



LONG TERM CARE
INSURANCE

2008 Federal and State Tax Guide

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Introduction

This brochure presents an overview of the rules and regulations concerning the tax implications of qualified long-term care insurance (LTCI). It addresses the tax deductibility or exclusion of premiums paid, and the exclusion of benefits from Adjusted Gross Income (AGI).

We have also included examples of how tax-qualified LTCI premiums are treated, to provide you with guidance relevant to your clients' particular situations.

This is an interpretation of the Federal and State Tax Guidelines by John Hancock's Corporate Law Department. Clients should consult with their legal tax advisor regarding tax issues.

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Individual Purchase

Tax-qualified LTCI premiums considered medical expenses. For an individual who itemizes income tax deductions, medical expenses are deductible to the extent that they exceed 7.5% of the individual's Adjusted Gross Income (AGI). The amount of the LTCI premium treated as a medical expense is limited to the eligible long-term care insurance premiums, as defined by Internal Revenue Code¹ 213(d), based on the age of the insured individual. That portion of the LTCI premium that exceeds the eligible long-term care insurance premiums is not includable as a medical expense. Table 1 illustrates the allowable deductions:

Table 1

Age of Insured Before the Close of the Year	2008 LTCI Eligible Premium
Ages 40 or Less	\$310
Ages 41 to 50	\$580
Ages 51 to 60	\$1,150
Ages 61 to 70	\$3,080
Ages Over 70	\$3,850

The 2008 per diem limitation under section 7702B(d)(4), regarding periodic payments received under a qualified long-term care insurance contract, is \$270.

Example

Basic Information	
Age of Individual	55
Adjusted Gross Income (AGI)	\$55,000
Medical Expenses (Excluding LTCI Premiums)	\$4,000
Annual Premium for Tax-Qualified LTCI Policy	\$2,000
Calculating the Deduction	
Eligible LTCI Premium (Table 1)	\$1,150
Total Medical Expenses	\$5,150 (\$4,000 Medical Expenses + \$1,150 of Eligible LTCI Premiums)
7.5% of AGI	\$4,125
Medical Expenses that Exceed 7.5% of AGI	\$1,025 (\$5,150 - \$4,125)
Total Itemized Deduction	\$1,025
AGI Less Itemized Deduction	\$53,975 (\$55,000 - \$1,025)

1. Internal Revenue Code will be listed as "IRC," followed by the section numbers.

If an individual purchases tax-qualified LTCI on behalf of a parent who is not a dependent, he/she is not entitled to a medical expense deduction. A dependent is generally someone for whom at least 50% of financial support is provided by the taxpayer.

Generally, benefits received from a tax-qualified LTCI policy that was purchased by an individual are non-taxable and therefore excluded from Adjusted Gross Income.

Self-Employed

A self-employed individual can deduct 100% of his/her out-of-pocket long-term care insurance premiums, up to the age-based Eligible Premium amounts listed in Table 1 [IRC 162(l)]. The portion of LTCI premiums that exceeds the Eligible Premium amount is not deductible as a medical expense. The deductible amount includes eligible premiums paid for spouses and dependents [IRC 162(l)]. It is not necessary to meet a 7.5% AGI threshold in order to take a deduction.

However, a self-employed individual may not deduct LTCI premiums during any calendar month in which he/she or his/her spouse is eligible to participate in a subsidized long-term care insurance plan. A subsidized LTCI plan is one for which an employer pays part or all of the premiums for LTCI. Under our interpretation of Code Section 162(l)(2)(B), any month in which a self-employed individual is eligible to participate in a LTCI plan that is fully- or partially-paid by the self-employed individual's or his/her spouse's employer, the self-employed individual is not eligible to take the self-employed insurance deduction for eligible LTCI premiums paid under any LTCI plan.

Example

Basic Information	
Age of Self-Employed Individual	55
Gross Income	\$60,000
Annual Premium for Tax-Qualified LTCI Policy	\$2,000
Calculating the Deduction	
Eligible LTCI Premium (Table 1)	\$1,150
Gross Income Less Deduction	\$58,850 (\$60,000 - \$1,150)

Generally, benefits received from a tax-qualified LTCI policy that was purchased by an individual are non-taxable and therefore excluded from Adjusted Gross Income.

