



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Senate Bill 140

**Senate Substitute
Amendment 1**

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2005 Senate Bill 140

2005 Senate Bill 140 provides that an individual who receives a distribution to which the penalty under s. 72 (t) of the Internal Revenue Code applies before reaching the age of 59-1/2 years of age, and to which the 10% federal penalty tax applies, is not liable for the additional 33% state penalty tax if the individual uses the proceeds from the distribution to purchase long-term care insurance.

The bill provides that the provisions first apply to a distribution that is received on the effective date of the Act.

Senate Substitute Amendment 1

Senate Substitute Amendment 1 to 2005 Senate Bill 140 provides that an individual who receives a distribution to which the penalty under s. 72 (t) applies *from an individual retirement account (IRA) or individual retirement annuity under s. 408 (a) or 408 (b) of the Internal Revenue Code* before reaching age 59-1/2 years of age, and to which the 10% federal penalty tax applies, is not liable for the additional 33% state penalty tax if the individual uses the proceeds from the distribution to purchase long-term care insurance, *but only to the extent that the proceeds of the distribution do not exceed the amount paid by the taxpayer during the taxable year to purchase the policy*. If the amount of the distribution exceeds the amount paid by the taxpayer during the taxable year to purchase the policy, the taxpayer is liable for the penalty imposed on the amount of the excess distribution.

Senate Substitute Amendment 1 also provides that the provisions first apply to a distribution from an IRA that is received in a taxable year beginning on January 1 of the year in which the Act takes effect, except that if the provisions take effect after July 31, the Act first applies to a distribution from an IRA that is received in a taxable year beginning on January 1 of the year following the year in which this provision takes effect.

Legislative History

On September 28, 2005, Senate Substitute Amendment 1 was adopted by the Senate on a voice vote, and the bill was passed, as amended, by a vote of Ayes, 33; Noes, 0.

LR:rv