

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
100169	Individual Income Tax Medical Care Insurance Subtraction - Common Questions

State of Wisconsin
Department of Revenue

Individual Income Tax Medical Care Insurance Subtraction

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

1. Can I use the amounts paid through employer-sponsored health insurance plans for the medical care insurance subtraction?
2. May I use the value of unused sick leave applied to the cost of my medical care insurance for the subtraction?
3. May I use the amount of premiums I paid with retirement plan distributions?
4. What type of premiums aren't allowed for purposes of the subtraction?
5. Can the amount paid by an individual for premiums for Badger Care be used for the subtraction for medical care insurance?
6. Does the federal premium tax credit affect the Wisconsin subtraction for medical care insurance?
7. If a deduction is taken for medical care insurance on line 16 of the federal Schedule 1 (Form 1040 or 1040-SR) or on Schedule C or F, may an additional subtraction be taken for Wisconsin purposes?

1. Can I use the amounts paid through employer-sponsored health insurance plans for the medical care insurance subtraction?

If the amounts were paid with after tax contributions, you may use these amounts for the subtraction. Amounts taken out pre-tax from your wages to pay health insurance premiums do not qualify for the subtraction. Some examples of amounts not eligible for the subtraction are:

- Your share of the premium is paid by making a pre-tax reduction in your salary through payroll deductions.
- Your medical care insurance premiums are paid through your employer's fringe benefit cafeteria plan or flexible spending account (may be identified as Internal Revenue Code sec. 125 or as a pre-tax deduction on your Form W-2).
- Amounts identified as Code DD in Box 12 of your Form W-2. This is insurance that was provided by your employer and cannot be claimed for the Wisconsin subtraction for

medical care insurance.

2. May I use the value of unused sick leave applied to the cost of my medical care insurance for the subtraction?

No. If you did not have the option to receive cash in lieu of applying unused sick leave to your medical care insurance premiums, the value of this unused sick leave is not included in your income and you may not claim a subtraction for the amount applied to the cost of the medical care insurance.

3. May I use the amount of premiums I paid with retirement plan distributions?

Medical care insurance premiums you elected to pay with tax-free distributions from a retirement plan made directly to the insurance providers are not included in your income and, therefore, not allowed for the subtraction.

4. What type of premiums aren't allowed for purposes of the subtraction?

Do not include premiums paid for:

- Long-term care insurance
- Life insurance policies
- Policies providing payment for loss of earnings or loss of life, limb, sight, etc.
- Policies that pay you a guaranteed amount each week for a stated number of weeks if you are hospitalized for sickness or injury

5. Can the amount paid by an individual for premiums for Badger Care be used for the subtraction for medical care insurance?

Yes. Wisconsin law provides a subtraction from income for all or a portion of the amount paid for medical care insurance by an individual. "Medical care insurance" is defined as a medical care insurance policy that covers the individual, his or her spouse, and the individual's dependents and provides surgical, medical, hospital, major medical, or other health service coverage (including dental insurance). Based on this definition, premiums paid by an individual for Badger Care qualify for the subtraction for medical care insurance.

6. Does the federal premium tax credit affect the Wisconsin subtraction for medical care insurance?

Yes. The subtraction for the amount paid for medical care insurance does not include any premium paid with the advance federal premium tax credit. When the federal premium tax credit is reconciled on the federal income tax return for the year, you must also reduce your Wisconsin subtraction for medical care insurance for that same year by the amount of any additional premium tax credit that you were allowed on the federal return. If you were required to repay all or a portion of the advance federal premium tax credit, you may increase your subtraction for medical care insurance by the amount you were required to repay.

7. If a deduction is taken for self-employed health insurance on line 16 of federal Schedule 1 (Form 1040 or 1040-SR) or on Schedule C or F, may an additional subtraction be taken for Wisconsin purposes?

Yes. The amount of medical care insurance paid is reduced by amounts paid with a premium assistance credit and amounts deducted from gross income in the calculation of federal adjusted gross income. The subtraction is further limited to the income from self-employment taxable to Wisconsin.

Example: Taxpayer A has \$5,000 net earnings from a sole proprietorship which is taxable to Wisconsin. Medical care insurance of \$10,000 was paid during 2019. Taxpayer A is allowed a \$5,000 self-employed health insurance deduction for federal purposes. The amount allowed for Wisconsin purposes is also \$5,000. This is the total amount paid for medical care insurance (\$10,000) reduced by the deduction taken for federal purposes of \$5,000. This amount is not more than the net earnings from the sole proprietorship and, therefore, the entire amount may be taken as a subtraction for Wisconsin purposes.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of October 31, 2019: Sections 71.05(6)(b), 71.05(19)a., 71.05(35)a., 71.05(38)a., and 71.05(42)a., Wis. Stats., and 26 U.S. Code § 36B.

Laws enacted and in effect after October 31, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to October 31, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

FOR QUESTIONS OR COMMENTS CONTACT:

MS 5-77

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