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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Joint

(Assembly, Senate or Joint)

Survey Committee on Tax Exemptions...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Record of Committee Proceedings

Joint Survey Committee on Tax Exemptions

Senate Bill 203

Relating to: adopting federal law as it relates to excluding from an employee's income certain payments from an employer related to medical care.

By Senators Wanggaard, Leibham, Olsen, Holperin, Lasee and Carpenter; cosponsored by Representatives Strachota, Kaufert, Doyle, LeMahieu, Spanbauer, Endsley, Kerkman, Molepske Jr and A. Ott.

September 27, 2011 Referred to Joint Survey Committee on Tax Exemptions.

October 11, 2011 **PUBLIC HEARING HELD**

Present: (8) Senator Lasee; Representative Knodl; Senators Zipperer and Carpenter; Representatives Van Roy and Turner; Secretary Chandler; Executive Assistant Means.

Absent: (0) None.

Excused: (1) Public Member Shaul.

Appearances For

- Jason Culotta, Madison — Wis. Manufacturers and Commerce.
- Van Wanggaard, Madison — Senator, WI Senator - 21st District

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- Carrie Kahn, Madison — WI Assn of Health Plans
- Mischa Lee, Stevens Point — Sentury Ins.
- Jeff Crawford, Crandon — Forest Cty Potawatomi
- Paul Lucas, Milwaukee — Miller/Coors
- Tony Driessen, Madison — WI Assn of Health Underwriters
- Melissa Duffy, Delafield — The Alliance

Registrations Against

- None.

Registrations for Information Only

- None.

October 11, 2011

EXECUTIVE SESSION HELD

Present: (8) Senator Lasee; Representative Knodl; Senators Zipperer and Carpenter; Representatives Van Roy and Turner; Secretary Chandler; Executive Assistant Means.

Absent: (0) None.

Excused: (1) Public Member Shaul.

Moved by Representative Knodl, seconded by Representative Van Roy that **Senate Bill 203** be recommended for Move that the Joint Survey Committee on Tax Exemptions issue its report on Senate Bill 203 with the following statement of public policy: "The Joint Survey Committee on Tax Exemptions supports the public policy within Senate Bill 203".

Ayes: (8) Senator Lasee; Representative Knodl; Senators Zipperer and Carpenter; Representatives Van Roy and Turner; Secretary Chandler; Executive Assistant Means.

Noes: (0) None.

Absent: (1) Public Member Shaul.

THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS ISSUE ITS REPORT ON SENATE BILL 203 WITH THE FOLLOWING STATEMENT OF PUBLIC POLICY: "THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS SUPPORTS THE PUBLIC

POLICY WITHIN SENATE BILL 203." RECOMMENDED, Ayes 8,
Noes 0

Tony Urso
Committee Clerk

Vote Record

Joint Survey Committee on Tax Exemptions

Date: October 11, 2011

Bill Number: XXXXXXXXXX

Moved by: Representative Dan Knodl Seconded by: Chandler

Motion: Move that the Joint Survey Committee on Tax Exemptions issue its report on Senate Bill 203 with the following statement of public policy:

"The Joint Survey Committee on Tax Exemptions supports the public policy within Senate Bill 203."

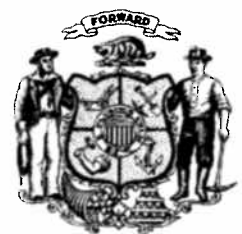
<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Frank Lasee, Co-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Daniel Knodl, Co-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Rich Zipperer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Karl Van Roy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Robert Turner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Secretary Rick Chandler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Executive Assistant Steve Means	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Public Member Kimberly Shaul	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>8</u>	<u>0</u>	<u>0</u>	<u>0</u>

Motion Carried

Motion Failed



WISCONSIN STATE LEGISLATURE



FIRST MOTION:

Move that the Joint Survey Committee on Tax Exemptions issue its report on Senate Bill 203 with the following statement of public policy:

"The Joint Survey Committee on Tax Exemptions supports the public policy within Senate Bill 203."

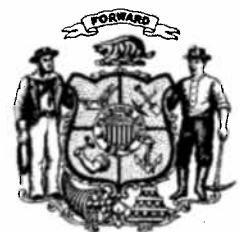
SECOND MOTION:

Move that the Joint Survey Committee on Tax Exemptions issue its report on Assembly Bill 277 with the following statement of public policy:

"The Joint Survey Committee on Tax Exemptions supports the public policy within Assembly Bill 277."



