

**2001 DRAFTING REQUEST**

**Bill**

Received: 12/12/2000

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Frank Lasee (608) 266-9870**

By/Representing: **Lance**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Tax - individual income**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Individual income tax deduction for health insurance, health care costs

**Instructions:**

100% tax deduction for amounts spent on health insurance premiums and health care costs, including prescription and over the counter drugs.

**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>
/1	shoveme 12/15/2000	jdye 12/27/2000	martykr 01/11/2001	_____	lrb_docadmin 01/11/2001	lrb_docadminState 02/15/2001	Tax

FE Sent For:

<END>

02-20-01  
"11"  
↙

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1?	shoveme	1/12/27 jld	Km/11	<del>KL/1</del> Km/11			

11/15/00

FE Sent For:

<END>

by tax practitioner for research and nonbusiness transaction and submission of ruling file, as are required user fees paid deductions are subject to two § 67 for miscellaneous deductions. 1989-22 IRB 5.

preparing tax return are deductible. Commissioner (1942) 1 TCM 274; Mer (1927) 6 BTA 291 (A).

ritable contribution in property paintings, sculpture, etc. may get in order to determine amount and may deduct appraisal fees determining income tax liability if he itemizes deductions. Rev. B 125.

orporation for financial counsel of particular executive is additional, subject to withholding executive can deduct on his ch of amount as is allocable to ng returns, or for services of connection with investments amounts would have been cured by taxpayer himself for of income or for maintenance him for production of income necessary under all the circum- 7, 1973-2 CB 6.

nd taxes, expenses of owning in Rehoboth Beach were not SCS §§ 162 or 212, where oration to build and operate Beach, 125 miles from his job in Washington, D.C., since ed in trade or business of eation of which he was officer s receiving neither actual nor h constitutes precondition to ess. Van Fossan v Commis- 1983-703, 47 TCM 411.

as not permitted to deduct nty probation department as t county had spent on his rt, and maintenance during n various county detention were clearly personal living luctions were allowed with as reimbursement for medi- taxpayer's son, by county. (1984) TC Memo 1984-104.

xpayer's liquor store corpo- it taxpayer's record owner- sts in liquor licenses, does iness expense deduction, are in taxpayer's name and transferred to corporation, d for all practical purposes tal contribution to corpora- on's origin and character of n arose in connection with corporation, not taxpayer. (1984) TC Memo 1984-264, n v Commissioner of IRS l, 86-2 USTC ¶ 9712, 58 thdrawn; different results ommissioner of IRS (1986, USTC ¶ 9826.

y trader to children to en-

able them to meet margin calls on their own accounts are not ordinary and necessary for management, con- servation, and maintenance of taxpayer's own com- modity accounts since it would be speculative to as-

sume that general public would attribute liquidation of children's accounts as damage to parent's eco- nomic position. Hunt v Commissioner (1989) TC Memo 1989-335, 57 TCM 919.

### § 213. Medical, dental, etc., expenses.

(a) **Allowance of deduction.** There shall be allowed as a deduction the expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent (as defined in section 152), to the extent that such expenses exceed 7.5 percent of adjusted gross income.

(b) **Limitation with respect to medicine and drugs.** An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin.

(c) **Special rule for decedents.** (1) **Treatment of expenses paid after death.** For purposes of subsection (a), expenses for the medical care of the taxpayer which are paid out of his estate during the 1 year period beginning with the day after the date of his death shall be treated as paid by the taxpayer at the time incurred.

(2) **Limitation.** Paragraph (1) shall not apply if the amount paid is allowable under section 2053 as a deduction in computing the taxable estate of the decedent, but this paragraph shall not apply if (within the time and in the manner and form prescribed by the Secretary) there is filed—

(A) a statement that such amount has not been allowed as a deduction under section 2053, and

(B) a waiver of the right to have such amount allowed at any time as a deduction under section 2053.

