

HB0170S01 compared with HB0170

~~text~~ shows text that was in HB0170 but was deleted in HB0170S01.

text shows text that was not in HB0170 but was inserted into HB0170S01.

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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.

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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:

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

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

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

31A-32a-101. Title.

~~[(1)]~~ This chapter is known as the "Medical Care Savings Account Act."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(H) used as the basis for a resident or nonresident individual to claim a tax credit under Section 59-10-1021 { for a taxable year ending on or before December 31, 2016};]~~

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

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

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

(i) is not expended for:

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

(B) a payment or distribution that qualifies as an exception to the additional tax for

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distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

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

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

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

(i) a state other than this state;

(ii) the District of Columbia;

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

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

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

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

(h) any adoption expense:

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

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

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

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

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

(a) the difference between:

(i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:

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

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

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

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

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

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

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

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

(A) a state; or

(B) the District of Columbia; and

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

(d) the amount of a railroad retirement benefit:

(i) paid:

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

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- (B) to a resident or nonresident individual; and
- (C) for the taxable year; and
- (ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year; and
- (e) an amount:
 - (i) received by an enrolled member of an American Indian tribe; and
 - (ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:
 - (A) federal law;
 - (B) a treaty; or
 - (C) a final decision issued by a court of competent jurisdiction.
- (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:
 - (i) the taxpayer is a Ute tribal member; and
 - (ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).
 - (b) The agreement described in Subsection (3)(a):
 - (i) may not:
 - (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
 - (B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or
 - (C) affect the power of the state to establish rates of taxation; and
 - (ii) shall:
 - (A) provide for the implementation of the subtraction described in Subsection (2)(b);
 - (B) be in writing;
 - (C) be signed by:
 - (I) the governor; and
 - (II) the chair of the Business Committee of the Ute tribe;
 - (D) be conditioned on obtaining any approval required by federal law; and
 - (E) state the effective date of the agreement.
 - (c) (i) The governor shall report to the commission by no later than February 1 of each

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

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

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

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

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

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

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

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

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

(i) the lesser of:

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

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

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

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

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

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

(a) for an entity described in Subsection (1)(e)(i) or (ii), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

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

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

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

59-10-1002.2. Apportionment of tax credits.

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

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

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

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

Section 5. **Repealer.**

This bill repeals:

Section **59-10-1021, Nonrefundable medical care savings account tax credit.**

Section 6. **Effective date.**

This bill takes effect **for a taxable year beginning on or after January 1, 2017, except that the amendments to Section 31A-32a-101 and Section 31A-32a-106 in this bill take effect on January 1, 2017.**

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Legislative Review Note

Office of Legislative Research and General Counsel†