WISCONSIN STATE LEGISLATURE



PRELIMINARY

STATE OF WISCONSIN

REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS

2011 SENATE BILL 203

[Introduced by Senators Wanggaard, Leibham, Olsen, and Holperin; cosponsored by Representatives Strachota, Kaufert, Doyle, LeMahieu, Spanbauer, Endsley, and Kerkman.]

General Nature of Proposal

Under current Wisconsin law, insurers are required to offer coverage to the adult children of insured subscribers if those children are under the age of 27; are unmarried; and if the children meet certain criteria related to their own access to employer-provided group health care coverage.

For purposes of income taxation, the treatment of employer-provided health care benefits that include coverage for adult children varies between the federal and state levels. Generally, these variations arise based on whether the adult child qualifies as a dependent of the parent-employee whose benefits cover the adult child.

For purposes of federal taxation, following the Affordable Care Act of 2010, the imputed income arising from health care benefits for adult children is exempt from taxation if the child is age 26 or less at the end of the tax year, regardless of whether the child otherwise qualifies as a dependent. For other tax purposes, factors that determine dependency include whether the child lives with the taxpayer, earns a certain amount of income, or provides more than one-half of his or her support.

For purposes of state taxation, the imputed income arising from health care benefits is based on federal law in effect prior to the Affordable Care Act of 2010. Under current state law, an adult child under age 27 must also be a dependent of the taxpayer in order for imputed income from employer-provided accident or health insurance benefits, including coverage in a medical flexible spending account (FSA), to be exempt from taxation. For purposes of health insurance coverage only, an adult child may meet the definition of a "qualifying relative," as it relates to determining dependency, even though the adult child's gross income may equal or exceed the exemption amount.

2011 Senate Bill 203 adopts provisions of the Internal Revenue Code that relate to exempting from taxation certain payments made by an employer to an employee to reimburse the employee for costs he or she has paid for medical care for the employee's adult child. The bill also adopts certain provisions of the Affordable Care Act of 2010 that apply the exemptions from taxation to self-employed persons, members of voluntary employees' beneficiary associations, and retired employees.

Senate Bill 203 first applies to taxable years beginning on January 1, 2011.

Legality Involved

There are no issues of legality involved.

Fiscal Effect Upon the State and Its Subdivisions

The Department of Revenue estimates that adopting these provisions of the Affordable Care Act of 2010 would reduce state individual income tax revenues by \$1.8 million annually. The bill would apply retroactively to January 1, 2011. As a result, according to the Legislative Fiscal Bureau, the fiscal effect for 2011-12 would include the entire effect for tax year 2011 (-\$1.8 million) and half the effect for tax year 2012 (-\$0.9 million). Therefore, the bill would reduce state revenues by \$2.7 million for 2011-12 and \$1.8 million for 2012-13, or by \$4.5 million for the 2011-13 Biennium.

Public Policy Involved

10/10/11

JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS





Testimony in Support Legislation to Federalize the Tax Code and Eliminate "Imputed Income" for Adult Dependent Coverage

Melissa Duffy on behalf of The Alliance

Thank you Mr. Chairman and committee members for the opportunity to testify in support of companion bills Senate Bill 203 and Assembly Bill 277. I am here on behalf of The Alliance, which is a health purchasing cooperative of mid-size to large employers, many of whom are multi-state companies that self-fund their benefit plans and provide coverage to approximately 83,000 Wisconsinites. Our 160 members include many familiar Wisconsin names like Fiskars, Culvers, Roundy's and Foremost Farms, as well as local government employers and a handful of employer coalitions.

The imputed income bill is one of the missing pieces that helps solve a puzzle that has been burdening employers and workers since Wisconsin's adult dependent mandate took effect in January of 2010. That initiative expanded the definition of dependent for coverage purposes but not for tax purposes, which resulted in employees having to pay income taxes on the value of the coverage provided to their adult children.

The issue was further complicated when the Affordable Care Act passed a few months later, immediately changing the federal tax code but imposing a different set of requirements for coverage of adult dependents which took effect for most plans in January of 2011. Needless to say, the divergence of state and federal laws relating to effective dates, coverage requirements and tax obligations has created an administratively impossible situation for Wisconsin employers and an extremely confusing situation for employees weighing coverage options for adult children. SB203/AB 277 builds upon work already done in the budget bill to equalize state and federal requirements and end this burden for employers and employees alike.

