

2005 DRAFTING REQUEST

Assembly Amendment (AA-AB57)

Received: **05/24/2005**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pettis (608) 267-2365**

By/Representing: **Mary Offerdahl**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Tax, Individual - dedct/sbtrct**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Pettis@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Tax-exempt long-term care expenses accounts

Instructions:

See Attached. Allow proceeds from account to be used to purchase, without penalty, long-term care insurance but, if the policy is purchased w/ such funds, to deduction may be claimed under s. 71.05 (6) (b) 26. for the amount paid to purchase the policy

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>
/?	mshovers 05/24/2005	kfollett 05/24/2005		_____			
/1			rschluet 05/24/2005	_____	lnorthro 05/24/2005	lnorthro 05/24/2005	

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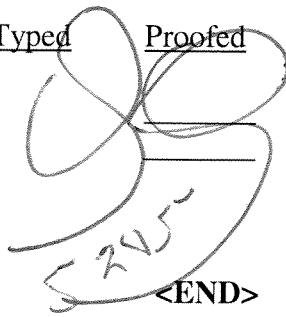
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/? mshovers
1/1 MES 5/24/05
1/1 Cif 5/24/05


<END>

FE Sent For:

Shovers, Marc

From: Pettis, Mark
Sent: Tuesday, May 24, 2005 12:46 PM
To: Shovers, Marc
Subject: RE: AB 57 long term care amendment

Marc,

Thanks for the note. I would like the participant to be able to purchase LTC insurance from the account because the policy purchased may have a higher dollar amount and would save more MA dollars

From: Shovers, Marc
Sent: Tuesday, May 24, 2005 11:20 AM
To: Offerdahl, Mary
Cc: Lawrence, Minette; Pettis, Mark
Subject: RE: AB 57 long term care amendment

Hi Mary:

I don't think that an amendment is needed. All that is needed is to not adopt Assembly Amendment 1, LRB a0529. The whole point of that amendment was to create a double benefit. In fact, the instructions from the drafting file state as follows:

"Allow proceeds from account to be used to purchase, without penalty, long-term care insurance -- even though amounts spend on LT care insurance are already deductible under s. 71.05 (6) (b) 26. This would provide a double benefit".

If there is no interest in providing a double benefit, the problem can be solved simply by not offering or adopting AA 1.

Marc

Marc E. Shovers

Senior Legislative Attorney
Legislative Reference Bureau
Phone: (608) 266-0129
Fax: (608) 264-8522
e-mail: marc.shovers@legis.state.wi.us

-----Original Message-----

From: Offerdahl, Mary
Sent: Monday, May 23, 2005 4:02 PM
To: Shovers, Marc
Cc: Lawrence, Minette
Subject: FW: AB 57 long term care amendment

Forwarding confirmation from Rep. Pettis below (re my previous email)...

Mary Offerdahl
Staff Attorney
Legislative Council

-----Original Message-----

From: Pettis, Mark
Sent: Monday, May 23, 2005 3:59 PM
To: Offerdahl, Mary
Subject: RE: AB 57 long term care amendment

That would be fine.

Thanks,

Mark

From: Offerdahl, Mary
Sent: Monday, May 23, 2005 3:40 PM
To: Shovers, Marc
Cc: Pettis, Mark; Lawrence, Minette
Subject: FW: AB 57 long term care amendment

Hi Marc (copy to Rep. Pettis and Minette in Rep. Townsend's office), Here's the amendment language Kirstin in DoR is suggesting re the "double-deduction" issue (whether there should be language disallowing income previously deducted as it went into the long-term care expense account from again being deducted when long term care insurance premiums are paid under the current WI law allowing such deductions). Rep. Pettis said he would like an amendment to prevent the double deduction, as per Kirstin's suggestion below. Thanks, Mary

Mary Offerdahl
Staff Attorney
Legislative Council

-----Original Message-----

From: Nelson, Kirstin B
Sent: Monday, May 23, 2005 2:41 PM
To: Offerdahl, Mary
Subject: RE: AB 57 long term care question

Mary,

A change in the proposed language is needed to address my concern regarding the possibility that taxpayers could receive a tax benefit from using their expense account contributions to pay premiums and could also take the deduction for long-term care insurance under current law.

I would suggest the following language: No subtraction may be claimed under 71.05(6)(b)(26) if the long-term care insurance was paid from an account established under section 71.05(6)(b)(35).