Partnership Limited Liability Company (LLC) Subchapter S Corporation

Partners of a partnership, members of an LLC that is taxed as a partnership, and shareholders/employees of Subchapter S Corporations who own more than 2% of the Corporation², are taxed as self-employed individuals. The partnership, LLC, or Subchapter S Corporation pays the premium. The partner, member, or shareholder/employee must include the LTCI premium paid on his/her benefit in his/her Adjusted Gross Income, but may deduct up to 100% of the age-based Eligible Premium amount, as listed in Table 1³. It is not necessary to meet a 7.5% AGI threshold in order to take this deduction.

Example

Basic Information	
Age of Partner	55
Gross Income	\$60,000
Annual Premium for Tax-Qualified LTCI Policy	\$2,000
Calculating the Deduction	
Eligible LTCI Premium (Table 1)	\$1,150
Gross Income Less Deduction	\$58,850 (\$60,000 - \$1,150)

Generally, benefits received from a tax-qualified LTCI policy that was purchased by an individual are non-taxable and therefore excluded from Adjusted Gross Income.

2. IRC Section 1372 provides that a more than 2% shareholder/employee is generally treated as a partner in a partnership, rather than as an employee, for the purposes of the tax treatment of fringe benefits. The deduction hinges on the more than 2% shareholder/ employee being treated as a partner and self-employed by participating in a plan in which the employer pays the policy's premiums. [IRC 162(l); Rev. Rul. 91-26].

3. [IRC 213(d)(10)].

Subchapter C Corporation

Employer

When a business purchases a John Hancock tax-qualified LTCI policy on behalf of any of its employees, and their spouses or dependents, the corporation is entitled to take a 100% deduction as a business expense on the total premiums paid⁴. The deduction is not limited to the age-based Eligible Premium amounts listed in Table 1 [IRC 162(a)].

The purchase of a tax-qualified LTCI policy is not subject to any IRC nondiscrimination rules, therefore an employer can be selective in the classification of employees it elects to cover (e.g., a select group of officers).

Employee⁵

The entire LTCI premium amount paid by the business is excluded from the employee's Adjusted Gross Income, even if the premium exceeds the Eligible Premium amount listed in Table 1⁶. This exclusion applies to shareholders/employees (as long as they are treated as employees) in a Subchapter C Corporation and to shareholders/employees who own 2% or less of the Subchapter S Corporation.

Example

Basic Information	
Premium Paid by Subchapter C Corporation	\$20,000 (\$2,000 premium x 10 individuals)
Calculating the Deduction	
Total Deduction	\$20,000
Calculating the Exclusion	
Amount Excluded from Each Employee's Taxable Income	\$2,000

Generally, benefits received under an employer-purchased tax-qualified LTCI policy are non-taxable and therefore excluded from the employee's Adjusted Gross Income [IRC 7702B, 104(a)(3)].

4. [IRC 162(a)].

5. For LTCI coverage provided by a closely-held C Corporation, the IRS can challenge tax benefits claimed under an employer-provided plan that covers only shareholders/employees, if they find that the plan is not for employees.

6. [IRC 106, 7702B, 104(a)(3)].

Employer-Pay Contributory Arrangement on Behalf of an Employee

If an employer pays all or a portion of the tax-qualified LTCI premiums on behalf of an employee, the amount paid is deductible by the employer as a business expense⁷. The deductions are not limited by the age-based limits on Eligible Premium listed in Table 1. [IRC 162(a)]. The entire employer contribution would also be excluded from the employee’s AGI.

If the employer only pays a portion of the premium, the employee is able to include the balance that he/she pays towards his/her medical expenses, up to the Eligible Premium amount, and accordingly would be entitled to an itemized deduction for medical expenses that exceed 7.5% of AGI.

