

**The Health Insurance Portability and Accountability Act of 1996** provides an overview of tax guidelines regarding company or individually paid Long Term Care Insurance premiums. Powerful tax incentives were created to encourage companies and business owners to purchase Long Term Care Insurance during peak earning years. Insurance companies offer 10 year and to age 65 installment payment plans allowing employees to retire with a policy entirely paid-up using tax deductible dollars.

**All companies.** Employers have the option of covering only certain employee classes. An employee, their spouse and dependents can be covered and receive the same tax advantages. Employer-paid premiums for employees, spouses, and dependents are generally excluded from an employee's income for tax purposes. Coverage for retirees, their spouses and dependents will also often qualify as a legitimate business expense deduction.

**C-corporations and Non-profit organizations.** C-corporations and non-profit organizations may deduct the entire premium amount for employees, their spouses and dependents. There are no premium limitations, and premiums are not reported as income for the employees.

**Self-employed individuals (including LLC, PA, S-Corps. and Partnerships).** The 2% or more owners of these entities can deduct 100% of the **eligible (age indexed)** LTCI premiums paid on their behalf, their spouses and dependents for Tax Qualified LTCI policies.<sup>1</sup> Please refer to the age indexed chart below for eligible premiums. Premiums paid of behalf on non-owner employees, their spouses and their dependents for Tax Qualified LTCI policies are generally fully tax deductible as a reasonable business expense.

The eligible age indexed LTC premium amounts are:		
Attained Age Before Close of Tax Year	2009 Tax Year	2010 Tax Year
40 or younger	\$320	\$330
41-50	\$600	\$620
51-60	\$1,190	\$1,230
61-70	\$3,180	\$3,290
71 and older	\$3,980	\$4,110

**Carry-over.** Self employed, S-corporation (2% or more shareholders) and LLC individuals may carry over excess premium amounts to be included in the Medical expense portion of individual return.

**Individual Purchasers.** Medical and dental expenses that exceed 7.5% of adjusted gross income are deductible and taxpayers can now include eligible LTCI premiums as part of their medical expenses.

**State Tax Incentives.** 30 states offer a tax deduction or tax credit for LTCI.

**Receiving LTCI Benefits.** Benefits paid under a qualified LTCI plan are generally excluded from taxable income. The *stated dollar amount of the per diem limitation* (guaranteed tax free benefit, or reimbursement amount) will increase from \$280 to \$290 for tax year 2010.

**Health Savings Accounts (HSAs) -** LTCI premiums may be paid from an HSA account.

**Section 125 Cafeteria Plans.** LTCI cannot be written under a Section 125 Cafeteria Plan.

## How the Code Reads:

110 STAT. 2054 PUBLIC LAW 104-191—AUG. 21, 1996  
SUBTITLE C —LONG-TERM CARE SERVICES AND CONTRACTS  
PART I—GENERAL PROVISIONS  
SEC. 321. TREATMENT OF LONG-TERM CARE INSURANCE.

**(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:**

“SEC. 7702B. TREATMENT OF QUALIFIED LONG -TERM CARE INSURANCE.

“(a) **IN GENERAL.—For purposes of this title —**

“(1) **a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,**

## Return of Premium

110 STAT. 2055 PUBLIC LAW 104-191—AUG. 21, 1996

“(2) **SPECIAL RULES.—**

“(C) **REFUNDS OF PREMIUMS.—**Paragraph (1)(E) shall

not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

## Tax-Free Daily Benefits

110 STAT. 2057 PUBLIC LAW 104-191—AUG. 21, 1996 such persons in such manner as the Secretary shall prescribe.

“(4) **DOLLAR AMOUNT.—**The dollar amount in effect under this subsection shall be \$175 per day (or the equivalent Amount in the case of payments on another periodic basis).

“(5) **INFLATION ADJUSTMENT.—**In the case of a calendar year after 1997, the dollar amount contained in paragraph (4) shall be increased at the same time and in the same Manner as amounts are increased pursuant to section 213(d)(10).

## LTCI is not subject to ERISA

110 STAT. 2058 PUBLIC LAW 104-191—AUG. 21, 1996

29 USC 1167. (2) Paragraph (1) of section 607 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new sentence: “Such term shall not include any plan substantially all of the coverage under which is for qualified long -term care services (as defined in section 7702B(c) of such Code).



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