

JAN 21 2011

S.B. NO. 857

A BILL FOR AN ACT

RELATING TO MEDICAL SAVINGS ACCOUNTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART MEDICAL SAVINGS ACCOUNTS**

5 **§235-A Medical savings account act; establishment.** This
6 Act shall be known and may be cited as the "Medical Savings
7 Account Act."

8 **§235-B Establishment of accounts.** (a) After December 31,
9 2011, an employer may offer to establish medical savings
10 accounts.

11 (b) An employee on whose behalf a medical savings account
12 has not been established by his or her employer may establish
13 such an account on his or her own behalf.

14 (c) Each year an employer may contribute to an employee's
15 medical savings account an amount that does not exceed three
16 thousand dollars.

17 (d) If an employer establishes a medical savings account
18 for an employee but contributes less than the maximum set forth



1 in subsection (c), the employee may contribute the difference in
2 accordance with the provisions of section 235-C.

3 **§235-C Employee contributions; pretax.** (a) All employee
4 contributions to medical savings accounts shall be made on a
5 pretax basis. Such contributions are subject to the same
6 limitations as employer contributions.

7 (b) An employee shall elect to make contributions to his
8 or her medical savings account by signing a written election.
9 Such election is to be in the form prescribed by the director of
10 the department of taxation and is to be signed prior to the date
11 the employer withholds the first contribution.

12 **§235-D Employer contributions; tax deduction.** Employer
13 contributions to employee medical savings accounts shall
14 constitute a deduction from the employer's state taxable income.

15 **§235-E Distributions.** (a) An account holder shall submit
16 documentation of eligible medical expenses paid during the tax
17 year to the account administrator, and the account administrator
18 shall reimburse the account holder for such expenses.

19 (b) Moneys may be distributed from a medical savings
20 account only for the purpose of:



1 (1) Reimbursing the eligible medical expenses of the
2 account holder or his or her spouse or dependent
3 child;

4 (2) Cashing out the balance in the account of a deceased
5 account holder; or

6 (3) Cashing out an account holder's prior year's balance.

7 (c) An account holder may withdraw the balance in his or
8 her account for any reason if such withdrawal occurs after the
9 end of the year in which the moneys were contributed; however,
10 such distributed moneys are subject to state income tax pursuant
11 to section 235-G.

12 **§235-F Restrictions.** An account holder shall not use
13 account moneys to fund a policy that covers the deductible for a
14 qualified higher deductible health plan.

15 **§235-G Taxation of account moneys.** (a) Account moneys,
16 including interest income, are not to be taxed as Hawaii
17 adjusted gross income if they are:

18 (1) In an employee's medical savings account; or

19 (2) Withdrawn to pay eligible medical expenses.

20 (b) Account moneys are to be taxed as Hawaii adjusted
21 gross income when such moneys are withdrawn for purposes other
22 than the payment of eligible medical expenses.



1 (c) Upon the death of the account holder, the account
2 principal, as well as any accumulated interest, is to be
3 distributed to and taxed as part of the decedent's estate, as
4 provided by law.

5 §235-H Portability. An account holder is the owner of his
6 or her medical savings account and may change the account
7 administrator of such an account upon leaving the employ of his
8 or her employer."

9 SECTION 2. In codifying the new sections added by section
10 1 of this Act, the revisor of statutes shall substitute
11 appropriate section numbers for the letters used in designating
12 the new sections in this Act.

13 SECTION 3. If any provision of this Act, or the
14 application thereof to any person or circumstance is held
15 invalid, the invalidity does not affect other provisions or
16 applications of the Act, which can be given effect without the
17 invalid provision or application, and to this end the provisions
18 of this Act are severable.

19 SECTION 4. This Act shall take effect on July 1, 2011, and
20 shall apply to taxable years beginning after December 31, 2011.

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Report Title:

Medical savings accounts

Description:

Establishes medical savings accounts.

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