L.123, No.54), known as the Individual Accident and Sickness Insurance Minimum Standards Act.
- (4) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).

“Health savings account.” As defined in section 223(d) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 223(d)).

“Qualified medical expenses.” As defined in section 223(d) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 223(d)).

Section 4. Special tax provisions.

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

- (1) any income of a health savings account;
- (2) any amount paid or distributed out of a health savings account that is used exclusively to pay the qualified medical expenses of the account beneficiary; and
- (3) any amount paid or distributed out of a health savings account that is used exclusively to reimburse an account beneficiary for qualified medical expenses.

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

- (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.—Except as otherwise provided under subsection (b), 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) Exception.—A health insurance policy that would qualify as a high deductible health plan under section 223(c) of the Internal Revenue Code of 1986, when offered in conjunction with a health savings account, shall not be subject to any provision of law which restricts or limits deductibles for mandated minimum health insurance benefits or reimbursements except to the extent such provision mandates benefits for preventive care, as determined by the standards set forth by the Internal Revenue Service.

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.

APPROVED—The 14th day of July, A.D. 2005.

EDWARD G. RENDELL