



2005 ASSEMBLY BILL 335

April 15, 2005 - Introduced by Representatives WIECKERT, UNDERHEIM, JESKEWITZ, GRONEMUS, HAHN, GARD, JENSEN, NASS, KREIBICH, LOEFFELHOLZ, GIELOW, STONE, KRAWCZYK, McCORMICK, AINSWORTH, TOWNSEND, ALBERS, BALLWEG, BIES, HONADEL, OTT, PETROWSKI, VRAKAS, PRIDEMORE, MURSAU, M. WILLIAMS, OWENS, GUNDERSON and MUSSER, cosponsored by Senators ROESSLER, ZIEN, DARLING, REYNOLDS, A. LASEE, LASSA and HANSEN. Referred to Committee on Aging and Long-Term Care.

1 **AN ACT to amend** 71.83 (1) (a) 6. of the statutes; **relating to:** eliminating a
2 penalty for certain early withdrawals from an individual retirement account.

Analysis by the Legislative Reference Bureau

Under current federal law, an individual who receives a distribution from his or her individual retirement account (IRA) before reaching the age of 59 and one-half is subject to a 10 percent nondeductible excise tax, or penalty tax, unless certain exceptions apply. Under current state law, an individual who is subject to such a federal tax, or penalty, is also liable for a state penalty tax equal to 33 percent of the federal penalty unless the income received is exempt from taxation.

Under this bill, an individual who receives a distribution from his or her IRA before reaching the age of 59 and one-half and is subject to the 10 percent federal penalty tax is not liable for the additional 33 percent state penalty tax if the individual uses the proceeds from the distribution to purchase long-term care insurance.

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

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

3 **SECTION 1.** 71.83 (1) (a) 6. of the statutes is amended to read:

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1 71.83 (1) (a) 6. ‘Retirement plans.’ Any natural person who is liable for a
 2 penalty for federal income tax purposes under section 72 (m) (5), (q), (t) and (v), 4973,
 3 4974, 4975 or 4980A of the ~~internal revenue code~~ Internal Revenue Code is liable for
 4 ~~33%~~ 33 percent of the federal penalty unless the income received is exempt from
 5 taxation under s. 71.05 (1) (a) or unless the proceeds of the distribution to which the
 6 penalty under section 72 (t) of the Internal Revenue Code applies are used solely to
 7 purchase a long-term care insurance policy, as that term is defined in s. 71.05 (6) (b)
 8 26. a. The penalties provided under this subdivision shall be assessed, levied and
 9 collected in the same manner as income or franchise taxes.

SECTION 2. Initial applicability.

10 (1) This act first applies to a distribution from an individual retirement account
 11 that is received on the effective date of this subsection.
 12

(END)

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