HB 382

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 382 (Delegate Manno, *et al.*)
Ways and Means

Income Tax - Credit for Long-Term Care Premiums

This bill expands the existing Long-Term Care Insurance income tax credit by allowing the credit to be claimed for every year a policy is in force in the amount of $500 in the first year the credit is claimed and $150 thereafter. The expansion is applicable to policies issued after December 31, 2011. The bill retains the current prohibition on the credit being claimed for individuals who were covered by a long-term care insurance policy at any point before July 1, 2000.

The bill takes effect July 1, 2011, and applies to tax year 2012 and beyond.

Fiscal Summary

State Effect: General fund revenues decrease by $1.3 million in FY 2014, which reflects the estimated number of taxpayers eligible for the expansion. Future year revenues reflect estimated number of policies in force. Expenditures are not affected.

($ in millions)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenue	$0	$0	$0	($1.3)	($2.4)
Expenditure	0	0	0	0	0
Net Effect	$.0	$.0	$.0	($1.3)	($2.4)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Chapter 242 of 2000 allows taxpayers to claim a credit against the State income tax for no more than $500 of the eligible premiums paid for long-term care insurance for coverage of the individual or the individual's spouse, parent, stepparent, child, or stepchild. The credit may not be claimed by more than one taxpayer with respect to the same insured individual and can only be claimed on behalf of a State resident. In addition, the credit may not be claimed with respect to an insured individual if (1) the insured individual was covered by long-term care insurance at any time before July 1, 2000; or (2) the credit has been claimed by any taxpayer more than once for any individual's long-term care insurance policy. Any unused amount of the credit may not be carried forward to any other tax year.

Eligible long-term care premiums are as defined under Section 213 (d)(10) of the Internal Revenue Code. The maximum premium amounts under federal guidelines for tax year 2010 based on the age of the insured are $330 – age 40 or younger; $620 – ages 41 to 50; $1,230 – ages 51 to 60; $3,290 – ages 61 to 70; and $4,110 – ages 71 and over. These amounts are indexed according to the annual increase in the medical component of the Consumer Price Index for all urban consumers.

Chapter 242 of 2000 also mandated that the Comptroller report annually beginning in 2005 the following information about the tax credit: (1) the number of individuals who have claimed the credit, the amount allowed as credits, and the additional number of individuals covered by long-term care insurance as a result of the credit; and (2) the savings under the State's Medical Assistance Program as a result of additional individuals being covered by long-term care insurance as a result of the credit.

In addition, Chapter 7 of 1998 created a tax credit equal to 5% of an employer's cost for providing long-term care insurance benefits to employees. The credit is capped at $5,000 or $100 per employee covered. This credit may be used by an employer against the public service company franchise tax, the financial institutions franchise tax, the insurance premium tax, or individual and corporate income taxes. If the tax credit exceeds the taxes due for any taxable year, the credit can be carried forward for up to five tax years. This tax credit applies to tax years 1999 and beyond.

The federal Health Insurance Portability and Accountability Act of 1996 established favorable tax treatment for long-term care insurance similar to that granted to accident and health insurance premiums. Employee-paid premiums are treated as unreimbursed medical expenses that are potentially deductible from income along with other unreimbursed medical expenses. As such, if an individual itemizes deductions, the premiums are deductible to the extent that the individual's uncompensated medical expenses exceed 7.5% of the individual's adjusted gross income. This deduction is subject to an annual limitation based on the policyholder's age.

Background: Long-term care typically provides for the medical, social, personal, and supportive services needed by people who have lost some capacity for self-care because of a chronic illness or condition. This includes services provided by nursing homes, hospices, and at-home care but does not include medical care for acute conditions. The population of long-term care recipients includes the elderly; the functionally and developmentally disabled; and individuals suffering from mental disorders such as dementia and Alzheimer's.

