



2003 ASSEMBLY BILL 138

March 6, 2003 - Introduced by Representatives PETTIS, MUSSER, OWENS, PLOUFF, WARD, HINES, HAHN, LADWIG, JENSEN, MCCORMICK, VAN ROY, FREESE, GUNDERSON, SERATTI, A. WILLIAMS, KRAWCZYK and KREIBICH, cosponsored by Senators KANAVAS, LEIBHAM, STEPP and ROESSLER. Referred to Committee on Ways and Means.

1 **AN ACT** *to create* 71.05 (6) (a) 21., 71.05 (6) (b) 34., 71.07 (5) (a) 9., 71.10 (4) (k)
2 and 71.10 (10) of the statutes; **relating to:** tax-exempt, long-term care
3 expenses accounts.

Analysis by the Legislative Reference Bureau

Under this bill, an individual may establish a long-term care expenses account (account) for the person and his or her spouse. "Long-term care expenses" is defined as any amount that is paid for care that is provided to an individual in his or her home or in institutional or community-based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness. The account may be established at a financial institution, such as a bank, savings and loan, or credit union, and consists of deposits and any interest or other gain on the deposits.

In determining Wisconsin taxable income each year, the bill authorizes an individual to deduct from his or her federal adjusted gross income up to \$2,000 in deposits to the account made on behalf of the individual and up to \$2,000 in deposits to the account made on behalf of the individual's spouse if the account is used exclusively to pay the long-term care expenses of the individual or his or her spouse. All gains that accrue to such an account are also tax-exempt if the gains are redeposited into the account. After the value of the account exceeds \$100,000, however, no deduction may be claimed for any further contributions to the account.

If any amount is withdrawn from the account and is used for any purpose other than the allowed purposes, the account holder must pay a penalty equal to 10% of any accumulated interest, dividends, or other gain that has accrued to the account

ASSEMBLY BILL 138

from the time that the account was opened, except that this provision does not apply after the death of the account holder. In addition, the account holder must pay taxes on any interest, dividends, or other gain that accrues to the account in the year in which an improper withdrawal occurs, except that this provision also does not apply after the death of the account holder.

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.

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

1 **SECTION 1.** 71.05 (6) (a) 21. of the statutes is created to read:

2 71.05 **(6)** (a) 21. Any accumulated interest, dividends, or other gain that
3 accrues from an account described under s. 71.10 (10) during the taxable year in
4 which a withdrawal occurs from such an account if any amount of the money or other
5 assets in the account is withdrawn for any reason other than the payment of
6 long-term care expenses, as defined in s. 71.10 (10) (a) 2., for the account holder or
7 his or her spouse, except that this subdivision does not apply after the death of the
8 account holder.

9 **SECTION 2.** 71.05 (6) (b) 34. of the statutes is created to read:

10 71.05 **(6)** (b) 34. Any amount that is deposited by an individual into an account
11 described under s. 71.10 (10), up to \$2,000 each year for the individual and up to
12 \$2,000 each year for his or her spouse, and any interest, dividends, or other gain that
13 accrues in the account if the interest, dividends, or other gain is redeposited into the
14 account, if the account is used exclusively to pay the long-term care expenses, as
15 defined in s. 71.10 (10) (a) 2., of the individual or his or her spouse, except that no
16 subtraction may be made under this subdivision for any amounts deposited into the
17 account once the total value of the account exceeds \$100,000.

ASSEMBLY BILL 138

1 **SECTION 3.** 71.07 (5) (a) 9. of the statutes is created to read:

2 71.07 (5) (a) 9. The amount claimed as a deduction for unreimbursed medical
3 expenses under section 213 (a) of the Internal Revenue Code to the extent that the
4 funds used to pay for the unreimbursed expenses for which the deduction was
5 claimed were withdrawn from an account described under s. 71.05 (6) (b) 34.

6 **SECTION 4.** 71.10 (4) (k) of the statutes is created to read:

7 71.10 (4) (k) Any amount of money or other assets computed under sub. (10)
8 (c).

9 **SECTION 5.** 71.10 (10) of the statutes is created to read:

10 71.10 (10) LONG-TERM CARE EXPENSES. (a) In this subsection:

11 1. "Financial institution" means any bank, savings bank, savings and loan
12 association, or credit union that is authorized to do business under state or federal
13 laws relating to financial institutions.

14 2. "Long-term care expenses" means any amount that is paid for care that is
15 provided to an individual in an individual's home or in institutional or
16 community-based settings and that is convalescent or custodial care or care for a
17 chronic condition or terminal illness.

18 (b) An individual may establish an account for long-term care expenses, for the
19 individual and the individual's spouse, in a financial institution. Amounts deposited
20 into such an account and any interest, dividends, or other gain that accrues on
21 amounts deposited into the account may be used only to pay long-term care expenses
22 of the individual and the individual's spouse, except that this limitation on the uses
23 of the account does not apply after the death of the individual who establishes the
24 account.

ASSEMBLY BILL 138

1 (c) If an individual is required to add any amount to federal adjusted gross
2 income under s. 71.05 (6) (a) 21., the person shall pay an amount equal to 10% of any
3 accumulated interest, dividends, or other gain that has accrued beginning on the
4 date on which the account was opened and ending on the date on which the
5 withdrawal from the account occurs that results in a person adding an amount under
6 s. 71.05 (6) (a) 21.

7 **SECTION 6. Initial applicability.**

8 (1) This act first applies to taxable years beginning on January 1 of the year
9 in which this subsection takes effect, except that if this subsection takes effect after
10 July 31 this act first applies to taxable years beginning on January 1 of the year
11 following the year in which this subsection takes effect.

12 (END)