DEPARTMENT OF TAXATION
2005 Fiscal Impact Statement

1. Patron Gary A. Reese

2. Bill Number HB 1591

House of Origin:
X **Introduced**
____ **Substitute**
____ **Engrossed**

Second House:
____ **In Committee**
____ **Substitute**
____ **Enrolled**

3. Committee House Finance

4. Title Individual Income Tax: Expanded Deduction For the Purchase of Long-Term Health Care Insurance

5. Summary/Purpose:

This bill would contract the current long-term health care insurance deduction to only allow an individual to deduct premiums paid on behalf of himself, his spouse, his parents, or his parents-in-law for long-term health care insurance, provided that such premiums have not already been deducted for federal income tax purposes. In addition, this bill would allow benefits paid under long-term health care insurance policies to be excluded from income for Virginia income tax purposes, regardless of who paid the premiums.

The bill would be effective for taxable years beginning on or after January 1, 2005.

6. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

The Department would incur minimal administrative costs with this bill.

The revenue impact of this bill is unknown. Since it is likely that most people currently taking advantage of this deduction purchase long-term care insurance policies for those people specified in this bill, the revenue gain that would occur as a result of this bill would most likely be small.

However, any revenue gain that would occur from restricting this deduction would be offset by the revenue loss attributable to the exclusion of any benefits received for from long-term care health insurance policies.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: Yes.

In order to prevent individuals from excluding long-term health care insurance benefits on both the federal and Virginia income tax returns, the following technical amendment is suggested:

Page 5, Line 269 after purposes
Insert: and may be deducted to the extent included in federal adjusted gross income.

11. Other comments:

General

Under the Internal Revenue Code, a qualified long-term care insurance contract is defined as an insurance contract that provides only coverage of qualified long-term care services. The contract must be guaranteed renewable, not provide for a cash surrender, refunds and dividends must be used only to reduce future premiums, and generally not pay or reimburse expenses incurred for services or items that would be reimbursed under Medicare.

Long-term health care insurance provides coverage for the costs of nursing home care and in home care that can last over extended periods of time. This type of insurance is promoted as a way to provide asset protection against the exorbitant costs of long term care. Most traditional health insurance plans do not cover long-term care.

Federal Treatment of Long Term Care Insurance

Federal law allows a deduction for those who itemize for long term care insurance premiums. An individual can deduct only the part of the medical and dental expenses, including long-term care insurance, which is more than 7.5% of the individual's adjusted gross income. An individual can deduct long-term care insurance premiums paid for himself, a spouse or dependent(s). In order to deduct long-term care insurance premiums for a spouse or dependent, the individual must have been a spouse or dependent either at the time the insurance was purchased or at the time the long-term care insurance benefits are received.

The amount of qualified long-term care premiums that can be deducted is limited. The amount of allowable premium is based on age. For 2004, if the individual for whom the policy was purchased is under the age of 40 the maximum allowable deduction is $260, age 41 to 50 the maximum is $490, age 51 to 60 the maximum is $980, age 61 to 70 the maximum is $2,600 and individuals age 71 and over the maximum is $3,250.

In general, benefits from long-term care insurance policies are excludable from federal gross income. Thus, Virginia would not tax the benefits, either. However, if the amount received from periodic payments exceeds a per diem limitation, the excess is includible in gross income, and would thus also be taxed by Virginia. For 2004, the per diem limitation consists of the greater of $230 per day or the costs incurred for qualified long-term care services provided for the insured, minus the payments received as reimbursements, through insurance or otherwise, for qualified long-term care services provided for the insured during such period.

Virginia Treatment of Long Term Care Insurance

Currently, Virginia allows taxpayers to deduct the amount paid annually in premiums for long term health care insurance, to the extent that the individual has not deducted the premiums for federal income tax purposes. The law does not specify who must be insured by the policy.

Proposal

This bill would contract the current deduction for long-term health care insurance premiums by limiting the deduction to premiums paid by a taxpayer for his own, his spouse's, his dependents', his parents', or his parents-in-law's long-term health care insurance, to the extent that they are not already deducted for federal purposes.

This bill would define the term "long-term health care insurance" as it is used in *Va. Code* § 38.2-5200. This bill specifies that the definition of long-term health care insurance would also encompass the definitions of "qualified long-term care insurance policy," "federally tax-qualified long-term care insurance contract" and, to the extent premiums are paid by the individuals, "group long-term care insurance".

This bill would also allow benefits under long-term health care insurance policies to be excluded from the income of the person receiving the benefit for the purposes of the Virginia income tax. This would be true regardless of who paid the premiums for the policy. Thus, this bill would allow the taxpayer to deduct benefits that were considered taxable for federal income tax purposes.

This bill would be effective for taxable years beginning on or after January 1, 2005.

cc : Secretary of Finance

Date: 1/15/2005 AMS
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