Example: Employee Deduction

Basic Information	
Age of Individual	55
Adjusted Gross Income (AGI)	\$55,000
Medical Expenses (Excluding LTCI Premiums)	\$6,000
Annual Premium for Tax-Qualified LTCI Policy	\$2,000
Employer Contribution	\$500
Premium Paid by Employee	\$1,500
Calculating the Deduction	
Eligible LTCI Premium (Table 1)	\$1,150
Total Medical Expenses	\$7,150 (\$6,000 medical expenses + \$1,150 of eligible LTCI premiums)
7.5% of AGI	\$4,125
Medical Expenses that Exceed 7.5% of AGI	\$3,025 (\$7,150 - \$4,125)
Total Itemized Deduction	\$3,025
AGI Less Deduction	\$51,975 (\$55,000 - \$3,025)

7. [IRC 162 (a)].

Example: Employer Deduction

Basic Information	
Premium Paid by Employer	\$500
Calculating the Deduction	
Total Deduction as a Business Expense	\$500

Generally, benefits received under an employer-purchased tax-qualified LTCI policy are non-taxable and therefore excluded from the employee's Adjusted Gross Income [IRC 7702B, 104(a)(3)].

Gift Tax Exclusion

In addition to the annual Gift Tax Exclusion of \$12,000 per donee, a donor has the ability to pay for the medical expenses of the donee⁸. If those medical expenses are tax-qualified LTCI premiums, the exclusion is subject to the age-based limits for Eligible Premium amounts listed in Table 1. An individual (donor) can purchase LTCI policies for family members (donees) and to the extent that the premiums don't exceed the eligible LTCI premiums can still maintain the annual Gift Tax Exclusion. If the donor pays more than the eligible premium that applies to the donee, that amount will impact the annual \$12,000 Gift Tax Exclusion. If the donor pays less than the eligible premium, it will not impact the \$12,000 Gift Tax Exclusion.

Example

Basic Information	
Annual Gift Tax Exclusion	\$12,000
Age of LTCI Policy Recipient (Donee)	55
Annual Premium for Tax-Qualified LTCI Policy (Paid by Donor)	\$1,500
Calculating the Exclusion	
Eligible LTCI Premium (Table 1)	\$1,150
Premium Amount that Would Reduce the Annual Gift Tax Exclusion	\$350 (\$1,500 - \$1,150)
Amount of Taxpayer's Remaining Annual Gift Tax Exclusion for Donee	\$11,650 (\$12,000 - \$350)

8. [IRC Sec. 2503(e)].

Return of Premium

The refund is included in the beneficiary's gross income and is taxable, to the extent it was either excluded from the owner's income or deducted by the owner. It must be included in income the year it is received.

Health Savings Account (HSA)

Tax-qualified LTCI premiums can be reimbursed through an HSA, tax-free, up to the Eligible Premium amounts listed in Table 1, even if the HSA is offered through an employer-provided cafeteria plan.

Health Reimbursement Account (HRA)

Reimbursements for insurance covering medical care expenses, as defined in IRC Sec. 213(d), which includes qualified long-term care services and qualified long-term care insurance premiums, are allowable under an HRA. Although employers pay for HRAs, an HRA cannot be provided by salary reduction or IRC Sec. 125 plans. As such, the LTCI premiums cannot be paid on a pre-tax basis through an HRA.

Cafeteria Plan

Tax-qualified LTCI policies cannot be purchased with pre-tax dollars under an employer-provided cafeteria plan. However, LTCI premiums may be paid through an HSA that is offered under an employer-provided cafeteria plan.

Flexible Spending Account (FSA)

Tax-qualified LTCI premiums cannot be reimbursed through an FSA.

State Tax Incentives

The information provided in this chart is general and informational only. The information is not tax advice and does not guarantee that state benefits will be available. One should consult his/her tax advisor to determine if state tax benefits are available in his/her situation. This chart represents state law as it existed when this chart was created and may not reflect recent changes in state law.

