DEPARTMENT OF TAXATION
2005 Fiscal Impact Statement

1. Patron Gary A. Reese

2. Bill Number HB 1591

House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
__X__ **In Committee**
_____ **Substitute**
_____ **Enrolled**

3. Committee Senate Finance

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

5. Summary/Purpose:

This bill would clarify the current long-term health care insurance deduction by allowing an individual to deduct premiums paid either for himself or others. In addition, this bill would allow individuals to deduct the benefits paid under long-term health care insurance policies to the extent that they are included in federal adjusted gross income, regardless of who paid the premiums.

The deduction for benefits paid 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:

A revenue loss of unknown amount would occur from the exclusion of benefits received that are not currently excluded from federal gross income. The loss is expected is to be small, however, because federal law does allow for the exclusion of most benefits.

The Department would incur minimal administrative costs with this bill.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

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 clarify the current deduction for long-term health care insurance premiums by allowing individuals to deduct premiums paid either for themselves or others.

This bill would also allow benefits under long-term health care insurance policies to be deducted 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. However, taxpayers would only be allowed to deduct these benefits to the extent that they were included in federal adjusted gross income.

The deduction for benefits paid would be effective for taxable years beginning on or after January 1, 2005. The effective date of the clarification is unspecified.

cc : Secretary of Finance

Date: 2/7/2005 AMS
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