

**ASSEMBLY SUBSTITUTE AMENDMENT 4,
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.

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 section 1201 of Public Law 108–173 is modified so that no employee may be required to pay a deductible under a health savings account created by his or her employer in an amount that exceeds the amount of any deductible the employer paid for health insurance that the employer provided prior to creating the health savings account.

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 section 1201 of P.L. 108–173 is modified so that no
13 employee may be required to pay a deductible under a health savings account created
14 by his or her employer in an amount that exceeds the amount of any deductible the
15 employee paid for health insurance that the employer provided prior to creating the
16 health savings account.

17 **SECTION 3. Initial applicability.**

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

22 **(END)**