

*STATE OF WISCONSIN**REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS**2011 SENATE BILL 203*

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

**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 Senate Bill 203 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.

Senate Bill 203 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**

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

10/11/11

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