

**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 2005 ASSEMBLY BILL 4**

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

Analysis by the Legislative Reference Bureau

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

5 **SECTION 1.** 71.83 (1) (c) of the statutes is amended to read:
6 71.83 **(1)** (c) *Medical savings account withdrawals.* Any person who is liable
7 for a penalty for federal income tax purposes under section 220 (f) (4) of the Internal
8 Revenue Code is liable for a penalty equal to 33% of that penalty, except that no
9 penalty may be imposed under this paragraph with regard to any amount that is

1 withdrawn from an individual's medical savings account and rolled over or deposited
2 into the same individual's health savings account. The department of revenue shall
3 assess, levy and collect the penalty under this paragraph as it assesses, levies and
4 collects taxes under this chapter.

5 **SECTION 2.** 71.83 (1) (ce) of the statutes is created to read:

6 71.83 (1) (ce) *Health savings accounts.* Any person who is liable for a penalty
7 for federal income tax purposes under section 223 (f) (4) of the Internal Revenue Code
8 is liable for a penalty equal to 33 percent of that penalty. The department of revenue
9 shall assess, levy, and collect the penalty under this paragraph as it assesses, levies,
10 and collects taxes under this chapter.

11 **SECTION 3.** Subchapter XVI of chapter 71 [precedes 71.98] of the statutes is
12 created to read:

13 **CHAPTER 71**

14 **SUBCHAPTER XVI**

15 **INTERNAL REVENUE CODE UPDATE**

16 **71.98 Internal Revenue Code update.** The following federal laws, to the
17 extent that they apply to the Internal Revenue Code, apply to this chapter:

18 **(1) HEALTH SAVINGS ACCOUNTS.** Section 1201 of P.L. 108–173, relating to health
19 savings accounts.

20 **SECTION 4. Initial applicability.**

21 (1) This act first applies retroactively to taxable years beginning on January
22 1, 2004.

23 **(END)**