State	Credit/ Deduction	Summary
Alabama	Deduction	A deduction is allowed for the amount of premiums paid in excess of 4% of Alabama AGI pursuant to a qualifying insurance contract for qualified long-term care coverage.
Alaska	None	
Arizona	None	
Arkansas	Deduction	"Eligible" long-term care insurance premiums may be deductible as medical expenses when such premiums are paid towards "qualified" long-term care insurance. The definition of "qualified" long-term care insurance is set forth in IRC Sec. 7702B(b)(1). This deduction for unreimbursed medical expenses can be taken only to the extent such expenses exceed 7.5% of the taxpayer's AGI. (i.e. same deduction allowed federally.)
California	Deduction	Permits the same tax deduction as is allowed for federal income tax purposes for premiums paid for the purchase of qualified long-term care insurance.
Colorado	Credit	State income tax credit equal to the lesser of 25% of premiums paid for a long-term care insurance policy or \$150.00 per policy. Individuals who qualify for the credit are those with federal taxable income less than \$50,000 (\$100,000 for joint filers claiming a credit for 2 policies). A long-term care policy must meet Colorado's definition of long-term care.
Connecticut	None	
Delaware	None	
District of Columbia	Deduction	A deduction in the amount an individual pays annually in premiums paid for long-term care insurance is permitted from gross income, provided that the deduction not exceed \$500.00 per year, per individual, whether the individual files individually or jointly. A long-term care policy must meet the District of Columbia's definition of long-term care.
Florida	None	

State	Credit/ Deduction	Summary
Georgia	None	
Hawaii	Deduction	An individual state tax deduction is allowed for long-term care insurance premiums. This deduction is limited in the same manner as the deduction on the federal level, and is also only available to the extent that all medical expenses, including long-term care, exceed 7.5% of Hawaii Adjusted Gross Income.
Idaho	Deduction	For taxable years commencing on or after 01/01/2004, premiums paid during the taxable year, by a taxpayer for long-term care insurance, which long-term care insurance is to be for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer, may be deducted from taxable income to the extent that the premium is not otherwise deducted or accounted for by the taxpayer for Idaho income tax purposes. The deduction may be taken for a federally tax-qualified long-term care insurance policy meeting Idaho's definition of long-term care insurance. Prior to 01/01/2004, prior law permitted a taxpayer to deduct half of the premiums paid for long-term care insurance for the taxpayer, the taxpayers spouse or dependent of employee if the premium is not otherwise deductible. After 01/01/2004, the limitation and allows the deduction for the full amount of the premiums.
Illinois	None	
Indiana	Deduction This deduction applies only to IN Partnership Policies.	An individual taxpayer is permitted to deduct an amount equal to the eligible portion of premiums paid during the taxable year by the taxpayer for a qualified long-term care policy (as defined in the Indiana Code, for the taxpayer, the taxpayer's spouse, or both). Deduction only applies to the Partnership program. Ind. Code § 6-3-1-3.5 and § 12-15-39.6.5 (Qualified Long-Term Care Policy).
Iowa	Deduction	Permits tax deduction from net income for premiums paid for long-term care coverage to the same extent allowable under federal law and to the extent not otherwise deducted in computing Adjusted Gross Income.
Kansas	Deduction	For tax years beginning on or after January 1, 2004. HB 2545 permits tax deduction from net income for premiums paid for qualified long-term care insurance for up to \$500. The total deduction amount will increase by \$100 for each tax year until December 31, 2009; a deduction not exceeding \$1,000 of the premium costs for all taxable years commencing after December 31, 2009.

