# Long-Term Care Tax Issues

Federal law provides generally favorable tax treatment of the expenses connected with long-term care (LTC). However, a number of rules must be carefully followed in order to maximize these tax benefits.[1]

## Key Definitions

- **Qualified LTC Services:** The necessary services required by a "chronically ill" individual, provided under a treatment plan prescribed by a licensed health care practitioner.
- **Chronically Ill Individual:** An individual unable to perform at least two of the activities of daily living (ADLs)[2] for at least 90 days, or who requires protective supervision because of severe cognitive impairment. Certification by a licensed health care practitioner within the previous 12 months is required.
- **Qualified LTC Policy:** A LTC policy that meets certain tax-related requirements under federal income tax laws.

## Long-Term Care Expenses

**Long-term care expenses are medical expenses:** Unreimbursed amounts an individual pays for qualified LTC services, as well as premiums paid for qualified LTC policies, are included in the term "medical care." IRC Sec. 213(d)(1), as amended. For individual taxpayers, such expenses thus qualify for the medical expense itemized deduction. Qualifying medical expenses are deductible as an itemized deduction to the extent they exceed 10.0% of adjusted gross income (AGI).[3]

Current law limits the annual amount of LTC premiums that can be deducted, based on the age of the insured.

[1] The discussion here concerns federal income tax law; state or local law may vary.

[2] Such as bathing, dressing, eating, toileting, transferring, and continence.

[3] Beginning in 2013, the threshold for the itemized deduction for unreimbursed medical expenses generally increased to 10.0% of AGI. However, for the years 2013-2016, if either a taxpayer or spouse is age 65 before the end of the taxable year, the threshold remains 7.5% of AGI.



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| Age Before Close of Tax Year | 2014 Limitation | 2015 Limitation |
|---|---|---|
| 40 or less | $370 | $380 |
| 41 to 50 | 700 | 710 |
| 51 to 60 | 1,400 | 1,430 |
| 61 to 70 | 3,720 | 3,800 |
| Over 70 | 4,660 | 4,750 |

These annual limitation amounts are subject to adjustment for inflation each year.

## Long-Term Care Policy Benefits

**Benefits excluded from income:** Beginning with policies issued in 1997, benefits received under a qualified LTC contract are generally excluded from income as an amount "received for personal injury and sickness." (See IRC Sec. 7702B.) In order for benefits paid under a policy to be excluded from income, the policy must meet strict federal tax requirements to be a qualified contract. Further, benefits must be for services provided to a chronically ill individual. A limited grandfather clause applies to contracts in existence before 1997.

The exclusion from income is limited to the greater of $330 per day (calendar year 2015)[1], or total un-reimbursed LTC expenses actually incurred. The dollar limitation is adjusted for inflation annually.

## Other Tax Issues

- **Employees:** Generally, if an employer chooses to purchase tax-qualified long-term care insurance for an employee, neither the coverage provided nor the benefits paid (subject to the limitations described earlier) will be taxable to the employee. If certain requirements are met, self-employed individuals may also include themselves for such coverage.

- **Self-employed individuals:** Self-employed individuals are permitted to deduct qualifying health insurance premiums, including tax-qualified long-term care premiums, as an adjustment to gross income, rather than as an itemized deduction. This deduction is also generally available to general partners in a partnership, limited

[1] This amount was also $330 in 2014.

partners in a partnership receiving guaranteed payments, and more than 2% owners of subchapter S corporations who receive wages from the corporation.

- **Combination contracts:** A "combination contract" is an annuity or life insurance contract that also provides qualified LTC coverage. Beginning in 2010, withdrawals from the cash value of either the annuity or life insurance portion of a combination contract to pay for the LTC coverage are generally not includable in income and no medical expense deduction is allowed for such expenditures. The LTC portion of the contract is treated as a separate contract and the amounts received are treated for federal income tax purposes as LTC insurance benefits.

## Seek Professional Guidance

Federal, state, and local income tax law can be complex and confusing. The guidance and counsel of a qualified tax or other financial professional is highly recommended.