2015 Tax Benefits for Long-Term Care Insurance

Benefit taxability

All benefits paid from a *reimbursement policy* are considered tax free

IRC 7702(a)(2), 7702B(d), 105(b)

Indemnity and *cash* benefit payments are considered tax free, up to first $330 per day (in 2015), unless the actual cost of care received exceeds this amount

IRC 213(d)(10)

Premium deductibility

Qualified LTCi contracts are treated as accident and health plans

IRC 7702B(a)(1)

Deductibility of the premium payment depends on the type of taxpayer

- Individual
- Entity

Treasury Regulation 1.461-1(a)(1),(a)(2)

Premium deductions for tax payers filing as non-self employed individuals, are based on age

This amount, called the "eligible long-term care premium," is considered a medical expense

IRC 213(d)(10)

2015 Eligible LTCi Premiums

Insured's age	Eligible premium
40 or under	$380
41-50	$710
51-60	$1,430
61-70	$3,800
71 or older	$4,750

Non self-employed individuals

Must file an itemized tax return and file a Schedule A (Form 1040)

Individuals may deduct eligible LTCi premium, but only to the extent that the eligible premium, combined with other unreimbursed medical expenses, exceed 10% of their AGI*

IRC 213(d)(10)

Eligible premium is based on the age of the individual at the end of the tax year

**Review code to determine income eligibility and phase in period.*

Non self-employed individuals

Eligible premium can be deducted from an MSA, HSA or HRA without itemization and without being reduced by the AGI exclusion

IRC 223(d)(2)(A), IRC Notice 2002-45

Eligible premium is not deductible from an FSA

IRC 125(f)

Employee cannot pay LTCi premiums with pre-tax funds. However, employer paid premiums are excluded from employee income and the benefits paid are not taxable

IRC 125(f)

Non self-employed individuals

Long-term care insurance premium payments are not deductible as a medical expense, if made from:

- Cash value of an annuity contract; or
- Cash surrender value of a life insurance policy

Tax Treatment for Sole Proprietors

Sole proprietors

Premium is treated as a self-employed health insurance premium

IRC 162(1)

Like health insurance, LTCi premium is not a Schedule C deduction but rather a 1040 deduction because both premiums are subject to self-employment tax

IRC 162(l)(2)(c), 213(d)

However, unlike health premium deduction is based on eligible premium.

IRC 162(l)(2)(c), 213(d)

Sole proprietors

Sole proprietor deducts <u>entire</u> premium paid for employees from business income on Schedule C, E or F

IRC 162 (a) (1)

Premiums are excludable from employee's income

IRC 162(a)(1)

Benefits are tax free to employees

IRC7702(a)(2), 7702B(d), 105(b)

LTCi is not subject to anti-discrimination rules: Owner can discriminate by class

Treasury Regulation 1.105-5, 1.106-1

Consider…

If the sole proprietor’s spouse is a bona fide employee, 100% of the actual premium is deductible

Tax Treatment for Partnerships

Partnerships

Partnership pays the premium and deducts it just as it does for health insurance. The entity may treat the payment for the partner as either a guaranteed payment or distribution.

IRC 162 (a)

Partnerships

Guaranteed payment: Full premium reported in Box 4 on K-1. K-1 attached to 1040 and SE tax paid on total premium. Partner deducts eligible premium. Balance is subject to full taxation.

IRC 162(a), 707(c) IRC 162(l), 213(s)(1)(D), 213(d)(10)

Distribution: Eligible premium is reported in box 19 of K-1 and is not subject to income and self employment taxes. It may be subject to capital gains tax if the distribution is in excess of partner's tax basis

IRC731(a)(1)

Partnerships

Partnerships deduct entire premium paid for bona fide employees from business expense

IRC 162(a)

Premiums not taxable income for employees and the benefit, if paid, is not taxable

IRC 106(a), 106-1

LTCi is not subject to anti-discrimination rules. Partners can discriminate, by class

Treasury Regulation 1.105-5, 1.106-1

Tax Treatment for >2% Shareholders in S-Corporations

S-Corporations

The corporation pays the entire LTCi premium and deducts it as business expense similar to health insurance *IRC 162(a)*

The entire premium treated as guaranteed payment and is reported on W-2 and to IRS on Form 1120S *Revenue Ruling 91-26*

Shareholder attaches W-2 to 1040, pays SE tax but only deducts eligible premium. Balance subject to full taxation

IRC 162(l), 213(s)(1)(D),213(d)(10)

S-Corporations

Corporation can deduct entire premium paid for bona fide employees from business expense

IRC 162(a)

Premiums not considered taxable income to employee and the benefit, if paid, is not taxable

IRC 106(a), 106-1

LTCi is not subject to anti-discrimination rules. Owner can discriminate, by class, and take a deduction for himself

Treasury Regulation 1.105-5, 1.106-1

Tax Treatment for Limited Liability Companies and Professional Corporations

LLCs and PCs

An LLC is a legal filing, not a tax filing

- A LLC with one owner defaults to a sole proprietor, unless otherwise stated
- A LLC with two or more partners defaults to a partnership, unless otherwise stated

Professional corporations (lawyers, dentists, CPAs etc.)

Treated as either S or C corporations

Tax Treatment for C-Corporations

C-Corporations

Corporation deducts 100% of actual premium for employees and spouses, including shareholder-employees

IRC 162(l) 162(l)(2)(C), 213(d) IRC 162(a)

Premiums not considered taxable income to employee and the benefit, if paid, is not taxable

IRC 106(a), 106-1

LTCi is not subject to anti-discrimination rules. Corporations can discriminate, by class

Treasury Regulation 1.105-5, 1.106-1

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