

31A-32a-105 Withdrawals -- Termination -- Transfers.

- (1) Subject to Subsection (3), if the employee or account holder withdraws money for any purpose other than a medical expense at any time in which the balance in the account is below \$4,000:
 - (a) the amount of the withdrawal shall be added to adjusted gross income in accordance with Section 59-10-114; and
 - (b) the administrator shall withhold from the amount of the withdrawal, and on behalf of the employee or account holder shall pay a penalty to the State Tax Commission equal to 10% of the amount of the withdrawal.
- (2) If an employee or account holder withdraws money from the employee's or account holder's medical care savings account for any purpose other than a medical expense, but the withdrawal occurs when the balance in the medical care savings account is over \$4,000, and the withdrawal will not result in the account balance dropping below \$4,000, the amount of the withdrawal:
 - (a) is not subject to the penalties described in Subsection (1)(b); and
 - (b) shall be added to adjusted gross income in accordance with Section 59-10-114.
- (3) The amount of a disbursement of any assets of a medical care savings account pursuant to a filing for protection under 11 U.S.C. Sec. 101 to 1330, by an employee, account holder, or person for whose benefit the account was established:
 - (a) is not considered a withdrawal for purposes of this section; and
 - (b) shall be added to adjusted gross income in accordance with Section 59-10-114.
- (4)
 - (a) Upon the death of the employee or account holder, the account administrator shall distribute the principal and accumulated interest of the medical care savings account to the estate of the employee or account holder.
 - (b) A distribution under this Subsection (4) is not subject to the penalties described in Subsection (1)(b).
- (5)
 - (a) If an employee is no longer employed by an employer that participates in a medical care savings account program, and if the employee's account is administered by the employer's account administrator, the money in the medical care savings account may be used for the benefit of the employee or the employee's dependents in accordance with this chapter, and may not be added to adjusted gross income under Section 59-10-114 if the employee, not more than 60 days after the employee's final day of employment:
 - (i) transfers the account to a new account administrator; or
 - (ii)
 - (A) requests in writing to the former employer's account administrator that the account remain with that administrator; and
 - (B) the account administrator agrees to retain the account.
 - (b) Not more than 30 days after the expiration of the 60 days described in Subsection (5)(a), if an account administrator has not accepted the former employee's account, the employer shall mail a check to the former employee at the employee's last-known address equal to the amount in the account on that day.
 - (c) The amount mailed to the employee under Subsection (5)(b) shall be added to adjusted gross income in accordance with Section 59-10-114, but is not subject to the penalties under Subsection (1)(b).
 - (d) If an employee becomes employed with a different employer that participates in a medical care savings account program, the employee may transfer the employee's medical care savings account to that new employer's account administrator.

- (e) If an account holder becomes an employee of an employer that participates in a medical care savings account program, the account holder may transfer the account holder's account to the employer's account administrator.

Amended by Chapter 389, 2008 General Session