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# Special Bulletin

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## FEDERAL LEGISLATION CLARIFIES TAX STATUS OF LONG-TERM CARE INSURANCE

*Revised January 2019*

In August 1996, the Health Insurance Portability and Accountability Act was signed into law. This **Special Bulletin** provides answers to some common questions regarding the long-term care insurance provisions of the Act.

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For more information, call the Connecticut Partnership for Long-Term Care at (860) 418-6318.

**1. WHAT DOES THE ACT DO FOR LONG-TERM CARE INSURANCE?**

The Act states that long-term care insurance will be treated in the same manner that health and accident insurance is treated under the Federal Income Tax Code.

This means that:

- Benefits paid by a long-term care insurance policy will not be counted as taxable income to the policyholder; and
- Premiums paid for long-term care insurance can be counted as an unreimbursed medical expense for those itemizing their deductions for Federal income tax purposes.

**2. DOES THE ACT APPLY TO ALL LONG-TERM CARE INSURANCE POLICIES?**

**NO** - The Act's provisions only apply to what the Act defines as "Qualified Long-Term Care Insurance Contracts". A "Qualified" policy is:

- Any long-term care insurance policy **issued prior to January 1, 1997**. These policies are grandfathered under the Act and are considered "Qualified". Therefore, policies issued on or before December 31, 1996 are considered "Qualified" for purposes of the Act.
- Policies **issued after January 1, 1997** must meet a set of standards described in the Act in order to be "Qualified" policies. **Therefore, as of January 1, 1997, any long-term care policy wishing to be considered "Qualified" for Federal tax purposes will need to meet all the standards listed in the Act.**\*

**3. HOW ARE EMPLOYERS TREATED UNDER THE ACT?**

- Premiums paid by an employer for their employees' "Qualified" long-term care insurance policy CAN be deducted in the same manner as premiums paid by the employer for health insurance.
- Employers CAN select or carve out groups of employees to receive different premium contributions.
- Insurance benefits received by the employee are NOT taxable, even when the employer contributed toward the premium.
- Currently, long-term care insurance CANNOT be included as part of an employer's "Cafeteria Benefits Plan" or "Flexible Spending Arrangement".

4. **CAN AN INDIVIDUAL TAKE ALL OF THE PREMIUM AS A TAX DEDUCTION?**

**NO** - The Act provides the following schedule for how much of the long-term care insurance premium can be applied as an unreimbursed medical expense for Federal tax purposes:

<u>Attained Age before the close of the taxable year:</u>	<u>Tax Limitation on Premiums calendar/tax year 2019:</u>
<b>40 or less</b>	<b>\$ 420</b>
<b>41-50</b>	<b>\$ 790</b>
<b>51-60</b>	<b>\$ 1,580</b>
<b>61-70</b>	<b>\$ 4,220</b>
<b>71 and older</b>	<b>\$ 5,270</b>

Individuals can use their actual premium amount up to the limitation noted in the chart. The Premium Limitation amounts will increase each year by an amount equal to the medical care cost component of the Consumer Price Index. The figures above are for calendar year 2019.

5. **WHAT DOES THE TAX DEDUCTION REALLY MEAN?**

The deduction under the Act ***is not a straight tax deduction***. Individuals who have purchased a “Qualified” long-term care insurance policy can count an amount of their premiums, *up to the amount noted in the chart above*, as an unreimbursed medical expense when they itemize their deductions. Therefore, in order to benefit from the tax deduction, an individual must:

- Itemize their deductions (use Schedule A); and
- Have an amount of unreimbursed medical expenses that **exceeds** 10.0% of their Adjusted Gross Income (AGI).

*The amount an individual can then use for a deduction is the amount that exceeds the 10.0% figure.*

**FOR EXAMPLE:** A 61 year old single woman who has a Federal tax rate of 27%, has unreimbursed medical expenses equal to 10.0% of her AGI before counting her long-term care premium of \$3,200. Under the Act, she can count all of her \$3,200 long-term care premium as unreimbursed medical expenses and, therefore, she has \$3,200 in excess of the 10.0% of her AGI. At her tax rate, she will be able to save \$864 in taxes because of her long-term care insurance together with her other unreimbursed medical expenses. [Note: If her unreimbursed medical expenses, including the \$3,200 allowed for long-term care premiums, were equal to or less than 10.0% of her AGI, there would be **no** tax deduction.]

**6. WHEN CAN SOMEONE START TAKING THE DEDUCTION?**

The deduction is effective starting with premiums paid in calendar year 1997.

**7. HOW ARE OUT-OF-POCKET LONG-TERM CARE EXPENSES TREATED?**

Payments made for “Qualified” long-term care services, as defined in the Act,<sup>\*\*</sup> can be counted as an unreimbursed medical expense for Federal income tax purposes. Therefore, co-payments and deductibles paid by an individual out of their own resources can be counted towards the 10.0% figures noted above.

Please note that there may be additional tax deductions available to self-employed individuals or companies based on their category: LLC, C Corporation, etc. Please refer to your tax advisor for details regarding these possible tax deductions.

The long-term care tax provisions in the Act should provide a boost for the long-term care insurance market. However, we suggest you advise your clients to discuss the tax implications of purchasing long-term care insurance with their accountant or tax advisor.

\* The standards noted in the Act are modeled mostly after the National Association of Insurance Commissioners’ (NAIC) Model Long-Term Care Regulation and Act as of January 1993. For specific information on the standards, contact either your insurance company or the Connecticut Partnership office.

\*\* The Act defines “Qualified long-term care services” as necessary diagnostic, preventive, therapeutic, curing, treating, mitigating and rehabilitative services, and maintenance or personal care services.