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Improving Access to Long-Term Care Act of 2002

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Summary

This report discusses providing an additional exemption amount to taxpayers who care for family members with long-term care needs. H.R. 4946, approved by the House of Representatives on July 25 (362 to 61), would provide that this partial personal exemption would be phased in over a 10-year period. The bill's purpose is to help with the increased costs borne by those who care for family members within the confines of their own homes. The primary argument advanced for instituting this tax benefit is to help provide for an alternative to institutional care. Research has long shown that individuals prefer home care to nursing home care. Advocates of the proposal note that an increase in home care may reduce current expenditures made through the Medicaid program for nursing home care and amounts claimed under the medical expense deduction. Those who argue against this new tax deduction typically argue that the subsidy is too small to induce the intended behavior, that the benefit will represent a windfall to those who would have engaged in the behavior regardless of the tax benefit, and cite the large revenue losses associated with the bill's provisions. Some note that those who have long-term care needs often require special or skilled services that cannot be met through nursing homes and special facilities. In the past, equity arguments have been made against tax proposals that provide benefits in the form of either a deduction or exemption rather than using a tax credit mechanism. Such proposals can provide greater benefits to higher income taxpayers (because of their higher marginal tax rates) unless they include offsetting structural features. This report will be updated when warranted by legislative developments.

Long-Term Care Legislation

The House or Representatives approved a bill (H.R. 4946) containing tax provisions to help offset the costs associated with long-term care. The bill, approved by the House in a 362 to 61 vote, would establish an above-the-line deduction for costs incurred for the purchase of long-term care insurance. Another primary provision of this legislation and the subject of this report, would provide an additional personal exemption amount to those who care for a qualified[1] elderly family member. This additional personal exemption amount is phased in over a 10-year period.[2]

As passed, the bill would provide an increasing additional personal exemption amount in tax years 2003 through 2011. Beginning in 2012 the amount would be set at the level of the personal exemption. The amounts provided under the legislation are $500 in tax years 2003 and 2004, $1,000 in 2005 and 2006, $1,500 in 2007 and 2008, $2,000 in 2009 and 2010, and $2,500 in 2011. It is not known what the amount would be in 2012 because the personal exemption is indexed for inflation and would likely be higher by that time.

Revenue Effect

As might be expected, the revenue loss from the provision of a partial personal exemption rises as the stated amount rises over the years. The Joint Committee on Taxation has estimated that the provision would lose $787 million over the 5-year period from 2003 to 2007, rising to $2.856 billion for the 10-year period 2003 to 2012.[3] The revenue loss by year is $79 million in FY2003; $108 million in FY2004; $176 million in FY2005; $184 million in FY2006, $239 million in FY2007, $253 million in FY2008; $303 million in FY2009; $319 million in FY2010; $486 million in FY2011; and $707 million in FY2012.[4]

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[1] The Joint Committee on Taxation defined those qualified in JCX-67-02 issued on June 17, 2002. A qualified family member would mean an individual with long-term care needs who (1) is the spouse of the taxpayer or a dependent of the taxpayer or the taxpayer's spouse with respect to whom the taxpayer is allowed to claim a personal exemption, and (2) satisfies a residency requirement. In the case of individuals who are a dependent by reason of living in the taxpayer's household for the entire taxable year, the residency requirement would be the same as that under the dependency exemption. In the case of other dependents, the residency requirement would be satisfied if, for more than one half of the taxable year, the individual has as his or her principal place of abode the home of the taxpayer and is a member of the taxpayer's household. As under present law, a taxpayer would be treated as maintaining a household for a period only if the taxpayer (or, if married, the taxpayer and his or her spouse) furnishes more than one-half the cost of maintaining the household for the entire year.

[2] For a robust discussion of the broad policy options that the 107th Congress might consider, see CRS Report RL30872, *Long-Term Care: Facing the Challenges of the 21st Century*, by Robert B. Friedland; and CRS Report RS20784, *Long-Term Care: What Direction for Public Policy*, by Carol V. O'Shaughnessy, Bob Lyke, and James R. Storey.

[3] Numbers may not add due to rounding.

[4] U.S. Congress, Joint Committee on Taxation, Estimated Revenue Effects of a Chairman's Amendment in the Nature of a Substitute to H.R. 4946, The "Improving Access to Long-Term Care Act of 2002," Scheduled for Markup by the Committee on Ways and Means on June 18, 2002, JCX-68-02, 107th Cong., 1st sess. (Washington: GPO, 2002), p. 1.

Background

There has been much interest in expanding opportunities for home care in general and informal care in particular. The phrase "informal care" is generally used to define home care provided by family and friends. Demand for informal home care is growing because persons with chronic conditions and/or functional disabilities prefer to remain in their home settings as long as possible. Many studies have shown that individuals have a strong preference for home care. In general, informal home care is viewed to be both less expensive and to provide a higher quality of life than institutional care. This attitude is partially rooted in the emotional reciprocity between related individuals. Further, family care has the advantage of low caregiver turnover with an ability to vary the amount of time and types of provided assistance.

