HB 1343

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1343 (Delegate Healey, *et al.*)
Ways and Means

Income Tax - Credit and Subtraction Modification for Long-Term Care Insurance

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This bill expands the existing Long-Term Care Insurance income tax credit by allowing the credit to be claimed for any policy in force before July 1, 2000 and provides that an individual who has claimed the credit may claim a subtraction modification equal to $500 for every third tax year after the credit was claimed.

The bill takes effect July 1, 2008 and applies to tax year 2008 and beyond.

Fiscal Summary

State Effect: General fund revenues could decrease by $27.3 million in FY 2009, which reflects the estimated number of taxpayers eligible for the expansion of the credit and subtraction modification. Future years reflect estimated number of policies in force eligible for subtraction modification. No effect on expenditures.

($ in millions)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	($27.3)	($0.9)	($1.2)	($1.5)	($1.7)
Expenditure	$0	$0	$0	$0	$0
Net Effect	($27.3)	($.9)	($1.2)	($1.5)	($1.7)

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

Local Effect: Local revenues would decrease by $547,100 in FY 2009, $558,000 in FY 2010, $731,400 in FY 2011, $898,600 in FY 2012, and $1.1 million in FY 2013.

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: • the insured individual was covered by long-term care insurance at any time before July 1, 2000; or • 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 2008 based on the age of the insured are: • $310 – age 40 or younger; • $580 – ages 41 to 50; • $1,150 – ages 51 to 60; • $3,080 – ages 61 to 70; and • $3,850 – 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: • 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 • 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.

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.

Due to a rapidly aging population, State expenditures on long-term care have been projected to increase. In response, 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	Returns	Credits	Amount	Average Claim Per Credit
2000	2,537	3,658	$1,615,650	$442
2001	5,185	7,032	3,044,110	443
2002	8,691	12,367	5,061,600	409
2003	12,756	18,964	8,436,160	445
2004	6,221	10,238	4,523,650	442
2005	8,470	11,751	5,250,320	447
2006	6,192	8,210	3,615,832	440
Total	**50,052**	**72,220**	**$31,547,322**	**$437**

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. These claims were forwarded to the Comptroller's Compliance Division for adjustment in 2006. The Comptroller's Office increased verification procedures on tax returns claiming the credit beginning in tax year 2005.

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 were 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 1.5 credits were claimed per tax return at an average of $436. 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%

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.

Employer-paid premiums are fully excludable from employee income. However, the benefits an employer provides under a long-term care insurance contract are not tax exempt to an employee if they are provided through a "cafeteria" plan. The State Employee Health Benefits Plan is an example of a "cafeteria" plan.

In addition, the federal Long-Term Care Security Act of 2000 offered the option of enrolling in long-term care insurance to most federal and U.S. postal service employees and retirees as well as active members of the uniformed services.

State Revenues: The bill expands the existing tax credit beginning in tax year 2008 by allowing individuals to claim the credit if the policy was in force before July 1, 2000 and also allowing individuals to claim a subtraction modification in the third tax year after claiming the credit. As a result, general fund revenues would decrease by an estimated $27.3 million in fiscal 2009 and $1.7 million by fiscal 2013 based on the following facts and assumptions:

- An estimated 60,382 policies sold before July 1, 2000 are in force and could claim the credit beginning in fiscal 2009.
- The average credit claimed per tax policy was approximately $437.
- The estimated number of policies in force each year 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.

Additional Information

Prior Introductions: Bills that would have expanded the tax credit in some manner have been introduced in the 2007, 2006, and 2005 sessions. HB 454 and HB 435 of 2007; SB 138, SB 716, HB 134, HB 489 of 2006; and SB 496 of 2005 were not reported from the House Ways and Means and Senate Budget and Taxation committees, respectively. SB 429 of 2007 received an unfavorable report from Budget and Taxation.

Cross File: None.

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