(d) **Definitions [Caution: For limitations for tax years beginning in 1999 regarding eligible long-term care premiums includible in the term "medical care," see § 3.09 of Rev. Proc. 98-61, which appears as 26 USCS § 1 note.].** For purposes of this section—

(1) The term "medical care" means amounts paid—

(A) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body,

(B) for transportation primarily for and essential to medical care referred to in subparagraph (A),

(C) for qualified long-term care services (as defined in section 7702B(c)), or

(D) for insurance (including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged) covering medical care referred to in subparagraphs (A) and (B) or for any qualified long-term care insurance contract (as defined in section 7702B(b)).

In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (1)(D)) shall be taken into account under subparagraph (D).

(2) **Amounts paid for certain lodging away from home treated as paid for medical care.**

Amounts paid for lodging (not lavish or extravagant under the circumstances) while away from home primarily for and essential to medical care referred to in paragraph (1)(A) shall be treated as amounts paid for medical care if—

(A) the medical care referred to in paragraph (1)(A) is provided by a physician in a licensed hospital (or in a medical care facility which is related to, or the equivalent of, a licensed hospital), and

(B) there is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

The amount taken into account under the preceding sentence shall not exceed \$50 for each night for each individual.

(3) **Prescribed drug.** The term "prescribed drug" means a drug or biological which requires a prescription of a physician for its use by an individual.

(4) **Physician.** The term "physician" has the meaning given to such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).

(5) **Special rule in the case of child of divorced parents, etc.** Any child to whom section 152(e) applies shall be treated as a dependent of both parents for purposes of this section.

(6) In the case of an insurance contract under which amounts are payable for other than medical care referred to in subparagraphs (A), (B), and (C) of paragraph (1)—

(A) no amount shall be treated as paid for insurance to which paragraph (1)(D) applies unless the charge for such insurance is either separately stated in the contract, or furnished to the policyholder by the insurance company in a separate statement.

450.01(10)

(10) (intro.) "Drug" means:

450.01(10)(a)

(a) Any substance recognized as a drug in the official U.S. pharmacopoeia and national formulary or official homeopathic pharmacopoeia of the United States or any supplement to either of them;

450.01(10)(b)

(b) Any substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease or other conditions in persons or other animals;

450.01(10)(c)

(c) Any substance other than a device or food intended to affect the structure or any function of the body of persons or other animals; or

450.01(10)(d)

(d) Any substance intended for use as a component of any article specified in pars. (a) to (c) but does not include gases or devices or articles intended for use or consumption in or for mechanical, industrial, manufacturing or scientific applications or purposes.

450.01(13m)

**(13m)** "Nonprescription drug product" means any nonnarcotic drug product which may be sold without a prescription order and which is prepackaged for use by consumers and labeled in accordance with the requirements of state and federal law.

~~Edcost for tuition in a private school~~

(Intro.)

C pays 2,000 for mod + 500 for LTCare insur.  
total mod, <sup>deduction</sup> under IRC = 2,500

a. 100% of 2,000

b) subtract amounts deducted from gross income, other than LTCare ins

scenario 1

scenario 2

No fed deductions: 2000 - 0

1500, incl. 500 LTCare <sup>ins</sup> deduction under IRC: 2000 - 1000 = 1000

1500, w/ no limits = 2000 - 1500 = 500

under LTCare deduction, TP gets a 500 deduction.



jd

## 2001 BILL

D-N DE 2

gen

1 AN ACT ...; **relating to:** creating an individual income tax subtract modification  
 2 for amounts spent on medical insurance premiums, medical and dental  
 3 expenses, and prescription and nonprescription drugs by certain individuals

### *Analysis by the Legislative Reference Bureau*

Under current law, there is an individual income tax deduction for 50% of the amount paid by a person for a medical care insurance policy that covers the person, his or her spouse, and the person's dependents if the person's employer pays no amount of money toward the person's medical care insurance. Also under current law, a similar deduction exists for 100% of such amounts paid for a medical care insurance policy by a self-employed person.

