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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2011-12

(session year)

### Joint

(Assembly, Senate or Joint)

### Survey Committee on Tax Exemptions...

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

## Record of Committee Proceedings

### Joint Survey Committee on Tax Exemptions

#### Assembly Bill 277

Relating to: adopting federal law as it relates to excluding from an employee's income certain payments from an employer related to medical care.

By Representatives Strachota, Kaufert, Doyle, LeMahieu, Spanbauer, Endsley, Kerkman, Brooks, Molepske Jr and A. Ott; cosponsored by Senators Wanggaard, Leibham, Holperin, Olsen and Lasee.

October 11, 2011 Referred to Joint Survey Committee on Tax Exemptions.

October 11, 2011 **PUBLIC HEARING HELD**

Present: (8) Senator Lasee; Representative Knodl; Senators Zipperer and Carpenter; Representatives Van Roy and Turner; Secretary Chandler; Executive Assistant Means.

Absent: (0) None.

Excused: (1) Public Member Shaul.

#### Appearances For

- Van Wanggaard, Racine — Senator
- Pat Strachota, West Bend — Representative
- Jason Culotta, Madison — Wisconsin Manufacturers and Commerce

#### Appearances Against

- None.

#### Appearances for Information Only

- None.

#### Registrations For

- Carrie Kahn — Wisconsin Association of Health Plans
- Misha Lee — Sentry Insurance
- Jeff Crawford — Forest County Potawatomi
- Paul Lucas — Miller Coors
- Tony Driessen — Wisconsin Association of Health Underwriters
- Melissa Duffy — The Alliance

#### Registrations Against

- None.

Registrations for Information Only

- None.

October 11, 2011

**EXECUTIVE SESSION HELD**

Present: (8) Senator Lasee; Representative Knodl; Senators Zipperer and Carpenter; Representatives Van Roy and Turner; Secretary Chandler; Executive Assistant Means.

Absent: (0) None.

Excused: (1) Public Member Shaul.

Moved by Representative Knodl, seconded by Representative Van Roy that **Assembly Bill 277** be recommended for Move that the Joint Survey Committee on Tax Exemptions issue its report on Assembly Bill 277 with the following statement of public policy: "The Joint Survey Committee on Tax Exemptions supports the public policy within Assembly Bill 277."

Ayes: (8) Senator Lasee; Representative Knodl; Senators Zipperer and Carpenter; Representatives Van Roy and Turner; Secretary Chandler; Executive Assistant Means.

Noes: (0) None.

Absent: (1) Public Member Shaul.

MOVE THAT THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS ISSUE ITS REPORT ON ASSEMBLY BILL 277 WITH THE FOLLOWING STATEMENT OF PUBLIC POLICY: "THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS SUPPORTS THE PUBLIC POLICY WITHIN ASSEMBLY BILL 277." RECOMMENDED, Ayes 8, Noes 0

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Greg Gasper  
Committee Clerk

Relating to: state finances and appropriations, constituting the executive budget act of the 2009 legislature.

By Joint Committee on Finance, by request of Governor James E. Doyle.

February 17, 2009 Referred to Joint Survey Committee on Tax Exemptions.

June 3, 2009 **EXECUTIVE SESSION HELD**

Present: (8) Senators Erpenbach, Decker and Ellis; Representatives Hubler, Cullen and Zipperer; DOR Secretary Ervin; Asst. Attorney General Creeron.

Absent: (1) Ms. Dunn.

Moved by Senator Erpenbach, seconded by Senator Decker that **Assembly Bill 75** be recommended for that the provisions of AB 75 referred to the Joint Survey Committee on Tax Exemptions are good public policies.

Ayes: (5) Senators Erpenbach and Decker; Representatives Hubler and Cullen; DOR Secretary Ervin.

Noes: (3) Senator Ellis; Representative Zipperer; Asst. Attorney General Creeron.

Absent: (1) Ms. Dunn.

THAT THE PROVISIONS OF AB 75 REFERRED TO THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS ARE GOOD PUBLIC POLICIES RECOMMENDED, Ayes 5, Noes 3

Steve Engelbert  
Committee Clerk

Vote Record

**Joint Survey Committee on Tax Exemptions**

Date: October 11, 2011

Bill Number: [REDACTED]

Moved by: Representative Dan Knodl    Seconded by: Rep Van Roy

Motion: Move that the Joint Survey Committee on Tax Exemptions issue its report on Assembly Bill 277 with the following statement of public policy:

"The Joint Survey Committee on Tax Exemptions supports the public policy within Assembly Bill 277."

