



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Senate Bill 7

**Senate Substitute
Amendment 1**

Memo published: January 21, 2005

Contact: Joyce L. Kiel, Senior Staff Attorney

Under *current federal law*, eligible individuals covered by a high deductible health plan that meets certain requirements may make contributions to a health savings account (HSA) from which distributions may be made to pay for qualified medical expenses of the HSA beneficiary. The contributions to (up to certain limits) and the earnings on an HSA may be deducted in determining adjusted gross income for purposes of federal income tax. An eligible individual's employer also may make tax-free contributions to an HSA on behalf of an eligible employee under certain circumstances. Distributions from an HSA are not subject to federal income tax if they are used to pay for qualified medical expenses of the HSA beneficiary.

Under *current state law*, income from which contributions are made to an HSA and earnings on an HSA are included in an individual's income for purposes of state income tax, that is, the contributions and earnings are not tax free.

2005 Senate Bill 7 would provide a nonrefundable credit against the individual's state income tax for 6.5% of the allowable federal deduction for contributions made by an eligible individual to and earnings on an HSA. (The bill did not apply the credit to contributions to an HSA made by an employer on behalf of an eligible individual.) As under federal law, distributions for qualified medical expenses would not be included in taxable income.

The act would first apply to taxable years beginning on January 1, 2005.

Senate Substitute Amendment 1 to 2005 Senate Bill 4 would adopt federal law as it relates to HSAs, that is, if the conditions specified in federal law are met, contributions (up to certain limits) by an eligible individual and his or her employer to and earnings on an HSA are deducted from income in determining state income tax. Also, distributions from an HSA for qualified medical expenses would not be included in taxable income.

The substitute amendment provides that the act would first apply to taxable years beginning on January 1 of the year in which the act takes effect, except that if the act takes effect after July 31, the act first applies to taxable years beginning on the following January 1.

Legislative History

Senate Substitute Amendment 1 to the bill was offered by the Joint Committee on Finance. That committee recommended adoption of the substitute amendment on a vote of Ayes, 12; Noes, 4. The committee then recommended passage of the bill, as amended, on a vote of Ayes, 12; Noes, 4.

JLK:wu