State	Credit/ Deduction	Summary
Kentucky	Exclusion	A taxpayer may exclude from Kentucky Adjusted Gross Income any amounts paid for long-term care insurance as defined in the Kentucky Code.
Louisiana	Credit	A credit against the individual income tax for amounts paid as premiums for eligible long-term care insurance. The amount of the credit shall be equal to ten percent of the total amount of premiums paid annually by each individual claiming the credit and must meet the specified qualification requirements.
Maine	Credit/ Deduction	<p>CREDIT: An employer providing long-term care benefits to its employees may qualify for the tax credit. A credit is allowed against the tax imposed for each taxable year equal to the lowest of the following: (A) \$5,000; (B) 20% of the costs incurred by the taxpayer in providing long-term care insurance policy coverage as part of the benefit package; or (C) \$100 for each employee covered by an employer provided long-term care insurance policy.</p> <p>DEDUCTION: Beginning on or after 01/01/2004, a taxpayer is entitled to a state tax deduction for qualified long-term care insurance premiums as long as the amount deducted is reduced by any amount deducted for federal income tax purposes and by any long-term care premiums claimed as an itemized deduction pursuant to Maine Rev. Stat. tit. 36 section 5125.</p>
Maryland	Credit	<p>An individual may claim a credit equal to 100% of "eligible long-term care premiums" paid during the taxable year for long-term care insurance covering the individual or the individual's spouse, parent, stepparent, child or stepchild. Credit may not exceed \$500 for each insured, and may not be claimed with respect to an insured if the insured individual was covered by long-term care insurance at any time before 7/1/2000, or the credit has been claimed with respect to that insured individual by any taxpayer for any prior taxable year. Establishes the total amount of the tax credit may not exceed the state income tax for that taxable year. The unused amount of the credit for any taxable year may not be carried over to any other taxable year. For Maryland purposes, "eligible long-term care insurance premiums" have the same definition as under Section 213(d)(10) of the federal tax law.</p> <p>An employer may claim a credit equal to 5% of the costs incurred during the taxable year to provide long-term care insurance as part of an employee benefit plan. The credit may not exceed the lesser of \$5,000 or \$100 for each employee covered by the long-term care insurance. The credit may only be applied against one tax if the employer is subject to more than one tax against which the credit is allowed. The credit may be carried forward for five years.</p>

State	Credit/ Deduction	Summary
Massachusetts	None	None
Michigan	None	None
Minnesota	Credit	A taxpayer is allowed a tax credit for premiums paid during the tax year for long-term care insurance. The Credit for each policy is equal to the lesser of 25% of premiums paid to the extent not deducted in determining federal taxable income OR \$100. Maximum allowable credit per year is \$200 for couples filing jointly and \$100 for all other filers.
Mississippi	Credit	Beginning January 1, 2007. A credit is allowed against income taxes imposed under Chapter 7 in an amount equal to 25% of the premium costs paid during the taxable year for a qualified long-term care insurance policy that offers coverage to either the individual, spouse, parent or parent-in-law, or dependent. The credit shall not exceed \$500 or the taxpayer's income tax liability, whichever is less, for each qualified long-term care insurance policy.
Missouri	Deduction	<p>For all taxable years beginning after December 31, 1999, a resident individual may deduct from such individual's Missouri taxable income an amount equal to fifty percent of all nonreimbursed amounts paid by such individual for qualified long-term care insurance premiums (as defined by Missouri long-term care insurance statutes) to the extent such amounts are not included the individual's itemized deductions.</p> <p>For all taxable years beginning after December 31, 2006, a resident individual may deduct from each individual's Missouri taxable income an amount equal to one hundred percent of all nonreimbursed amounts paid by such individuals for qualified long-term care insurance premiums to the extent such amounts are not included in the individual's itemized deductions. A married individual filing a Missouri income tax return separately from his or her spouse shall be allowed to make a deduction pursuant to this section in an amount equal to the proportion of such individual's payment of all qualified long-term care insurance premiums. The director of the department of revenue shall place a line on all Missouri individual income tax returns for the deduction created by this section.</p>

State	Credit/ Deduction	Summary
Montana	Credit/ Deduction	<p>CREDIT: A limited credit is available for expense of caring for certain elderly family members (which includes premiums paid for long-term care insurance coverage). The amount of credit is determined based on the taxpayer's adjusted gross income and cannot exceed \$5,000 per qualifying family member in a taxable year (\$10,000 for two or more family members).</p> <p>DEDUCTION (Depending on the beneficiary of the LTC insurance policy). A deduction is generally allowed for the entire amount of qualified long-term care insurance premiums paid by the taxpayer. A deduction will not be allowed, however, for premiums deducted in determining MT adjusted gross income, or for which a credit was claimed for qualified long-term care insurance policies or certificates. This deduction is generally available for taxpayers on policies covering themselves on or after January 1, 1995; and on policies covering the taxpayer's dependents, parents and grandparents for tax years beginning on or after January 1, 1997.</p>
Nebraska	Deduction	<p>Allows a state income tax deduction for The Nebraska Long-Term Care Savings Plan contributions of up to \$2,000 per married filing jointly return or \$1,000 for any other return, to the extent not deducted for federal income tax purposes. Effective January 1, 2006.</p>
Nevada	None	
New Hampshire	None	
New Jersey	Deduction	<p>Allows a deduction for medical expenses (including long-term care insurance premiums for taxpayers, their spouses or dependents) to the extent such expenses exceed 2% of taxpayer's gross income.</p>
New Mexico	Credit/ Exemption	<p>CREDIT: Allows taxpayers 65 and older and not a dependent of another taxpayer to claim a credit of \$2,800 for medical care expenses, which includes long-term care insurance premiums, paid for the taxpayer, spouse or dependents if expenses equal \$28,000 or more within a taxable year and if expenses are not reimbursed or compensated.</p> <p>EXEMPTION: Allows taxpayers 65 and older an exemption for premium paid for a qualified long-term care insurance contract as part of unreimbursed or uncompensated medical care expenses.</p>

