

Senator Deidre M. Henderson proposes the following substitute bill:

MEDICAL CARE SAVINGS ACCOUNT TAX CREDIT

REPEAL

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jeremy A. Peterson

Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This bill repeals the medical care savings account tax credit.

Highlighted Provisions:

This bill:

- ▶ repeals the medical care savings account tax credit; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

31A-32a-101, as last amended by Laws of Utah 2008, Chapter 389

31A-32a-106, as last amended by Laws of Utah 2008, Chapter 389

59-10-114, as last amended by Laws of Utah 2010, Chapter 6

59-10-1002.2, as last amended by Laws of Utah 2011, Chapter 302

REPEALS:



26 **59-10-1021**, as enacted by Laws of Utah 2008, Chapter 389

27

28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **31A-32a-101** is amended to read:

30 **31A-32a-101. Title.**

31 [(†)] This chapter is known as the "Medical Care Savings Account Act."

32 [(2) (a) ~~This chapter applies only to a medical care savings account established for the~~
33 ~~purpose of seeking a tax credit under Section 59-10-1021.~~]

34 [(b) ~~This chapter does not apply to a medical care savings account with respect to~~
35 ~~which a tax credit is not claimed under Section 59-10-1021.~~]

36 Section 2. Section **31A-32a-106** is amended to read:

37 **31A-32a-106. Regulation of account administrators -- Administration of addition**
38 **to adjusted gross income and tax credit -- Rulemaking authority.**

39 (1) The department shall regulate account administrators and may adopt rules
40 necessary to administer this chapter.

41 (2) The State Tax Commission may adopt rules necessary to monitor and implement
42 the[(†)(a)] amounts required to be added to adjusted gross income in accordance with Sections
43 **31A-32a-105** and **59-10-114**[; ~~or~~].

44 [(b) ~~amount claimed as a tax credit in accordance with Section 59-10-1021.~~]

45 Section 3. Section **59-10-114** is amended to read:

46 **59-10-114. Additions to and subtractions from adjusted gross income of an**
47 **individual.**

48 (1) There shall be added to adjusted gross income of a resident or nonresident
49 individual:

50 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income
51 on the taxpayer's federal individual income tax return for the taxable year;

52 (b) the amount of a child's income calculated under Subsection (4) that:

53 (i) a parent elects to report on the parent's federal individual income tax return for the
54 taxable year; and

55 (ii) the parent does not include in adjusted gross income on the parent's federal
56 individual income tax return for the taxable year;

57 (c) (i) a withdrawal from a medical care savings account and any penalty imposed for
58 the taxable year if:

59 (A) the resident or nonresident individual does not deduct the amounts on the resident
60 or nonresident individual's federal individual income tax return under Section 220, Internal
61 Revenue Code;

62 (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

63 (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a
64 return the resident or nonresident individual files under this chapter:

65 [~~(F) subtracted on a return the resident or nonresident individual files under this chapter~~
66 ~~for a taxable year beginning on or before December 31, 2007; or]~~

67 [~~(H) used as the basis for a resident or nonresident individual to claim a tax credit~~
68 ~~under Section 59-10-1021;]~~

69 (ii) a disbursement required to be added to adjusted gross income in accordance with
70 Subsection 31A-32a-105(3); or

71 (iii) an amount required to be added to adjusted gross income in accordance with
72 Subsection 31A-32a-105(5)(c);

73 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,
74 from the account of a resident or nonresident individual who is an account owner as defined in
75 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount
76 withdrawn from the account of the resident or nonresident individual who is the account
77 owner:

78 (i) is not expended for:

79 (A) higher education costs as defined in Section 53B-8a-102; or

80 (B) a payment or distribution that qualifies as an exception to the additional tax for
81 distributions not used for educational expenses provided in Sections 529(c) and 530(d),
82 Internal Revenue Code; and

83 (ii) is:

84 (A) subtracted by the resident or nonresident individual:

