

2003 DRAFTING REQUEST

Bill

Received: **05/17/2004**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Alberta Darling (608) 266-5830**

By/Representing: **Jess**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters: **jkreye**

Subject: **Tax (indiv) - misc.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Darling@legis.state.wi.us** ✓

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us** ✓

Pre Topic:

No specific pre topic given

Topic:

IRC update for health savings accounts

Instructions:

Based on AB 815, LRB -4165, but first applies in TY 2005

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 05/17/2004	wjackson 05/17/2004					State Tax
/1			jfrantze 05/17/2004		Inorthro 05/17/2004	sbasford 05/17/2004 sbasford 05/17/2004	State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	mshovers 05/18/2004	jdye 05/18/2004 jdye 05/18/2004	chaugen 05/18/2004	_____	sbasford 05/18/2004	sbasford 05/18/2004	

FE Sent For:

<END>

↳ At
Intro.

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/1 <i>12 MES 5/18/04</i>		<i>125/18 jld</i>	jfrantze 05/17/2004	_____	lnorthro 05/17/2004	sbasford 05/17/2004 sbasford 05/17/2004	
			<i>CM 5-17</i>	<i>5-17</i>			

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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1?	mshovers	1 WLj 5/17	5/17	J. P. G.			
1	MES	5/17/04		5/17			

FE Sent For:

<END>

- 4577/1

LRB-4165/1

MES&JK:lang:jl

WANTED today
1 PM

WLJ
RMNR

2003 ASSEMBLY BILL 815

February 5, 2004 - Introduced by Representatives LADWIG, WEBER, GOTTLIEB, GIELOW, HONADEL, JENSEN, MONTGOMERY, VUKMIR, WIECKERT, ALBERS, BIES, GUNDERSON, HAHN, HINES, HUNDERTMARK, KAUFERT, KREIBICH, M. LEHMAN, LEMAHIEU, MCCORMICK, MUSSER, NISCHKE, PETTIS, STONE, TOWNSEND, VAN ROY, M. WILLIAMS, J. WOOD, GARD and PETROWSKI, cosponsored by Senators DARLING, BROWN, KANAVAS, LAZICH, REYNOLDS, SCHULTZ, STEPP and WELCH. Referred to Committee on Insurance.

Re gen

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

No ft

Analysis by the Legislative Reference Bureau

This bill 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. The bill first applies to taxable years beginning

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

4 SECTION 1. Subchapter XVI of chapter 71 [precedes 71.98] of the statutes is
5 created to read:

after December 31, 2004

ASSEMBLY BILL 815

CHAPTER 71

SUBCHAPTER XVI

INTERNAL REVENUE CODE UPDATE

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

(1) **HEALTH SAVINGS ACCOUNTS.** For taxable years beginning after December 31,

~~2003~~ ²⁰⁰⁴, section 1201 of P.L. 108-173, relating to health savings accounts.

(END)

Basford, Sarah

From: Petri, Tom
Sent: Monday, May 17, 2004 2:31 PM
To: LRB.Legal
Subject: Draft review: LRB 03-4577/1 Topic: IRC update for health savings accounts

It has been requested by <Petri, Tom> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-4577/1 Topic: IRC update for health savings accounts

Shovers, Marc

From: Tormey, Jessica
Sent: Tuesday, May 18, 2004 10:26 AM
To: Shovers, Marc; Grant, Peter; Ottman, Tad; Russell, Faith; Harmelink, Diane; Marchant, Robert; Volz, David

It is my understanding the Senate's version of the Health Savings Account bill is LRB 4577/1 and the Assembly's version is LRB 4580/1. Faith Russell at LFB indicated she was working on changes to the Assembly draft, and that she had to submit an additional change this am. Those changes, in total, to the Assembly version should also be adopted for the Senate version. I was asked by the Seante Chief Clerk to get the Senate LRB number (and a draft when possible) so a paper ballot can be sent to Senate Org. While Marc Shovers wasn't available this moment, Peter Grant confirmed we could have those changes (even if substantive), in the form of a "slash 2" verses alternative LRB numbers. Therefore, it appears both the paper ballots and the LFB papers could be Assembly LRB 4577/2 and Senate LRB 4580/2?

I'm cc'ing several people hoping to ensure everyone is on the same page. Please let me know when I can confirm this for the Chief Clerk.

Shovers, Marc

From: Russell, Faith
Sent: Tuesday, May 18, 2004 9:48 AM
To: Shovers, Marc
Subject: LRBs0480/1

Marc,

I left a voice mail message for you regarding a redraft of LRB 4580/1. That would mean that the substitute amendment, LRBs0480/1 would also have to be redrafted to change the reference. However, there is another change we'll need to the sub. As I mentioned to you yesterday, section 1201 of the federal law imposes a 10% additional tax on HSA distributions not used for qualified purposes. After talking with DOR, they agree that we need language to pick this up. They have suggested the following:

sec. 71.83(1)(e) *Health savings accounts*. Any person who is liable for a penalty for federal income tax purposes under section 223 (f)(4) of the Internal Revenue Code is liable for a penalty equal to 33% of that penalty. The department of revenue shall assess, levy and collect the penalty under this paragraph as it assesses, levies and collects taxes under this chapter.

We would like that added to the sub. I am in contact with Gard's office about this. Thanks, Marc.