This bill creates an individual income tax deduction for 100% of the amount paid by an individual for a medical care insurance policy that covers the individual, his or her spouse, and the individual's dependents if the individual is not eligible to claim any of the current law deductions for amounts paid for a medical care insurance policy. The bill creates similar deductions for 100% of the amount paid by an individual for medical and dental expenses, prescription drugs, and nonprescription drugs *or drug products*

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

**BILL**

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

1           **SECTION 1.** 71.05 (6) (b) 34<sup>✓</sup> of the statutes is created to read:

2           71.05 (6) (b) 34. An amount paid by an individual, other than a person to whom  
3           subd. 19. or 20<sup>✓</sup> applies, for medical care insurance for the individual, his or her  
4           spouse, and the individual's dependents, calculated as follows:

5           a. One hundred percent<sup>✓</sup> of the amount paid by the individual for medical care  
6           insurance. In this subdivision, "medical care insurance"<sup>✓</sup> means a medical care  
7           insurance policy that covers the individual, his or her spouse, and the individual's  
8           dependents and provides surgical, medical, hospital, major medical, or other health  
9           service coverage, and includes payments made for medical care benefits under a  
10          self-insured plan, but "medical care insurance" does not include hospital indemnity  
11          policies or policies with ancillary benefits such as accident benefits or benefits for loss  
12          of income resulting from a total or partial inability to work because of illness,  
13          sickness, or injury.

14          b. From the amount calculated under subd. 34. a.<sup>✓</sup>, subtract the amounts  
15          deducted from gross income for medical care insurance in the calculation of federal  
16          adjusted gross income.

17          c. For an individual who is a nonresident or part-year resident of this state,  
18          multiply the amount calculated under subd. 34. a. or b.<sup>✓</sup>, by a fraction the numerator  
19          of which is the individual's wages, salary, tips, unearned income, and net earnings  
20          from a trade or business that are taxable by this state and the denominator of which  
21          is the individual's total wages, salary, tips, unearned income, and net earnings from

**BILL**

1 a trade or business. In this subd. 34. c.,<sup>✓</sup> for married persons filing separately “wages,  
2 salary, tips, unearned income, and net earnings from a trade or business” means the  
3 separate wages, salary, tips, unearned income, and net earnings from a trade or  
4 business of each spouse, and for married persons filing jointly “wages, salary, tips,  
5 unearned income, and net earnings from a trade or business” means the total wages,  
6 salary, tips, unearned income, and net earnings from a trade or business of both  
7 spouses.

8 d. Reduce the amount calculated under subd. 34. a., b., or c.<sup>✓</sup> to the individual’s  
9 aggregate wages, salary, tips, unearned income, and net earnings from a trade or  
10 business that are taxable by this state.

11 **SECTION 2.** 71.05 (6) (b) 35.<sup>✓</sup> of the statutes is created to read:

12 71.05 (6) (b) 35. An amount paid by an individual for medical and dental  
13 expenses, other than any of the following amounts: an amount paid for long-term  
14 care insurance under subd. 26.;<sup>✓</sup> an amount paid for drugs under subd. 36.;<sup>✓</sup> or an  
15 amount paid for nonprescription drug products under subd. 36.; for the individual,  
16 his or her spouse, and the individual’s dependents, calculated as follows:

17 a. One hundred percent of the amount paid by the individual for medical and  
18 dental expenses. In this subdivision, “medical and dental expenses” means expenses  
19 paid during the taxable year that may be used in the calculation of the deduction that  
20 may be claimed under section 213 of the Internal Revenue Code;<sup>✓</sup> “drugs” has the  
21 meaning given in s. 450.01 (10),<sup>✓</sup> to the extent that it applies to individuals;<sup>✓</sup> and  
22 “nonprescription drug products” has the meaning given in s. 450.01 (13m).<sup>✓</sup>

23 b. From the amount calculated under subd. 35. a.,<sup>✓</sup> subtract the amounts  
24 deducted from gross income for medical and dental expenses in the calculation of  
25 federal adjusted gross income, other than any of the following amounts: the amounts

**BILL**

1 deducted for a long-term care insurance, as that term is used in section 213 (d) (1)  
2 D of the Internal Revenue Code; drugs; <sup>or</sup> nonprescription drug products. ✓

3 c. For an individual who is a nonresident or part-year resident of this state,  
4 multiply the amount calculated under subd. 35. a. or b., ✓ by a fraction the numerator  
5 of which is the individual's wages, salary, tips, unearned income, and net earnings  
6 from a trade or business that are taxable by this state and the denominator of which  
7 is the individual's total wages, salary, tips, unearned income, and net earnings from  
8 a trade or business. In this subd. 35. c., ✓ for married persons filing separately "wages,  
9 salary, tips, unearned income, and net earnings from a trade or business" means the  
10 separate wages, salary, tips, unearned income, and net earnings from a trade or  
11 business of each spouse, and for married persons filing jointly "wages, salary, tips,  
12 unearned income, and net earnings from a trade or business" means the total wages,  
13 salary, tips, unearned income, and net earnings from a trade or business of both  
14 spouses.