One note of caution: Please do not allow passage of this bill to place additional burdens on employers that have complied with the law and withheld taxes for imputed income throughout the year. Employees that have had taxes withheld for the value of adult dependent coverage should be "made whole" via a larger tax return, not by forcing employers to adjust withheld amounts. Most payroll systems are not set up to address such an issue, and that would impose a new and costly administrative burden on employers. We have had informal discussions with the Department of Revenue on this issue, and it appears they will be able to accommodate a tax-based resolution if this legislation passes quickly.

In closing, I'd like to thank Representative Strachota, Senator Wanggaard and many of you on this committee for not only supporting AB 277 and SB 203, but also working with us during the budget deliberations to address the first part of this complicated issue for employers and workers. We are also thankful to the Department of Revenue and the Office of the Commissioner of Insurance for working with the employer community to weigh the true costs – to the state, to Wisconsin businesses and to consumers – of enacting versus not enacting this change.

Thank you for your time and consideration of this testimony. If you have any questions, please do not hesitate to contact me at (608) 334-0624.

*This has been addressed
Thanks DOR!*

**Federalizing Wisconsin's Adult Dependent Requirements
Fact Sheet**

- Employers that offer state regulated plans (government-sponsored or fully insured) have to follow state and federal coverage requirements. Non-government employers that offer only a self-funded plan must follow the federal law. Some employers offer both a fully-insured and a self-funded plan to employees.
- AB 277 would federalize Wisconsin's tax code in regard to adult dependent coverage. The budget bill federalized, for the most part, the coverage requirements.

	State Law	Federal law
Effective Date of Required Coverage	January 1, 2010	Plans renewing after September 23, 2010
Applies to	State regulated "disability" plans, which includes stand alone dental and vision*	All health plans, not defined as stand alone dental and vision
Coverage Requirements	Budget bill federalized the requirements, except for a minor discrepancy related to coverage for military families*	To age 26, with a temporary exception for adults with other offer of employer coverage
Tax exemption – Dependents for which the employer is not obligated to withhold, and the employee to pay, taxes for imputed income equal to the value of the health benefit.	Wisconsin has not updated its tax code to codify recent federal law changes. Therefore, an exempt dependent is**: <ul style="list-style-type: none"> • A child under age 19 at the end of the year, or • A student under age 24 at the end of the year, or • Any age and totally disabled, AND • Who did not provide half his or her own support, AND • Who is not filing a joint return AND • Who lived with the parent for more than half the year, OR • Who would otherwise meet the definition of qualifying relative. 	Allowed through the end of the year in which the child turns age 26

* Addressed by Assembly Bill 210

**These provisions ONLY apply to the taxation of health benefits, not to the requirement that the plan provide coverage.





Van H. Wanggaard

Wisconsin State Senator

TESTIMONY ON SENATE BILL 203

Thank you, Mr. Chairman and Committee Members, for scheduling this hearing today on Senate Bill 203, which would adopt federal law by excluding from an employee's income certain payments made by an employer for to medical care.

SB 203 prevents Wisconsin from becoming a tax island in relation to what is known as "imputed income." Under current Wisconsin law, insurance companies are required to offer health insurance coverage to a parent's adult dependent children until the children turn 26. Unfortunately, the value of that coverage is taxable as income under current Wisconsin law.

In March, the federal government created a tax exemption for this income. This bill federalizes Wisconsin's tax code, and provides this exemption for state income tax purposes. Wisconsin is the only state that has not yet adopted this exemption - making Wisconsin a tax island. This bill corrects this mistake. It also makes this tax change retroactive and applicable to the 2011 tax year.

There will be several negative effects if we do not pass this bill. Chief among these is the hidden tax increase on approximately 15,000 Wisconsin taxpayers. Employees who receive this "benefit" will have an unexpected additional tax burden - of an unknown amount - on their 2011 tax bill. In these challenging times, we should make every effort to minimize taxes on our citizens.

This bill also prevents what would be an administrative nightmare for employers. Without this bill, employers must somehow determine the fair market value of these adult dependent health care benefits. Unfortunately, there is no clear guidance on determining this value. It is a shot in the dark for employers and their human resources personnel. Inaction leaves employers spending valuable time trying to determine the taxable value of a nebulous benefit - and only in Wisconsin.

Finally, this bill prevents employees' paychecks from decreasing as we enter the end of the year. Many employers have not yet withheld taxes from employees' paychecks for this benefit - specifically because they hope we will pass this bill. If we do not take action, employers may begin to withhold taxes related to this benefit and Wisconsinites will begin to see decreases in their paychecks.

SB 203, and its companion, deserves to be passed now to prevent a hidden tax increase on workers and an unnecessary burden on employers. Thank you.

Serving Racine County - Senate District 21