



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBs0007/2  
MES&JK:jld:ch

**ASSEMBLY SUBSTITUTE AMENDMENT 3,  
TO 2005 ASSEMBLY BILL 4**

January 27, 2005 – Offered by Representative STASKUNAS.

1 **AN ACT to create** 71.83 (1) (ce) and subchapter XVI of chapter 71 [precedes 71.98]  
2 of the statutes; **relating to:** adopting federal law as it relates to health savings  
3 accounts for state income and franchise tax purposes and providing a penalty.

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***Analysis by the Legislative Reference Bureau***

This substitute amendment adopts, for state income and franchise tax purposes, section 1201 of Public Law 108-173 as it relates to claiming a deduction for an amount that a person pays into a health savings account, except that it only applies to individuals who have not had health insurance within the 60 days previous to their claim for the deduction that this substitute amendment allows, and to businesses that have not provided health insurance to their employees within the 60 days previous to their claim for the deduction that this substitute amendment allows.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

4 **SECTION 1.** 71.83 (1) (ce) of the statutes is created to read:  
5 71.83 (1) (ce) *Health savings accounts.* Any person who is liable for a penalty  
6 for federal income tax purposes under section 223 (f) (4) of the Internal Revenue Code

1 is liable for a penalty equal to 33 percent of that penalty. The department of revenue  
2 shall assess, levy, and collect the penalty under this paragraph as it assesses, levies,  
3 and collects taxes under this chapter.

4 **SECTION 2.** Subchapter XVI of chapter 71 [precedes 71.98] of the statutes is  
5 created to read:

## 6 **CHAPTER 71**

### 7 **SUBCHAPTER XVI**

#### 8 **INTERNAL REVENUE CODE UPDATE**

9 **71.98 Internal Revenue Code update.** The following federal laws, to the  
10 extent that they apply to the Internal Revenue Code, apply to this chapter:

11 **(1) HEALTH SAVINGS ACCOUNTS.** Section 1201 of P.L. 108–173, relating to health  
12 savings accounts, except that this subsection applies only to the following:

13 (a) With regard to an individual, only an individual who was not covered by any  
14 kind of health insurance within the 60 days previous to the time he or she claims a  
15 deduction under this subsection.

16 (b) With regard to a person other than an individual, only such a person that  
17 did not provide any kind of health insurance to its employees within the 60 days  
18 previous to the time the person claims a deduction under this subsection.

#### 19 **SECTION 3. Initial applicability.**

20 (1) This act first applies to taxable years beginning on January 1 of the year  
21 in which this subsection takes effect, except that if this subsection takes effect after  
22 July 31 this act first applies to taxable years beginning on January 1 of the year  
23 following the year in which this subsection takes effect.

24 **(END)**