

House BILL NO. 403

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Menasha

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN INDIVIDUAL INCOME TAX DEDUCTION FOR THE ENTIRE AMOUNT OF PREMIUM PAYMENTS MADE FOR MEDICAL AND LONG-TERM CARE INSURANCE; AMENDING SECTION 15-30-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND RETROACTIVE APPLICABILITY DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-121, MCA, is amended to read:

"15-30-121. Deductions allowed in computing net income. In computing net income, there are allowed as deductions:

(1) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code of 1954, or as sections 161 and 211 are labeled or amended, subject to the following exceptions, which are not deductible:

- (a) items provided for in 15-30-123;
- (b) state income tax paid;
- (c) ~~one half of premium payments for medical care as provided in subsection (9) for long-term care~~

insurance;

- (2) federal income tax paid within the tax year;
- (3) expenses of household and dependent care services as outlined in subsections (3)(a) through (3)(c) and (9) and subject to the limitations and rules as set out in subsections (3)(d) through (3)(f), as follows:

(a) expenses for household and dependent care services necessary for gainful employment incurred for:

- (i) a dependent under 15 years of age for whom an exemption can be claimed;
- (ii) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to provide self-care because of physical or mental illness; and
- (iii) a spouse who is unable to provide self-care because of physical or mental illness;



HB 403
INTRODUCED BILL

1 (b) employment-related expenses incurred for the following services, but only if the expenses are
2 incurred to enable the taxpayer to be gainfully employed:

3 (i) household services that are attributable to the care of the qualifying individual; and

4 (ii) care of an individual who qualifies under subsection (3)(a);

5 (c) expenses incurred in maintaining a household if over half of the cost of maintaining the
6 household is furnished by an individual or, if the individual is married during the applicable period, is
7 furnished by the individual and the individual's spouse;

8 (d) the amounts deductible in subsections (3)(a) through (3)(c), subject to the following limitations:

9 (i) a deduction is allowed under subsection (3)(a) for employment-related expenses incurred during
10 the year only to the extent that the expenses do not exceed \$4,800;

11 (ii) expenses for services in the household are deductible under subsection (3)(a) for
12 employment-related expenses only if they are incurred for services in the taxpayer's household, except that
13 employment-related expenses incurred for services outside the taxpayer's household are deductible, but
14 only if incurred for the care of a qualifying individual described in subsection (3)(a)(i) and only to the extent
15 that the expenses incurred during the year do not exceed:

16 (A) \$2,400 in the case of one qualifying individual;

17 (B) \$3,600 in the case of two qualifying individuals; and

18 (C) \$4,800 in the case of three or more qualifying individuals;

19 (e) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year
20 during which the expenses are incurred, the amount of the employment-related expenses incurred, to be
21 reduced by one-half of the excess of the combined adjusted gross income over \$18,000;

22 (f) for purposes of this subsection (3):

23 (i) married couples shall file a joint return or file separately on the same form;

24 (ii) if the taxpayer is married during any period of the tax year, employment-related expenses
25 incurred are deductible only if:

26 (A) both spouses are gainfully employed, in which case the expenses are deductible only to the
27 extent that they are a direct result of the employment; or

28 (B) the spouse is a qualifying individual described in subsection (3)(a)(iii);

29 (iii) an individual legally separated from the individual's spouse under a decree of divorce or of
30 separate maintenance may not be considered as married;

1 (iv) the deduction for employment-related expenses must be divided equally between the spouses
2 when filing separately on the same form;

3 (v) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax
4 year and payments made to an individual with respect to whom a deduction is allowable under
5 15-30-112(5) are not deductible as employment-related expenses;

6 (4) in the case of an individual, political contributions determined in accordance with the provisions
7 of section 218(a) and (b) of the Internal Revenue Code that were in effect for the tax year ended December
8 31, 1978;

9 (5) that portion of expenses for organic fertilizer allowed as a deduction under 15-32-303 that was
10 not otherwise deducted in computing taxable income;