Large increases have occurred in the growth of America's elderly population. Reasons for these increases include lengthening life spans, medical care advances, and increased attention to both diet and exercise. Demographic trends point to ever larger increases in the elderly population. Not only is the total number of elderly persons increasing, but the cohort of those over age 85 is increasing in number at the fastest rate. These elderly persons are at the greatest risk of needing long-term care. Thus, as more Americans live to an old age (and live longer in old age), more people may require some form of in-home care for chronic conditions and/or functional disabilities.

A primary goal of tax proposals for family in-home care is to encourage an alternative to the use of institutional care (such as nursing homes) for those taxpayers willing and able to provide needed care and/or to provide homes for their relatives. Also, there are those who see the absence of tax incentives for family home care as legitimizing and encouraging the abandonment of the responsibilities for family caregiving, or that these tax benefits are needed to assist family members in their caregiving responsibilities.

Assessment

Some have argued that federal policy does little to encourage informal support and, in fact, encourages dependence on institutions through the Medicare/Medicaid programs. A review of the history of these programs shows that they have provided substantially more support for hospital and nursing home care than for home and community based services. Also, it has been argued that current federal policy encourages some of the elderly to consume their assets (or to give them away) so that they may qualify for institutional care under the publicly-financed and means-tested Medicaid program.[5] Thus, in some cases families have adjusted to a long-term care system paid for in part by state and federal governments rather than through a privately supported insurance based system. To the extent that this has happened, it is argued that the Medicaid program (set up as a safety net for the poor) has been overused and allowed the abdication by families

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[5] C. Eugene Steuerle and Jon M. Bakija, *Retooling Social Security for the 21st Century: Right and Wrong Approaches to Reform* (Washington, D.C.: Urban Institute Press, 1994), p. 143.

of their caregiving responsibilities.[6] One effect of the proposed additional personal exemption may be a shift in federal policy to redistribute tax dollars spent under the Medicaid program to informal family caregivers. However, individuals who are very frail may require care that can be provided only by nursing homes.

In the discussion of policy issues for a similar proposal made by President Bush in his fiscal year 2003 budget proposal it was argued that the level of the subsidy is too small to induce the intended behavior. It was also argued that the tax benefit will represent a windfall benefit to those individuals who would have engaged in the behavior regardless of the additional tax benefit.[7]

Policymakers may be reluctant to increase resources for home care unless net savings can be achieved in public expenditures. However, proponents of tax incentives argue that they may indeed bring benefits in excess of their revenue costs. The validity of this argument depends, in part, on whether this tax incentive will induce an increase in the total number of individuals cared for in their relative's homes or for longer periods of time than would otherwise occur. To the extent that this provision induces that behavior, a reduction in direct government expenditures may occur.[8] Obviously, the largest revenue impact for direct expenditures is that related to the Medicaid program, mainly in the area of nursing home care.[9] If carefully controlled, this proposal might also reduce the tax expenditure under the medical expense deduction[10] associated with more expensive nursing home care. Thus, a reduction in the direct expenditures under the Medicaid program and in tax expenditures for the medical expense deduction may offset some portion of any projected revenue loss attributable to this proposal.

Alternatively, a fiscal concern is that passage of the proposed phased in personal exemption amount may result in a substantial loss of revenue to the federal government. For example, it has been estimated that between 60% and 80% of the care received by the impaired elderly living in the community is provided by relatives and friends who are not compensated. The Joint Committee on Taxation has estimated that enactment of this provision would cost the Treasury $787 million over five years with a loss in revenue of $2.856 billion over the next decade (see more complete revenues estimates earlier in the report). President Bush, in his fiscal year 2003 budget proposals, proposes to provide an additional personal exemption[11] to home caregivers[12] for taxable years beginning after

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[6] Brian O'Reilly, "How to Take Care of Aging parents," *Fortune*, vol. 125, May 18, 1992, p. 112.

[7] U.S. Congress, Joint Committee on Taxation, Description of Revenue Provisions Contained in the President's Fiscal year 2003 Budget Proposal, JCS-3-02, 107th Cong., 1st sess. (Washington: GPO, 2002, p. 59.

[8] Karl Pillemer, Margaret MacAdam and Rosalie S. Wolf. "Services to Families with Dependent Elders," *Journal of Aging and Social Policy*, vol. 1, no. 3-4, 1989, p. 81.

[9] The dynamics are complicated since people have to deplete assets to qualify under the Medicaid program.

[10] CRS Report RL30833, *Medical Expense Deduction: History and Rationale for Past Changes*, by Louis Alan Talley.

[11] The personal exemption for tax year 2002 is $3,000. The President's proposal would be (continued...)

