

DEPARTMENT OF REVENUE

Taxation Division

INCOME TAX

1 CCR 201-2

~~Rule 39-22-504(7). Medical Savings Accounts.~~

~~(1) Establishment of Medical Savings Accounts.~~

- ~~(a) On or after January 1, 1995, an employer may offer to establish medical savings accounts for his employees. Such accounts are to be established by agreement between the employer and a qualified medical savings account administrator. A separate account is to be established for each employee who elects to have a medical savings account.~~
- ~~(b) If an employer does not establish a medical savings account for an employee, the employee may establish his own medical savings account by agreement with a qualified medical savings account administrator.~~

~~(2) Contributions to Medical Savings Accounts.~~

- ~~(a) Each year a maximum of \$3,000 may be contributed to an employee's medical savings account. The contribution may be made by the employer, by the employee, or by a combination of the two. If the employer established the account and the employee is making the contribution, the employer shall withhold the contribution from the employee's wages and shall immediately transmit the amount withheld to the account administrator. The timing of the withholding and the amount of the withholding shall be by agreement between the employee and the employer.~~
- ~~(b) Amounts contributed to a medical savings account by or on behalf of an employee and interest earned thereon shall be an allowable modification decreasing the employee's federal taxable income for the purpose of determining Colorado taxable income.~~
- ~~(c) The employee shall elect to make contributions to a medical savings account by signing an election form provided by or approved by the Department of Revenue.~~

~~(3) Distributions from a Medical Savings Account.~~

- ~~(a) Money may be distributed from a medical savings account for only one of three reasons:
 - ~~(i) to reimburse the eligible medical expenses of the account holder, the spouse of the account holder, or the dependent child of the account holder;~~
 - ~~(ii) cashing out the balance in the account of a deceased account holder, or~~
 - ~~(iii) cashing out an account holder's prior years' balance.~~~~
- ~~(b) Money withdrawn from a medical savings account for any reason other than the payment of eligible medical expenses of the account holder, the spouse of the account holder or the child of the account holder shall be taxable income for Colorado income tax purposes~~

~~and shall be a modification increasing federal taxable income in arriving at Colorado taxable income of the account holder, the account holder's estate, or the beneficiary receiving the money, as the case may be.~~

~~(4) — **Report of Account Administrator.**~~

~~(a) — The account administrator must submit an annual report to the account holder for each calendar year within 31 days after the close of the calendar year for inclusion with the account holder's income tax return.~~

~~(b) — The annual report required by this paragraph (4) must show:~~

~~(i) — the account holder's name and social security number;~~

~~(ii) — the account administrator's name and Colorado income tax account number;~~

~~(iii) — the balance in the medical savings account as of the beginning of the calendar year;~~

~~(iv) — the contributions to the account during the calendar year;~~

~~(v) — the distributions from the account during the calendar year to reimburse the account holder for eligible medical expenses;~~

~~(vi) — the distributions from the account during the calendar year for other purposes;~~

~~(vii) — the amount of interest earned by and credited to the account during the calendar year;~~

~~(viii) — the fiduciary fees and other amounts charged to the account during the calendar year; and~~

~~(ix) — the balance in the medical savings account as of the close of the calendar year.~~

~~(c) — With regard to distributions from a medical savings account, distributions for the purpose of reimbursing the account holder for eligible medical expenses shall be deemed to be from the last monies contributed or credited to the account, and distributions for other purposes shall be deemed to be from the earliest contributions or credits remaining in the account at the time of the distribution.~~

~~(d) — It shall be the responsibility of the account administrator to make an informed decision as to whether or not a distribution is made for the purpose of reimbursing an eligible medical expense.~~

~~(5) — **Portability.** An employee may move his medical savings account from one account administrator to another only upon termination of employment. This is done by directing the first administrator to transfer the funds to the second administrator. The employee cannot move the funds himself as this would cause a taxable disbursement from the account.~~