

**WISCONSIN DEPARTMENT OF REVENUE  
DIVISION OF INCOME, SALES, AND EXCISE TAX**

**NOTICE OF PROPOSED GUIDANCE DOCUMENTS**

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

**SUBMITTING PUBLIC COMMENTS**

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

**DEADLINE FOR SUBMISSION**

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

<b>Document Number</b>	<b>Document Title</b>
<b>FS1105</b>	Health Savings Accounts - Fact Sheet

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## Health Savings Accounts

### Fact Sheet 1105

[revenue.wi.gov](http://revenue.wi.gov)

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This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by [sec. 227.112\(1\), Wis. Stats.](#)

The federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) provided for the establishment of health savings accounts.

A health savings account (HSA) is a special account owned by an individual and used to pay for medical expenses. Health savings accounts are used in conjunction with a high deductible health plan.

Effective for taxable years beginning in 2011 and thereafter, Wisconsin follows the provisions of Public Law 108-173 relating to health savings accounts.

### Federal Tax Treatment of HSAs

- Eligible individuals may claim a deduction on their federal income tax returns for contributions to the HSA. If the contribution is made by an employer (or pre-tax through an employer's cafeteria plan), the amount of the contribution is excluded from the employee's wages. The maximum contribution for 2019 is \$3,500 for individuals and \$7,000 for families. A \$1,000 "catch-up" contribution is allowed for individuals age 55 and older.
- Excess contributions must be withdrawn by the due date, including extensions, of your 2019 return, or are subject to a six percent excise tax.
- Earnings on the account are generally not taxable to the individual.
- Distributions from the HSA are tax-free if used for qualified medical expenses. The medical expenses paid from the HSA distribution cannot be used as an itemized deduction on federal Schedule A.
- Distributions not used for qualified medical expenses must be included in income and are subject to a 20 percent additional tax. The 20 percent additional tax does not apply to distributions taken after the individual dies, becomes disabled, or turns age 65.
- Distributions from an Archer medical savings account may be rolled over to an HSA.

Further information on the federal treatment of HSAs can be found in federal [Publication 969, Health Savings Accounts and Other Tax-Favored Health Plans](#). This publication is available at the [IRS](#) website or by calling 1-800-829-3676.

### Wisconsin Treatment of HSAs

The federal provisions relating to HSAs generally apply for Wisconsin for 2011 and thereafter. The only difference is the imposition of penalties. The Wisconsin penalty for excess contributions that are not withdrawn and for distributions not used for qualified medical expenses is 33 percent of the federal penalty.

However, an adjustment may be made if all of the following are true:

- (1) You had a federal HSA prior to 2011
- (2) You were not allowed a deduction for Wisconsin for contributions to that account
- (3) You reported the earnings on the account as income
- (4) You had a balance in the account as of December 31, 2010

If this is the case, to the extent 2019 distributions are attributable to the pre-2011 balance less 2011-2017 distributions, all of the following apply:

- The portion of the distribution that was used to pay medical expenses can be used as an itemized deduction when computing the Wisconsin itemized deduction credit
- Any portion of the distribution not used for medical expenses that is taxable for federal purposes is not taxable for Wisconsin
- Any portion of the distribution that was not used for medical expenses that is subject to a federal penalty is not subject to a Wisconsin penalty

Individuals must file Wisconsin [Schedule I](#), *Adjustments to Convert 2019 Federal Adjusted Gross Income and Itemized Deductions to the Amounts Allowable for Wisconsin*, to adjust for the difference between the Wisconsin and federal tax treatment of distributions from the pre-2011 balance of an HSA. A worksheet is included in the 2019 Schedule I instructions to aid in determining the necessary adjustment.

#### **Additional Information or Comments**

- Visit the department's [website](#) for electronic versions of all Wisconsin tax forms and publications
- Email your questions or comments to [DORIncome@wisconsin.gov](mailto:DORIncome@wisconsin.gov)
- Contact our Customer Service Bureau at (608) 266-2486
- Contact any [Department of Revenue office](#)

### **Applicable Laws and Rules**

This document provides statements or interpretations of the following laws and regulations in effect as of February 4, 2020: Section 71.01(6)(L), Wis. Stats., and 26 U.S.C. § 223

Laws enacted and in effect after February 4, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to February 4, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

### **Certification Statement**

As the Secretary of the Wisconsin Department of Revenue (DOR), I have reviewed this guidance document or proposed guidance document and I certify that it complies with secs. 227.10 and 227.11, Wis. Stats.. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

DEPARTMENT OF REVENUE



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Peter Barca

Secretary of Revenue

*Last updated February 4, 2020*