11 (6) contributions to the child abuse and neglect prevention program provided for in 41-3-701,
12 subject to the conditions set forth in 15-30-156;

13 (7) ~~one-half of the entire amount of premium payments, except premiums deducted in determining~~
14 ~~Montana adjusted gross income or for which a credit was claimed under 15-30-128, for:~~

15 (a) insurance that provides payment for medical care as defined by 26 U.S.C. 213(d) made directly
16 by the taxpayer; and

17 (b) long-term care insurance with benefits that meet or exceed the minimum standards as
18 established by the state insurance commissioner; and

19 (8) contributions to the Montana drug abuse resistance education program provided for in
20 44-2-702, subject to the conditions set forth in 15-30-159.

21 ~~(9) For the purpose of subsection (7)(a), deductible medical insurance premiums are those~~
22 ~~premiums that provide payment for medical care as defined by 26 U.S.C. 213(d).~~

23 ~~(+0)(9)~~ (a) Subject to the conditions of subsection (3), a taxpayer who operates a family day-care
24 home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's
25 own child and at least one unrelated child in the ordinary course of business may deduct
26 employment-related expenses considered to have been paid for the care of the child.

27 (b) The amount of employment-related expenses considered to have been paid by the taxpayer is
28 equal to the amount that the taxpayer charges for the care of a child of the same age for the same number
29 of hours of care. The employment-related expenses apply regardless of whether any expenses actually have
30 been paid. Employment-related expenses may not exceed the amounts specified in subsection (3)(d)(ii).

1 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the
2 deduction under this subsection ~~(4)~~ (9). (Subsection (8) terminates on occurrence of contingency--sec.
3 12, Ch. 808, L. 1991.)"

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5 **NEW SECTION. Section 2. Effective date -- retroactive applicability.** (1) [This act] is effective on
6 passage and approval and, except as provided in subsection (2), applies retroactively, within the meaning
7 of 1-2-109, to tax years beginning after December 31, 1996.

8 (2) The deduction of the entire amount of premium payments for long-term care under
9 15-30-121(7)(b) applies retroactively, within the meaning of 1-2-109, to tax years beginning after
10 December 31, 1994.

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0403, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing an individual income tax deduction for the entire amount of premium payments made for medical and long-term care insurance; and providing an immediate effective date and retroactive applicability dates.

ASSUMPTIONS:

1. The proposed change to the medical insurance premiums applies retroactively to tax years beginning after December 31, 1996. The 100% deduction of long-term care premiums applies retroactively to tax years beginning after December 31, 1994.
2. Currently, Montana allows the taxpayer to deduct the full amount of long-term care insurance premiums purchased for himself or a dependent, so there would be no new revenue impact.
3. Currently, Montana allows for 50% deductibility of medical insurance premiums for taxpayers and their dependents. Based on 1995 income tax returns, if 100% deductibility of health insurance premiums would have been allowed in 1995, revenue would have been reduced by an additional \$2.8 million. The medical insurance premium deduction is expected to grow at an annual rate of 5% (DOR). Therefore, the fiscal impact of allowing deductibility of the remaining 50% of medical insurance premiums (for taxpayers and their dependents) will be \$3.1 million in FY98 and \$3.2 million in FY99.
4. Because there are already lines on the income tax form for long-term care and medical insurance premium deductions, no new lines will need to be added and administrative costs will be minimal.

FISCAL IMPACT:

	<u>FY 98</u>	<u>FY 99</u>
<u>Revenues:</u>		
Income Tax (General Fund)	(\$3,100,000)	(\$3,200,000)

Technical Note:

This bill could be interpreted to allow the same medical insurance premium to be deducted twice - once for the Montana specific insurance premium deduction, and again for the deduction of medical expenses that are greater than 7½% of adjusted gross income.

Dave Lewis 2.4.97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Emily Swanson 2-4-97
EMILY SWANSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0403, as introduced

HB 403