Faith Russell
Fiscal Analyst
Legislative Fiscal Bureau
608-266-3847



State of Wisconsin
2003 - 2004 LEGISLATURE

NOTE -4577/2
LRB-4580/2
MES:jld:rs
stays
RMR

2003 BILL

now

reg

1 AN ACT to create 71.07 (6e) and 71.10 (4) (ce) of the statutes; relating to:
2 creating a nonrefundable individual income tax credit for certain amounts that
3 may be deducted from federal income taxes ~~and~~ health savings accounts

relating to
or exempt from
keep period
make

Analysis by the Legislative Reference Bureau

Under current federal law, certain individuals may make tax-deductible contributions to health savings accounts and withdraw the money tax-free when needed to cover routine and preventive medical care.

Under this bill, an individual who makes contributions to such an account may claim a nonrefundable income tax credit for 6.5 percent of the allowable amount that the individual claims as a federal tax deduction for a contribution to a health savings account ^{(HSA) or 6.5 percent of the federal tax-exempt earnings relating to an HSA or both}

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

4 SECTION 1. 71.07 (6e) of the statutes is created to read:
5 71.07 (6e) HEALTH SAVINGS ACCOUNTS TAX CREDIT. (a) *Definitions.* In this
6 subsection:

BILL

to or

1 1. "Claimant" means an individual who claims a deduction for a contribution
2 *who claims federal tax-exempt earnings relating* made to a health savings account under section 1201 of P.L. 108-173.

3 2. "Deduction amount" means the allowable amount of a deduction claimed on
4 a claimant's federal income tax return for a contribution to a health savings account *relating to a health savings account under section 1201 of P.L. 108-173 or both*
5 under section 1201 of P.L. 108-173.

6 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
7 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
8 amount of those taxes, 6.5 percent of the deduction amount claimed in the taxable
9 year to which the claim under this subsection relates.

10 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
11 is claimed within the time period under s. 71.75 (2).

12 2. For a claimant who is a nonresident or part-year resident of this state and
13 who is a single person or a married person filing a separate return, multiply the
14 credit for which the claimant is eligible under par. (b) by a fraction the numerator of
15 which is the individual's Wisconsin adjusted gross income and the denominator of
16 which is the individual's federal adjusted gross income. If a claimant is married and
17 files a joint return, and if the claimant or the claimant's spouse, or both, are
18 nonresidents or part-year residents of this state, multiply the credit for which the
19 claimant is eligible under par. (b) by a fraction the numerator of which is the couple's
20 joint Wisconsin adjusted gross income and the denominator of which is the couple's
21 joint federal adjusted gross income.

22 (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit
23 under that subsection, applies to the credit under this subsection.

24 **SECTION 2.** 71.10 (4) (ce) of the statutes is created to read:

25 71.10 (4) (ce) The health savings account tax credit under s. 71.07 (6e).

Barman, Mike

From: Barman, Mike
Sent: Tuesday, May 18, 2004 3:17 PM
To: Sen.Darling
Subject: LRB 03-4577/2 (attached)



03-4577/2

Mike Barman

Mike Barman - Senior Program Asst. (PH. 608-266-3561)
(E-Mail: mike.barman@legis.state.wi.us) (FAX: 608-264-6948)

State of Wisconsin
Legislative Reference Bureau - Legal Section - Front Office
1 East Main, Suite 200 Madison, WI 53703



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

STEPHEN R. MILLER
CHIEF

June 15, 2004

MEMORANDUM

To: Senator Panzer

From: Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

Subject: Technical Memorandum to **SB-568** (LRB 03-4577/2)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

June 8, 2004

TO: Marc Shovers
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on SB 568 – Create Health Savings Accounts Credit

Although the Department has no technical concerns with the statutory language of the bill, it is concerned with the substantial increase in administrative complexity the proposed credit would create. As drafted, the bill would require the following adjustments:

- The amount of the federal deduction for health savings accounts (HSA) must be added to Wisconsin income.
- If the employer provided an amount for the HSA, such amount would be considered compensation and would be taxable income for the employee for Wisconsin. Employers would also have to adjust each employee's W-2.
- The earnings on the HSAs must be added to Wisconsin income.
- Any distribution not used for medical expenses would be included in federal income but would not be taxable for Wisconsin.
- Distributions from HSAs would not qualify as an itemized deduction for medical expenses for federal purposes but would qualify for the Wisconsin itemized deduction credit.
- Amounts rolled over from an Archer medical savings account to an HSA would not be taxable for federal purposes but would be taxable for Wisconsin.

This complexity would be eliminated if instead of the credit, the provisions in sec. 71.01(6), Wis. Stats., would be amended to adopt Public Law 108-173 to apply at the same time as for federal purposes, which would be for taxable years beginning after December 31, 2003 for the HSA provisions.

The proposed legislation makes no provision for the funding of the costs involved in administering the activities required. If the author wishes to provide funding, appropriation language could be developed and costs allocated in the following manner:

	<u>Chapter 20</u>	<u>Amount</u>	<u>FTE</u>
one-time	s. 20.566 () ()	\$41,800	

annual s. 20.566 () () \$3,800

If you have any questions regarding this technical memorandum, please contact Karyn Kriz at 261-8984; for administrative costs contact Julie Feavel at 267-9892.