

**2005 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB4)**

Received: 01/24/2005

Received By: jkreye

Wanted: Today

Identical to LRB:

For: Tony Staskunas (608) 266-0620

By/Representing:

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Business - crp inc, fran

Extra Copies:

Submit via email: YES

Requester's email: Rep.Staskunas@legis.state.wi.us

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

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Health savings accounts; deductible restriction

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**Instructions:**

See Attached

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**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>
/?	jkreye 01/24/2005	jdye 01/24/2005		_____			
/1			rschluet 01/25/2005	_____	sbasford 01/25/2005	sbasford 01/25/2005	

FE Sent For:

<END>

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/?	jkreye	1/24 jld					

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<END>

AB 4 Rep. Staskunas

① do as a Sim<sup>pl</sup> & a Sub -  
restrict it to people who were  
businesses that ~~work~~<sup>previously</sup> offered ins w/in 1 year or more  
previously uninsured for ~~at least 1 year~~<sup>at least 1 year</sup>  
getting insurance for the 1st time

② Bus can create HSA & have it be deductible  
only if EEs are "well paid"

EE can't be req'd to pay higher  
deductibles (that ~~that~~<sup>that</sup> ~~that~~<sup>that</sup> ~~that~~<sup>that</sup> EEs  
now pay)

50007/1

50008/1  
LRBs00077T  
MES/Kld:rs  
stays  
AM not K

ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2005 ASSEMBLY BILL 4

INSERT A ✓

in 1-24-05  
due Tues 1-25 AM

D-N

Section 1201 of  
Public Law 108-  
173 is modified  
so that

Regen

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 it only applies to individuals who have not had health insurance within the 12 months 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 12 months previous to their claim for the deduction that this substitute amendment allows.

**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 12 months previous to the time he or she claims~~  
15 ~~a 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 12 months~~  
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)

section 1201 of P.L.  
108-173 is modified  
so that

✓  
INSERT  
A

Section 1201 of P.L. <sup>Public Law</sup> 108-173 is modified <sup>so</sup> that

Insert A

no employee may be required to pay a deductible under a health savings account created by <sup>his</sup> or <sup>her</sup> <sup>employer</sup> in an amount that exceeds the amount of any deductible the employee paid for health insurance that the employer provided prior to creating the health savings account <sup>NO</sup> ~~4~~

(end ins A)

50008/dy  
UK

Representative Staskunas:

Please review this draft carefully to ensure that  
it is consistent with your request.

UK

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0008/1dn  
JK:jld:rs

January 25, 2005

Representative Staskunas:

Please review this draft carefully to ensure that it is consistent with your request.

Joseph T. Kreye  
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