15 d. Reduce the amount calculated under subd. 35. a., b., or c. ✓ to the individual's  
16 aggregate wages, salary, tips, unearned income, and net earnings from a trade or  
17 business that are taxable by this state.

18 **SECTION 3.** 71.05 (6) (b) 36. ✓ of the statutes is created to read:

19 71.05 (6) (b) 36. An amount paid by an individual for drugs or nonprescription  
20 drug products or both for the individual, his or her spouse, and the individual's  
21 dependents, calculated as follows:

22 a. One hundred percent of the amount paid by the individual for drugs or  
23 nonprescription drug products or both. In this ✓ subdivision, "drugs" has the meaning  
24 given in s. 450.01 (10), ✓ to the extent that it applies to individuals, and  
25 "nonprescription drug products" has the meaning given in s. 450.01 (13m). ✓

**BILL**

1           b. From the amount calculated under subd. 36. a., subtract the amounts  
2 deducted from gross income for drugs or insulin or both in the calculation of federal  
3 adjusted gross income.

4           c. For an individual who is a nonresident or part-year resident of this state,  
5 multiply the amount calculated under subd. 36. a. or b., by a fraction the numerator  
6 of which is the individual's wages, salary, tips, unearned income, and net earnings  
7 from a trade or business that are taxable by this state and the denominator of which  
8 is the individual's total wages, salary, tips, unearned income, and net earnings from  
9 a trade or business. In this subd. ~~36~~<sup>6</sup>. c., for married persons filing separately "wages,  
10 salary, tips, unearned income, and net earnings from a trade or business" means the  
11 separate wages, salary, tips, unearned income, and net earnings from a trade or  
12 business of each spouse, and for married persons filing jointly "wages, salary, tips,  
13 unearned income, and net earnings from a trade or business" means the total wages,  
14 salary, tips, unearned income, and net earnings from a trade or business of both  
15 spouses.

16           d. Reduce the amount calculated under subd. ~~36~~<sup>6</sup>. a., b., or c. to the individual's  
17 aggregate wages, salary, tips, unearned income, and net earnings from a trade or  
18 business that are taxable by this state.

19           **SECTION 4.** 71.07 (5) (a) 15. <sup>✓</sup> of the statutes is amended to read:

20           71.07 (5) (a) 15. The amount claimed as a deduction for medical care insurance  
21 under section 213 of the Internal Revenue Code that is exempt from taxation under  
22 s. 71.05 (6) (b) 17. to 20. and 34<sup>✓</sup> and the amount claimed as a deduction for a  
23 long-term care insurance policy under section 213 (d) (1) (D) of the Internal Revenue  
24 Code, as defined in section 7702B (b) of the Internal Revenue Code that is exempt  
25 from taxation under s. 71.05 (6) (b) 26.



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

LRB-1454/1dn

MES.....

Jld

Please review this draft very carefully to ensure that it reflects your intent. Because of the complicated interrelationships between section 213 of the Internal Revenue Code and created ~~§~~ 71.05 (6) (b) 35. and 36., you may want to have this draft reviewed by the Department of Revenue.

Marc E. Shovers  
Senior Legislative Attorney  
Phone: (608) 266-0129  
E-mail: marc.shovers@legis.state.wi.us

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

LRB-1454/1dn  
MES:jld:km

January 6, 2001

Please review this draft very carefully to ensure that it reflects your intent. Because of the complicated interrelationships between section 213 of the Internal Revenue Code and created s. 71.05 (6) (b) 35. and 36., you may want to have this draft reviewed by the Department of Revenue.