85 (I) who is the account owner; and

86 (II) on the resident or nonresident individual's return filed under this chapter for a
87 taxable year beginning on or before December 31, 2007; or

88 (B) used as the basis for the resident or nonresident individual who is the account
89 owner to claim a tax credit under Section 59-10-1017;

90 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of
91 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
92 evidences of indebtedness issued by one or more of the following entities:

93 (i) a state other than this state;

94 (ii) the District of Columbia;

95 (iii) a political subdivision of a state other than this state; or

96 (iv) an agency or instrumentality of an entity described in Subsections (1)(e)(i) through
97 (iii);

98 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a
99 resident trust of income that was taxed at the trust level for federal tax purposes, but was
100 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

101 (g) any distribution received by a resident beneficiary of a nonresident trust of
102 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
103 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
104 was not taxed at the trust level by any state, with undistributed distributable net income
105 considered to be distributed from the most recently accumulated undistributed distributable net
106 income; and

107 (h) any adoption expense:

108 (i) for which a resident or nonresident individual receives reimbursement from another
109 person; and

110 (ii) to the extent to which the resident or nonresident individual subtracts that adoption
111 expense:

112 (A) on a return filed under this chapter for a taxable year beginning on or before
113 December 31, 2007; or

114 (B) from federal taxable income on a federal individual income tax return.

115 (2) There shall be subtracted from adjusted gross income of a resident or nonresident
116 individual:

117 (a) the difference between:

118 (i) the interest or a dividend on an obligation or security of the United States or an

119 authority, commission, instrumentality, or possession of the United States, to the extent that
120 interest or dividend is:

121 (A) included in adjusted gross income for federal income tax purposes for the taxable
122 year; and

123 (B) exempt from state income taxes under the laws of the United States; and

124 (ii) any interest on indebtedness incurred or continued to purchase or carry the
125 obligation or security described in Subsection (2)(a)(i);

126 (b) for taxable years beginning on or after January 1, 2000, if the conditions of
127 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

128 (i) during a time period that the Ute tribal member resides on homesteaded land
129 diminished from the Uintah and Ouray Reservation; and

130 (ii) from a source within the Uintah and Ouray Reservation;

131 (c) an amount received by a resident or nonresident individual or distribution received
132 by a resident or nonresident beneficiary of a resident trust:

133 (i) if that amount or distribution constitutes a refund of taxes imposed by:

134 (A) a state; or

135 (B) the District of Columbia; and

136 (ii) to the extent that amount or distribution is included in adjusted gross income for
137 that taxable year on the federal individual income tax return of the resident or nonresident
138 individual or resident or nonresident beneficiary of a resident trust;

139 (d) the amount of a railroad retirement benefit:

140 (i) paid:

141 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
142 seq.;

143 (B) to a resident or nonresident individual; and

144 (C) for the taxable year; and

145 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
146 that resident or nonresident individual's federal individual income tax return for that taxable
147 year; and

148 (e) an amount:

149 (i) received by an enrolled member of an American Indian tribe; and

150 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
151 part on that amount in accordance with:

152 (A) federal law;

153 (B) a treaty; or

154 (C) a final decision issued by a court of competent jurisdiction.

155 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

156 (i) the taxpayer is a Ute tribal member; and

157 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the

158 requirements of this Subsection (3).

159 (b) The agreement described in Subsection (3)(a):

160 (i) may not:

161 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

162 (B) provide a subtraction under this section greater than or different from the

163 subtraction described in Subsection (2)(b); or

164 (C) affect the power of the state to establish rates of taxation; and

165 (ii) shall:

166 (A) provide for the implementation of the subtraction described in Subsection (2)(b);

167 (B) be in writing;

168 (C) be signed by:

169 (I) the governor; and

170 (II) the chair of the Business Committee of the Ute tribe;

171 (D) be conditioned on obtaining any approval required by federal law; and

172 (E) state the effective date of the agreement.

