StatonWalsh

Financial Clarity Through Transparency

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Executive Long-Term Care

Many employers recognize the importance of a competitive employee benefits package. Employer paid long-term care (LTC) insurance, provided to selected employees, is a tax-favored[1] benefit that can help a firm recruit and retain those key individuals who play an instrumental role in a firm's growth and success.

In General

- **Employer can discriminate:** The employer is generally free to select which employees are covered under the plan; the benefits are "carved –out" from those available to rank and file employees.
- **Spouses and other dependents:** If desired, the plan can also cover spouses and other dependents.
- **Employee owns the policy:** The employee owns the policy, making it portable.

Qualified LTC Insurance for Rank and File Employees

For federal income tax purposes, long-term care insurance comes in two types: (1) "qualified" LTC insurance, policies that meet certain requirements set by federal income tax law,[2] and (2) "non-qualified" LTC insurance. Expenditures for qualified long-term care services and premiums paid for qualified long-term care insurance are treated under the federal tax code as "amounts paid for medical care."

- **Employees – premium payments not includable in income:** The premiums paid by an employer for qualified LTC insurance for an employee are not includable in the employee's taxable income.
- **Employer – deductibility of premiums:** Employer-paid premiums for qualified long-term care insurance for employees are generally deductible by the employer.
- **Employee – deductibility of premiums:** If the employee pays the premiums, the deduction is generally limited to the amount (subject to the limits shown in the table below) that, when combined with other qualified medical expenses, exceeds 7.5% of the employee's adjusted gross income (AGI).

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

[2] See IRC Sec. 7702B(b).

Age Before Close of Tax Year	2021 Limitation	2022 Limitation
40 or less	$450	$450
41 to 50	850	850
51 to 60	1,690	1,690
61 to 70	4,520	4,510
Over 70	5,640	5,640

- **Employees – benefits received under the policies:** Benefits received under a qualified LTC contract are generally excludable from income. The exclusion is limited to the greater of $390 per day (calendar year 2022),[1] or the total un-reimbursed LTC expenses actually incurred.

Qualified LTC Insurance – "C Corporation Owner/Employees

The federal income-tax treatment of employer-paid premiums for an owner/employee of a "C" corporation is the same as that for a rank and file employee. The employer can generally deduct the premiums paid, and the premiums are not included in the owner/employee's taxable income. Benefits received under the policy are received income-tax free, subject to the $390 per day or actual expenses incurred limitation.

Qualified LTC Insurance - Sole Proprietors & Other Owner/Employees

For a sole proprietor, a partner in a partnership, a more than 2% owner of an "S" corporation, or an owner/member of a limited liability company, the federal income tax treatment of employer-paid premiums for qualified LTC policies is somewhat different:

- **Employer – qualified LTC premiums deductible:** The employer may generally deduct the premiums for qualified LTC policies paid on behalf of owner/employees.
- **Owner/employee – premiums includable in gross income:** An owner/employee must include in his or her gross income the premiums paid by the employer for qualified LTC policies.
- **Owner/employee – premiums deductible on personal return:** The owner/employee is permitted to deduct on his or her personal income tax return, as an adjustment to gross income, the lesser of the amount paid on his or her behalf, or the age-based limitation set by federal income tax law.

[1] This amount was $400 in 2021.

- **Owner/employee – benefits received under the policy:** Benefits received under the policy are generally received income-tax free, subject to the $390 per day or actual expenses incurred limitation.

Seek Professional Guidance

Employer-paid qualified LTC insurance can be a significant and highly attractive employee benefit. In considering such a benefit, the guidance of experienced financial professionals is strongly recommended.

Important Notice

This report is intended to serve as a basis for further discussion with your other professional advisors. Although great effort has been taken to provide accurate numbers and explanations, the information in this report should not be relied upon for preparing tax returns or making investment decisions.

Assumed rates of return are not in any way to be taken as guaranteed projections of actual returns from any recommended investment opportunity. The actual application of some of these concepts may be the practice of law and is the proper responsibility of your attorney.

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