Marc E. Shovers  
Senior Legislative Attorney  
Phone: (608) 266-0129  
E-mail: [marc.shovers@legis.state.wi.us](mailto:marc.shovers@legis.state.wi.us)



STEPHEN R. MILLER  
CHIEF

*Joe Krug*

*Lance Does this cover Medicare Medigap*

# State of Wisconsin Insurance for

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

*Seniors?*

*IF so lets do it*

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

January 11, 2001

## MEMORANDUM

*Do press. I think  
great Bill just a little  
diff. from Hahn's bill  
Mere's more inclusive*

To: Representative F. Lasee

From: Marc E. Shovers, Senior Legislative Attorney

Re: LRB-1454 Individual income tax deduction for health insurance, health care costs

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY  JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0129 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
P. O. BOX 2037  
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561  
REFERENCE SECTION: (608) 266-0341  
FAX: (608) 266-5648

STEPHEN R. MILLER  
CHIEF

March 19, 2001

## MEMORANDUM

**To:** Representative F. Lasee

**From:** Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

**Subject:** Technical Memorandum to **2001 (un-introduced)** (LRB 01-1454/1)

---

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. After again reviewing section 213 of the Internal Revenue Code, I believe that the department's second point is correct and that the change they've suggested should be incorporated into the bill to avoid a double deduction. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

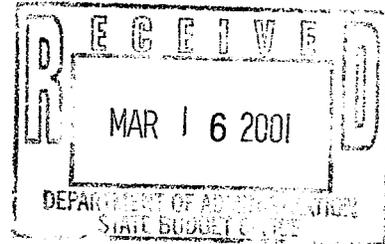
**MEMORANDUM**

March 14, 2001

**TO:** Marc Shovers  
Legislative Reference Bureau

**FROM:** Yeang-Eng Braun  
Department of Revenue *YEB*

**SUBJECT:** Technical Memorandum on LRB 1454/1 – Deduction for Certain Medical Expenses



The Department wishes to make several comments regarding LRB 1454/1:

1. If this legislation is enacted, the statutes will contain several provisions allowing deductions for insurance premiums. If the intent is to provide a deduction for all medical insurance premiums, the sponsor may wish to combine the proposed deduction in sec. 71.05(6)(b)34 and the existing deductions into one to reduce complexities for both tax filers and the Department.
2. Amounts paid for medical insurance premiums in sec. 71.05(6)(b)34 are not explicitly excluded from calculation of the deduction for medical expenses in sec. 71.05(6)(b)35. Thus, a person could deduct the cost of medical insurance twice; once under sec. 71.05(6)(b)19, 20, or 34 and again under subdivision 35. The sponsor should insert language similar to that currently excluding amounts paid for long term care insurance and drugs or drug products.
3. The sponsor may wish to combine sections 71.05(6)(b)35 and 36 in order to simplify filing. This would require the taxpayer to make one less computation when calculating the amount eligible to be deducted as payments for medical, dental and drug expenses. Otherwise, a filer would have to make up to four separate computations if he or she claims payments made for long-term care insurance, medical care insurance, medical/dental expenses, and drug expenses.
4. The proposed legislation makes no provision for the funding of the costs involved in administering the activities required. If the author wishes to provide funding, appropriation language could be developed and costs allocated in the following manner:

	<u>Chapter 20</u>	<u>Amount</u>	<u>FTE</u>
one-time	s. 20.566 (1) (a)	FY 02: \$ 9,400 FY 03: \$ 84,600	
annual	s. 20.566 (1) (a)	FY 02: \$ 61,200 FY 03: \$559,800	0.6 8.8

If you have any questions regarding this technical memorandum, please contact Meredith Krejny at 261-8984.

YEB:MK:ds  
I:\fsn01-02\mk\lrb14541.tec

YEB-314/01

LRB-1454/1

MES:

CCC to AB 282

#. Page 4, line 1: after "insurance"

insert "policy".

ejs



State of Wisconsin  
2001-2002 LEGISLATURE

**CORRECTIONS IN:**

**2001 ASSEMBLY BILL 282**

Prepared by the Legislative Reference Bureau  
(April 3, 2001)

1. Page 4, line 1: after "insurance" insert "policy".