Chapter 242 of 2000 established a one-time tax credit for the purchase of new long-term care policies in an attempt to promote purchases of new long-term care policies. The credit applies to tax years 2000 and beyond. The amount and number of returns that have claimed the credit as allowed by the Comptroller's Office are listed in **Exhibit 1.**

Exhibit 1
Long-term Care Insurance Tax Credits

Tax Year	Return	Credits	Amount ($ in millions)	Average Claim Per Credit
2000	2,537	3,658	$1.6	$442
2001	5,185	7,032	3.0	433
2002	8,691	12,367	5.1	409
2003	12,756	18,964	8.4	445
2004	6,221	10,238	4.5	442
2005	8,470	11,751	5.3	447
2006	6,192	8,210	3.6	440
2007	6,089	7,778	3.3	431
2008	5,172	6,735	2.9	426
Total	**61,313**	**86,733**	**$37.8**	**$435**

The amount reported above is less than the amount that has been reported in past annual reports issued by the Comptroller's Office due to improved data collection and analysis and taxpayers claiming the credit in error. Not included in the totals is approximately $4.2 million in credits that the Comptroller's Office has determined have been claimed in error through tax year 2004, representing 8,400 credits and an 18.6% overclaim rate. In 2004, the Comptroller's Office determined that the credit had been claimed more than once for any given insured by many taxpayers. Procedures were put in place in 2005 to prevent that from occurring again, including an expansion of the data collected from these returns. In a handful of instances in 2005, credits were claimed in excess of $500 or were claimed for an individual who was not the taxpayer's spouse, child, or parent. These returns were forwarded to the Comptroller's Compliance Division for appropriate action. According to the Comptroller's Office, these errors were virtually eliminated in tax year 2006 returns because they are now addressed before the return is fully processed.

Most of the credits have been claimed on behalf of individuals between 51 and 64 years old. Through tax year 2005, slightly less than one-quarter of the credits were claimed for an individual who is less than 50 years old (including 691 credits for insureds under 21 years old) and slightly less than one-fifth were claimed on behalf of insureds who were 65 years old and older. Approximately 1.4 credits were claimed per tax return at an average of $435. Sixty-three percent of credits were claimed on behalf of the taxpayer, 35% on behalf of the taxpayer's spouse, and the remaining 2% on behalf of a taxpayer's parent or child. **Exhibit 2** lists the percentage of tax returns that claimed the credit by the amount of the taxpayer's Maryland Adjusted Gross Income (MAGI).

Exhibit 2
Tax Returns Claiming the Credit by MAGI
Tax Year 2000-2004

MAGI	Percent of Total Returns
Under $30,000	4%
$30,000-$60,000	14%
$60,000-$100,000	27%
Over $100,000	56%

State Revenues: The bill expands the existing tax credit beginning in tax year 2012 by allowing individuals to claim the credit for every year the policy is in effect at a maximum of $500 in the first year and $150 beginning in the second year and not just one time as provided under current law. This expansion is applicable to individuals who were not covered by long-term insurance at any time before January 1, 2012. As a result, general fund revenues will decrease by an estimated $1.3 million in fiscal 2014. Revenue losses will increase by about $1.0 million annually thereafter. This estimate is based on the following facts and assumptions:

- Based on the number of returns claiming the credit in tax year 2000 through 2008, it is forecasted that an average of 5,967 returns will claim the policy annually beginning in tax year 2009.
- Each return claimed an average of 1.4 credits in tax year 2000 through 2008.
- The average credit claimed per tax policy in 2000 to 2008 was $435. Based on this average on current federal limitations on eligible premiums, it is assumed that the maximum additional credit of $150 would be claimed every year that a policy is in force.
- The estimated number of policies in force is based on the renewal rates of long-term care insurance policies as reported by the Society of Actuaries and America's Health Insurance Plans.

The bill provides substantial incentive for young individuals to buy long-term care insurance by subsidizing a significant portion of the premium. As a result, revenue losses could be higher than estimated. In addition, revenue losses will continue to increase by about $1 million annually and will be significantly more in the out years, totaling $7.4 million in fiscal 2020.

Additional Information

Prior Introductions: None.

Cross File: SB 460 (Senators Stone and Klausmeier) - Budget and Taxation.

Information Source(s): Comptroller's Office, Internal Revenue Service, Society of Actuaries, Department of Legislative Services

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