173 (c) (i) The governor shall report to the commission by no later than February 1 of each

174 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is

175 in effect.

176 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the

177 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or

178 after the January 1 following the termination of the agreement.

179 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,

180 Utah Administrative Rulemaking Act, the commission may make rules:

181 (i) for determining whether income is derived from a source within the Uintah and
182 Ouray Reservation; and

183 (ii) that are substantially similar to how adjusted gross income derived from Utah
184 sources is determined under Section 59-10-117.

185 (4) (a) For purposes of this Subsection (4), "Form 8814" means:

186 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
187 Interest and Dividends; or

188 (ii) (A) a form designated by the commission in accordance with Subsection
189 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal
190 individual income taxes the information contained on 2000 Form 8814 is reported on a form
191 other than Form 8814; and

192 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter
193 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as
194 being substantially similar to 2000 Form 8814 if for purposes of federal individual income
195 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
196 8814.

197 (b) The amount of a child's income added to adjusted gross income under Subsection
198 (1)(b) is equal to the difference between:

199 (i) the lesser of:

200 (A) the base amount specified on Form 8814; and

201 (B) the sum of the following reported on Form 8814:

202 (I) the child's taxable interest;

203 (II) the child's ordinary dividends; and

204 (III) the child's capital gain distributions; and

205 (ii) the amount not taxed that is specified on Form 8814.

206 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences
207 of indebtedness issued by an entity described in Subsections (1)(e)(i) through (iv) may not be
208 added to adjusted gross income of a resident or nonresident individual if, as annually
209 determined by the commission:

210 (a) for an entity described in Subsection (1)(e)(i) or (ii), the entity and all of the
211 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on

212 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or
213 (b) for an entity described in Subsection (1)(e)(iii) or (iv), the following do not impose
214 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of
215 this state:

- 216 (i) the entity; or
- 217 (ii) (A) the state in which the entity is located; or
- 218 (B) the District of Columbia, if the entity is located within the District of Columbia.

219 Section 4. Section **59-10-1002.2** is amended to read:

220 **59-10-1002.2. Apportionment of tax credits.**

221 (1) A nonresident individual or a part-year resident individual that claims a tax credit
222 in accordance with Section [59-10-1017](#), [59-10-1018](#), [59-10-1019](#), [~~[59-10-1021](#)~~], [59-10-1022](#),
223 [59-10-1023](#), [59-10-1024](#), or [59-10-1028](#) may only claim an apportioned amount of the tax
224 credit equal to:

- 225 (a) for a nonresident individual, the product of:
 - 226 (i) the state income tax percentage for the nonresident individual; and
 - 227 (ii) the amount of the tax credit that the nonresident individual would have been
228 allowed to claim but for the apportionment requirements of this section; or
- 229 (b) for a part-year resident individual, the product of:
 - 230 (i) the state income tax percentage for the part-year resident individual; and
 - 231 (ii) the amount of the tax credit that the part-year resident individual would have been
232 allowed to claim but for the apportionment requirements of this section.

233 (2) A nonresident estate or trust that claims a tax credit in accordance with Section
234 [59-10-1017](#), [59-10-1020](#), [59-10-1022](#), [59-10-1024](#), or [59-10-1028](#) may only claim an
235 apportioned amount of the tax credit equal to the product of:

- 236 (a) the state income tax percentage for the nonresident estate or trust; and
- 237 (b) the amount of the tax credit that the nonresident estate or trust would have been
238 allowed to claim but for the apportionment requirements of this section.

239 Section 5. **Repealer.**

240 This bill repeals:

241 Section [59-10-1021](#), **Nonrefundable medical care savings account tax credit.**

242 Section 6. **Effective date.**

243 This bill takes effect for a taxable year beginning on or after January 1, 2017, except
244 that the amendments to Section [31A-32a-101](#) and Section [31A-32a-106](#) in this bill take effect
245 on January 1, 2017.