December 31, 2003 (rather than the Ways and Means Committee's version that is phased in over the next 10-year period). Because of this feature, the Bush proposal has a much higher associated revenue cost. Obviously, the passage of either proposal into law would result in a loss of much federal revenues for home care that would have otherwise been provided free.

Some note that it may not always be to the best advantage of those who have long-term care needs to remain at home. The proposal proceeds from an assumption that family care is always the best kind of care. The reality can be very different in some cases. It has been found that homecare can lead to a decrease in life satisfaction of caregivers with many suffering from depression. This decrease results from feelings such as isolation, anger, guilt, and exhaustion often associated with caregiving responsibilities.[13] The feelings of caregivers may become manifest in family and/or work conflict. Family conflict can lead to the family breakup. Work conflicts may result in reduced hours worked, loss of job mobility, and even to the decision to leave the workforce entirely.[14] Some employers of persons with caregiving responsibilities have found that employees "are unable to accept increased responsibilities, even to the point of turning down promotions" and that the "employers are faced with key employees who have proven themselves worthy in the years past, but now are unable to further their careers."[15] From society's economic perspective, this could be called an economic waste since these caretakers are prevented from working full-time in an activity for which they had been trained.

Many of those who have long-term care needs require specialized or skilled services that can be more easily met through nursing homes and other institutions that provide care such care. Often special medical attention is given to those located in these specialized institutions. Additionally, some policymakers have criticized the proposals for expanded benefits on the grounds that the tax deduction should be provided directly to those with home care needs so that they can pay for their own home care if they, in fact, desire it. Again, an example are intermediate stage elderly who may require homemaker help, personal care, and meals-on-wheels so that they may continue to live independently, yet the proposed tax benefit offers such individuals no tax benefits. Alternatively, there are those who feel that the higher level of disability required under the bill passed by the

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[11] (...continued)
effective in 2003. Thus, the amount would be $3,000 adjusted for inflation.

[12] The proposal requires the taxpayer with long-term care needs to reside with the taxpayer in the taxpayer's household. Present law support tests would be deemed to have been met if they reside together for a specified period.

[13] Karen Burglass, "The Business of Eldercare," *American Demographics*, vol. 11, Sept. 1989, p 34; also see Andrew E. Scharlach, "Caregiving and Employment: Competing or Complementary Roles?" *Geronotologist*, vol. 34, June 1994, pp. 378-385.

[14] Jeane W. Anastas, Janice L. Giveau and Pamela J. Larson, "Working Families and Eldercare: A National Perspective in an Aging America," *Journal of the National Association of Social Workers*, vol. 35, Sept. 1990, p. 409.

[15] Bette Ann Stead, "Eldercare: Personal Triumph! Professional Downfall?" *Business Horizons*, vol. 34, May-June 1991, p. 72.

House of Representatives more clearly determines when tax benefits should be available to substitute for care that would be deductible as a medical expense.

Equity may also be an issue. There are already tax provisions that are available to taxpayers who care for their relatives such as the dependent care tax credit and benefits for care provided under employer plans and flexible benefit plans. Opponents of the additional partial personal exemption note that additional tax provisions that benefit those who have home care needs must be considered in relation to the other groups in our society who are in economic need. For example, tax incentives are frequently suggested as a means of solving inadequate housing for the poor, lack of education and job skills, and for job development for the economically disadvantaged. Opponents also argue that the use of the income tax laws is not necessarily the most equitable or efficient way to achieve a desirable social goal.

Many opponents feel that the proposal will do little to influence the outcome of the ultimate decision of whether to keep someone at home as opposed to placing him or her in a nursing home. Taxpayers who have no tax liability will receive no benefit from the additional above-the-line deduction. The value of this amount is dependent on the taxpayer’s marginal tax rate. That is to say the partial exemption of $500 (for tax years 2003 and 2004) for lower income taxpayers who fall in our lowest tax bracket (10%) would see in a tax savings of $50 while those taxpayers in the highest tax bracket (38.6%) would receive a tax benefit of $193. Tax savings at these low amounts may be unlikely to sway taxpayers to accept family members into their homes. In the past, it has been argued that a tax credit would be a more equitable mechanism for delivery of tax benefits. Tax credits can be made refundable and can be structured to provide the same level of benefits to all taxpayers. In the case of the current proposal, the provision would provide no benefit or a low level of tax benefits to lower income persons while providing higher benefits to wealthier taxpayers.

Although it is probably true that more attention is currently focused on tax expenditures than in the past, they are still seen by many as “hidden” expenditures. A disadvantage of tax expenditures is that since they are not acted upon in the normal budgetary process, many are able to grow in size and are not subject to periodic review.

Finally, it is likely to be argued that this phased in partial personal exemption amount will add complexity to the Internal Revenue Code and create problems for taxpayers to comply with many of its administrative features.