

# FYI – For Your Information

## Medical Savings Accounts

### GENERAL INFORMATION

Any Colorado employer, other than the federal government, may offer to establish medical savings accounts for its employees. [§39-22-504.7, C.R.S.] This medical savings account is established by Colorado law and differs from the Archer medical savings account established by federal law.

An employee may establish a medical savings account independently from an employer if the employer has not established such an account for the employee. Self-employed persons may not establish medical savings accounts.

The maximum amount that may be contributed to a medical savings account is \$3,000 a year. The contribution may be made by the employer, by the employee, or by a combination of the two. Any amounts contributed to a medical savings account and any interest earned are Colorado tax free to the employee as long as such funds remain in the account.

### SUBTRACTION FROM INCOME

To the extent not otherwise claimed as a deduction in arriving at federal taxable income, amounts contributed may be claimed by the employee as a subtraction in determining Colorado taxable income on federal income. If the employer establishes the medical savings account for the employee, the employer shall withhold the agreed to amounts from the employee's wages and submit the

amounts withheld to an account administrator. The withheld amounts are subject to federal and Colorado tax withholding. If the employee establishes a medical savings account, the employee is responsible for making the deposits with the account administrator.

### DEFINITIONS

A “medical savings account” is an account established to pay the eligible medical expenses of an account holder, the account holder's spouse and dependent children, if any.

“Eligible medical expenses” are those expenses deductible for federal income tax purposes. Examples of these are: doctor bills, hospital bills, prescriptions, and travel expenses for medical care.

An “account holder” is an employee on whose behalf a medical savings account is established.

A “dependent child” is any person who

- a) is under the age of 21;
- b) is legally entitled to or the subject of a court order for the provision of proper or necessary subsistence, education, medical care, or any other care necessary for his or her health guidance or well-being, and who is not otherwise self-supporting, married or a member of the U.S. armed forces; or
- c) cannot be self-supporting because of mental or physical disability.  
[§39-22-504.6, C.R.S.]



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## **MEDICAL SAVINGS ACCOUNT ADMINISTRATOR**

The medical savings account administrator must be one of the following: [§39-22-504.6, C.R.S.]

- a) a state chartered bank, savings and loan association, credit union, or trust company authorized to act as a fiduciary and under the supervision of the financial institutions bureau of the United States Department of Commerce;
- b) a national banking association, federal savings and loan association, or credit union authorized to act as a fiduciary in Colorado;
- c) an insurance company; or
- d) the employer maintaining a self-insured health plan meeting the requirements of the federal "employee retirement income security act," as amended.

The account holder may change the account administrator upon leaving the employment where the medical savings account was originally established. [§39-22-504.7(7), C.R.S.]

## **USE OF THE MEDICAL SAVINGS ACCOUNT**

Moneys may be distributed from a medical savings account only for the purpose of

- a) reimbursing the eligible medical expenses of the account holder, spouse or dependent child;
- b) cashing out the balance in the account of a deceased account holder; or
- c) cashing out an account holder's prior year balance for whatever purpose.

An account holder must submit documentation of eligible medical expenses paid during the tax year to the account administrator. The account administrator shall reimburse the account holder for such expenses. [§39-22-504.7(3), C.R.S.]

An employee who decides to have a Medical Savings Account must sign an "Employee Election: Medical Savings Account" (DR 0810). The form must be signed before the employer withholds the first contribution to the insurance plan.

Amounts withdrawn from a medical savings account for purposes other than paying eligible medical expenses become taxable income to the account holder or to his estate as of the date such funds are withdrawn and must be added to federal taxable income on Form 104 (Individual) or Form 105 (Fiduciary). [§39-22-504.7(6), C.R.S.]

## **FURTHER INFORMATION**

For more information on related topics, consult the following DOR publications:

- FYI Income 30 "Catastrophic Health Insurance"

FYIs, commonly used forms and additional tax information are available on the Web at [www.taxcolorado.com](http://www.taxcolorado.com)

For additional Colorado tax information visit the "Tax Information Index" which covers a variety of topics including links to forms, publications, regulations, statutes and general questions and answers. The "Tax Information Index" is located at [www.taxcolorado.com](http://www.taxcolorado.com)

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having authority to bind the Department, has not formally reviewed and/or approved these FYIs.