Thanks.
Kirstin

From: Offerdahl, Mary [<mailto:Mary.Offerdahl@legis.state.wi.us>]
Sent: Monday, May 23, 2005 2:22 PM
To: Nelson, Kirstin B
Subject: RE: AB 57 long term care question

Hi Kirstin, Could you please confirm whether an amendment would be needed to address the concern in the second par. of your email below, and if so, what the language is that you would suggest? Thanks, Mary

Mary Offerdahl
Staff Attorney
Legislative Council

-----Original Message-----

From: Nelson, Kirstin B
Sent: Monday, May 23, 2005 2:18 PM
To: Offerdahl, Mary
Subject: RE: AB 57 long term care question

Mary,

Language to make the amendment mirror federal law with regard to HSAs may not be necessary. If contributions that can be used for long-term care insurance premiums are limited under AB 57, taxpayers would most likely prefer to take the current 100% deduction for long-term care insurance instead of using their expense account to pay their premiums, because their tax benefit would be higher with the current 100% deduction.

If taxpayers plan to use their contributions to the long-term care expense account created by AB 57, then they should not be eligible for the current long-term care insurance deduction that we have under state statute 71.05 (6)(b)(26).

Hope this answers your questions. Let me know if you need anything else.

Best,

Kirstin B.L. Nelson
Economist
Division of Research and Policy
Wisconsin Department of Revenue
(608) 261-8984
kirstin.nelson@dor.state.wi.us

From: Offerdahl, Mary [<mailto:Mary.Offerdahl@legis.state.wi.us>]
Sent: Friday, May 20, 2005 4:22 PM
To: Nelson, Kirstin B
Subject: AB 57 long term care question

Hi Kirstin, Below is the info I uncovered when researching the question of whether long term care insurance premiums would be considered a qualified medical expense for the purpose of a federal Health Savings Account (HSA). Thanks for looking into whether AB 75 and the amendment should mirror this federal limitation, and also whether there should be language disallowing income previously deducted as it went into the expense account from also being deducted when long term care insurance premiums are paid under the current WI law allowing such deductions. Best regards, Mary

Mary Offerdahl, (608) 266-2230
Staff Attorney
Legislative Council

http://www.irs.gov/irb/2004-33_IRB/ar08.html

A-41. Yes. "Eligible long-term care premiums" are deductible medical expenses under section 213, but the deduction is limited to the annually adjusted amounts in section 213(d)(10) (based on age). See Rev. Proc. 2003-85 § 3.18, 2003-49 I.R.B. 1184 for the 2004 limits. Thus, although HSA distributions to pay or reimburse qualified long-term care insurance premiums are qualified medical expenses, the exclusion from gross income is limited to the adjusted amounts under section 213(d)(10). Any excess premium reimbursements are includable in gross income and may also be subject to the 10 percent penalty under section 223(f)(4).

Example. In 2004, X, age 41, pays premiums of \$1,290 for a qualified long term care insurance contract. The section 213(d)(10) limit in calendar year 2004 for deductions for persons age 40, but not more than 50, is \$490. X's HSA can reimburse X up to \$490 on a tax-free basis for the long-term care premiums. The remaining \$800 (\$1,290-\$490), if reimbursed from the HSA, is not for qualified medical expenses and is includable in gross income.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBa0663/2
MES...

Handwritten notes:
jld +
KJf
RMWR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~
ASSEMBLY AMENDMENT ,
TO 2005 ASSEMBLY BILL 57

*WANTED
wed.*

1 At the locations indicated, amend the bill as follows:

2 *INS A →*
attached

3 ~~1.~~ Page 3, line 24: after "account." insert "If an individual uses amounts from
4 an account for long-term care expenses to pay for a long-term care insurance policy,
5 the individual may not claim the subtraction under s. 71.05 (6) (b) 26.".

6 (END)

**ASSEMBLY AMENDMENT 1,
TO 2005 ASSEMBLY BILL 57**

May 3, 2005 - Offered by Representative PETTIS.

FNS A

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 14: delete lines 14 to 17 and substitute:

3 "2. "Long-term care expenses" means all of the following:

4 a. Any amount that is paid for care that is provided to an individual in an
5 individual's home or in institutional or community-based settings and that is
6 convalescent or custodial care or care for a chronic condition or terminal illness.

7 b. Any amount that is paid by an individual for a long-term care insurance
8 policy, as defined in s. 71.05 (6) (b) 26. a."

9 (END)