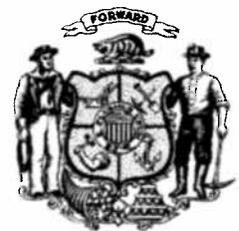
<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Frank Lasee, Co-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Daniel Knodl, Co-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Rich Zipperer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Karl Van Roy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Robert Turner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Secretary Rick Chandler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Executive Assistant Steve Means	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Public Member Kimberly Shaul	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>8</u>	<u>0</u>	<u>0</u>	<u>0</u>

Motion Carried

Motion Failed



# WISCONSIN STATE LEGISLATURE



**FIRST MOTION:**

Move that the Joint Survey Committee on Tax Exemptions issue its report on Senate Bill 203 with the following statement of public policy:

**"The Joint Survey Committee on Tax Exemptions supports the public policy within Senate Bill 203."**

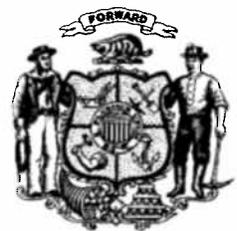
**SECOND MOTION:**

Move that the Joint Survey Committee on Tax Exemptions issue its report on Assembly Bill 277 with the following statement of public policy:

**"The Joint Survey Committee on Tax Exemptions supports the public policy within Assembly Bill 277."**



# WISCONSIN STATE LEGISLATURE



*PRELIMINARY*  
*STATE OF WISCONSIN*  
*REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS*  
*2011 ASSEMBLY BILL 277*

[Introduced by Representatives Strachota, Kaufert, Doyle, LeMahieu, Spanbauer, Endsley, and Kerkman; cosponsored by Senators Wanggaard, Leibham, Holperin, and Olsen.]

**General Nature of Proposal**

Under current Wisconsin law, insurers are required to offer coverage to the adult children of insured subscribers if those children are under the age of 27; are unmarried; and if the children meet certain criteria related to their own access to employer-provided group health care coverage.

For purposes of income taxation, the treatment of employer-provided health care benefits that include coverage for adult children varies between the federal and state levels. Generally, these variations arise based on whether the adult child qualifies as a dependent of the parent-employee whose benefits cover the adult child.

For purposes of federal taxation, following the Affordable Care Act of 2010, the imputed income arising from health care benefits for adult children is exempt from taxation if the child is age 26 or less at the end of the tax year, regardless of whether the child otherwise qualifies as a dependent. For other tax purposes, factors that determine dependency include whether the child lives with the taxpayer, earns a certain amount of income, or provides more than one-half of his or her support.

For purposes of state taxation, the imputed income arising from health care benefits is based on federal law in effect prior to the Affordable Care Act of 2010. Under current state law, an adult child under age 27 must also be a dependent of the taxpayer in order for imputed income from employer-provided accident or health insurance benefits, including coverage in a medical flexible spending account (FSA), to be exempt from taxation. For purposes of health insurance coverage only, an adult child may meet the definition of a "qualifying relative," as it relates to determining dependency, even though the adult child's gross income may equal or exceed the exemption amount.

2011 Assembly Bill 277 adopts provisions of the Internal Revenue Code that relate to exempting from taxation certain payments made by an employer to an employee to reimburse the employee for costs he or she has paid for medical care for the employee's adult child. The bill also adopts certain provisions of the Affordable Care Act of 2010 that apply the exemptions from taxation to self-employed persons, members of voluntary employees' beneficiary associations, and retired employees.

Assembly Bill 277 first applies to taxable years beginning on January 1, 2011.

**Legality Involved**

There are no issues of legality involved.

**Fiscal Effect Upon the State and Its Subdivisions**

The Department of Revenue estimates that adopting these provisions of the Affordable Care Act of 2010 would reduce state individual income tax revenues by \$1.8 million annually. The bill would apply retroactively to January 1, 2011. As a result, according to the Legislative Fiscal Bureau, the fiscal effect for 2011-12 would include the entire effect for tax year 2011 (-\$1.8 million) and half the effect for tax year 2012 (-\$0.9 million). Therefore, the bill would reduce state revenues by \$2.7 million for 2011-12 and \$1.8 million for 2012-13, or by \$4.5 million for the 2011-13 Biennium.

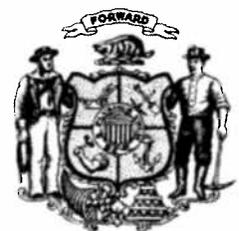
**Public Policy Involved**

10/10/11

***JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS***



# WISCONSIN STATE LEGISLATURE





# PAT STRACHOTA

STATE REPRESENTATIVE

Committee on Insurance

AB277

October 6, 2011

Good afternoon. I want to thank the chair and members of the Committee for hearing my testimony today.

AB277 deals with adult dependant imputed income as it relates to receiving health insurance coverage for dependants ages 18 up to 26. The federal government has passed a tax exemption for income which is used to obtain health care coverage for adult dependent children. AB277 gives us as legislators the opportunity to simplify health care reform requirements for employers and consumers by putting our state laws in line with federal laws. This bill federalizes Wisconsin's tax code as it relates to employer payments for adult dependent care coverage retroactively effective for tax year 2011. Wisconsin is the last state to provide this exemption for state income tax purposes for Wisconsin workers.

Many Wisconsin employers and employees would face difficult accounting issues should this bill not be passed. Employers have not been given clear directions from the state on how to properly determine the "fair market value" of these benefits, leaving them scrambling to determine the best way to report the taxable value of their employees' coverage. Employees whose children have been receiving these benefits will have significant out-of-pocket costs imposed upon them if this bill is not passed. Employers will be forced to withhold a greater portion of their employees' paychecks to offset costs of taxing these benefits right before the holidays. This legislation preemptively fixes what could be an administrative nightmare.