State	Credit/ Deduction	Summary
New York	Credit	For tax years beginning on or after 1/1/04, allows taxpayers a tax credit equal to 20% (previously 10%) of the premium paid during the taxable year for qualified long-term care insurance.
North Carolina	None	
North Dakota	Credit	A credit is allowed to be taken against an individual's tax liability provided to each taxpayer in the amount of 25% of any premiums paid by the taxpayer for long-term care insurance coverage for the taxpayer, his/her spouse, parent, stepparent, or child. The credit cannot exceed \$100 for each insured individual in any taxable year.
Ohio	Deduction	Allows a deduction for the amount paid for qualified long-term care insurance for the taxpayer, his/her spouse, and dependents (but only to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income).
Oklahoma	Deduction	Permits the same tax deduction as is allowed for federal income tax purposes.
Oregon	Credit	A credit is allowed for amounts paid or incurred for long-term care insurance by an individual on behalf of individual, dependents or parents and for amounts paid or incurred by an employer on behalf of employees. The credit is limited to the lesser of 15% of premiums or \$500. In order for the credit to be available the policy must be issued after January 1, 2000. The credit is not refundable and cannot be carried forward.
Pennsylvania	None	
Rhode Island	None	
South Carolina	None	
South Dakota	None	
Tennessee	None	
Texas	None	

State	Credit/ Deduction	Summary
Utah	Deduction	Permits resident and nonresident taxpayers a deduction for all premiums paid for long-term care insurance as defined under the Utah Code to the extent the amount was not deducted in determining federal taxable income.
Vermont	None	
Virginia	Credit/ Deduction	<p>CREDIT: Beginning on or after January 1, 2006. Provides a credit against individual income taxes for certain long-term care insurance premiums paid by the individual during the taxable year. The amount of the credit shall equal 15% of the amount paid during the taxable year. The credit can not be claimed to the extent the individual has claimed a deduction for federal income tax purposes for long-term care insurance premiums for himself or a deduction under Va. Code Ann. § 58.1-322 (D)(10).</p> <p>DEDUCTION: For tax years beginning on or after 01/01/00, the amount paid annually in long-term care premiums may be deducted from federal adjusted gross income in computing VA taxable income. The deduction is only allowed if the individual did not claim a deduction for these premiums for federal income tax purposes.</p>
Washington	None	
West Virginia	Deduction	A deduction is allowed for resident taxpayers for amounts paid during the taxable year for premiums for long-term care insurance as defined in the West Virginia Code, for taxpayer, his/her spouse, parent or dependent, from the federal adjusted gross income reported on the West Virginia state tax return. A deduction is allowed on the state level only to the extent the amount is not allowable as a deduction for purposes of determining the taxpayer's federal adjusted gross income for the year of payment.
Wisconsin	Deduction	Allows a person to subtract from federal adjusted gross income a portion of the amount paid for a long-term care insurance policy for taxpayer and his spouse when computing Wisconsin taxable income. The deduction is not available on the state level to the extent a deduction was taken for these premiums on the federal return. In addition, the amount claimed as a deduction from long-term care insurance in calculation of federal taxable income is excluded from the Wisconsin itemized deductions credit.
Wyoming	None	



Long Term Care Insurance is underwritten by
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