AB277 needs to be implemented as soon as possible to stop this end-of-the-year tax dilemma. This bill simplifies Wisconsin businesses' and Wisconsin workers' tax obligations.



# *Wisconsin Association of Health Plans*

DATE: October 11, 2011  
TO: Members, Joint Survey Committee on Tax Exemptions  
RE: Support for AB 277 – Imputed Income for Dependent Coverage

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The Wisconsin Association of Health Plans supports AB 277 and commends Representative Strachota and the bill co-sponsors for their efforts to align Wisconsin Statutes with federal tax code by exempting from an employee's taxable income the costs of health insurance coverage for an adult dependent child.

Federal law requires individual and group health plans that offer dependent coverage to continue coverage of adult dependents up to age 26 and exempts the coverage from federal income taxation. This provides another commercial health insurance coverage option for young people who often forgo health insurance coverage. Wisconsin also requires coverage of adult dependents; however, Wisconsin tax code does not exempt the costs of extending adult dependent coverage.

Although Wisconsin tax code is generally consistent with federal tax code, AB 277 is needed to correct a misalignment that has created confusion in the market and may discourage parents from electing adult dependent coverage.

Wisconsin has long been a place with high rates of health insurance coverage and competitive health insurance markets. This is due in part to a sound regulatory environment that both protects consumers and works productively with insurers. The result is lower health insurance premiums than many other states. AB 277 will support this environment by encouraging coverage for adult dependents.

The Wisconsin Association of Health Plans encourages committee members to support AB 277.

*The Wisconsin Association of Health Plans represents 17 health plans and their affiliated organizations.*

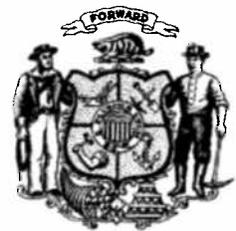
*Anthem Blue Cross and Blue Shield • Arise Health Plan • Children's Community Health Plan, Inc. • Dean Health Plan • Group Health Cooperative of Eau Claire • Group Health Cooperative of South Central Wisconsin • Gundersen Lutheran Health Plan • Health Tradition Health Plan • Humana • Independent Care Health Plan • MercyCare Health Plans • Molina Healthcare of Wisconsin • Network Health Plan • Physicians Plus Insurance Corp. • Security Health Plan • Trilogy Health Insurance, Inc. • Unity Health Plans Insurance Corp.*

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# WISCONSIN STATE LEGISLATURE



# Taxation of Adult Dependent Insurance Benefits

Without action by the Legislature this fall, a major hassle for state businesses and a new state-imposed pay cut for some employees will take effect soon.

## BACKGROUND

Wisconsin adopted an insurance mandate in 2009 to provide coverage to adult dependent children up to age 27 who were otherwise uninsured. When the mandate was adopted, the imputed income associated with this coverage was made subject to the state income tax.

When the federal government adopted the Patient Protection and Affordable Care Act in 2010, a similar federal mandate was established for coverage up to age 26. However, the value of an adult dependent child's insurance coverage was exempted from federal taxation.

Unlike other states, Wisconsin has not taken action to avoid applying the state income tax to these benefits. Wisconsin is now the only state in the nation to tax this coverage.

## THE CHALLENGES

By requiring the taxation of the value of adult dependent child insurance coverage, both employers and employees face challenges.

First, employers must determine the value of providing these benefits to the employees whose children receive them. This is easier said than done. When state officials attempted to lay out guidelines for determining this figure, here is what they issued:

*"The fair market value of the adult child's health coverage is determined by the employer and insurance provider. Contact your employer for further information. The Department of Revenue cannot determine the fair market value of the coverage."*

Without clear direction from the state, employers are scrambling to determine how to best report the taxable value of this coverage. The polling of employees and determination of the taxable value are a substantial incremental expense to employers.

Second, employees whose children receive these insurance benefits will have an out-of-pocket cost assessed to them this fall. By the holiday season, employers will be forced to withhold a greater portion of the impacted employees' paychecks to cover the cost of taxing these benefits.

## THE SOLUTION

To avoid these challenges, the Legislature should act during its Fall 2011 session to remove this tax. Representative Pat Strachota and Senator Van Wanggaard have drafted legislation that will favorably resolve this issue, Assembly Bill 277 and Senate Bill 203.

As part of the Governor's "Back to Work" Special Session, AB 277 and SB 203 will repeal this tax, ease the cost of doing business in Wisconsin, and prevent employees from taking a pay cut because this area of state tax law has not yet been federalized.



**WMC**  
WISCONSIN'S BUSINESS VOICE

For more information contact Jason Culotta, WMC Director of Tax & Transportation Policy,  
(608) 258-3400, [jculotta@wmc.org](mailto:jculotta@wmc.org), or visit [www.wmc.org](http://www.wmc.org).