

112TH CONGRESS
2D SESSION

H. R. 6005

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2012

Mr. COURTNEY introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Long-Term Care and
5 Retirement Security Act of 2012”.

1 **SEC. 2. TREATMENT OF PREMIUMS ON QUALIFIED LONG-**
 2 **TERM CARE INSURANCE CONTRACTS.**

3 (a) IN GENERAL.—Part VII of subchapter B of chap-
 4 ter 1 of the Internal Revenue Code of 1986 (relating to
 5 additional itemized deductions) is amended by redesign-
 6 nating section 224 as section 225 and by inserting after
 7 section 223 the following new section:

8 **“SEC. 224. PREMIUMS ON QUALIFIED LONG-TERM CARE IN-**
 9 **SURANCE CONTRACTS.**

10 “(a) IN GENERAL.—In the case of an individual,
 11 there shall be allowed as a deduction an amount equal to
 12 the applicable percentage of eligible long-term care pre-
 13 miums (as defined in section 213(d)(10)) paid during the
 14 taxable year for coverage for the taxpayer and the tax-
 15 payer’s spouse and dependents under a qualified long-term
 16 care insurance contract (as defined in section 7702B(b)).

17 “(b) APPLICABLE PERCENTAGE.—For purposes of
 18 subsection (a), the applicable percentage shall be deter-
 19 mined in accordance with the following table:

“For taxable years beginning in calendar year—	The applicable percentage is—
2013	25
2014	35
2015	65
2016 or thereafter	100.

20 “(c) COORDINATION WITH OTHER DEDUCTIONS.—
 21 Any amount paid by a taxpayer for any qualified long-
 22 term care insurance contract to which subsection (a) ap-

1 plies shall not be taken into account in computing the
 2 amount allowable to the taxpayer as a deduction under
 3 section 162(l) or 213(a).”.

4 (b) LONG-TERM CARE INSURANCE PERMITTED TO
 5 BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE
 6 SPENDING ARRANGEMENTS.—

7 (1) CAFETERIA PLANS.—Paragraph (2) of sec-
 8 tion 125(f) of such Code (relating to long-term care
 9 insurance not qualified) is amended by inserting be-
 10 fore the period at the end “; except that such term
 11 shall include the payment of premiums for any quali-
 12 fied long-term care insurance contract (as defined in
 13 section 7702B) to the extent the amount of such
 14 payment does not exceed the eligible long-term care
 15 premiums (as defined in section 213(d)(10)) for
 16 such contract”.

17 (2) FLEXIBLE SPENDING ARRANGEMENTS.—
 18 Section 106 of such Code (relating to contributions
 19 by an employer to accident and health plans) is
 20 amended by inserting “and before January 1,
 21 2013,” after “January 1, 1997,”.

22 (c) CONFORMING AMENDMENTS.—

23 (1) Section 62(a) of such Code is amended by
 24 inserting before the last sentence at the end the fol-
 25 lowing new paragraph:

1 “(22) PREMIUMS ON QUALIFIED LONG-TERM
2 CARE INSURANCE CONTRACTS.—The deduction al-
3 lowed by section 224.”.

4 (2) The table of sections for part VII of sub-
5 chapter B of chapter 1 of such Code is amended by
6 striking the last item and inserting the following
7 new items:

“Sec. 224. Premiums on qualified long-term care insurance contracts.

“Sec. 225. Cross reference.”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2012.

11 **SEC. 3. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE**
12 **NEEDS.**

13 (a) IN GENERAL.—Subpart A of part IV of sub-
14 chapter A of chapter 1 of the Internal Revenue Code of
15 1986 (relating to nonrefundable personal credits) is
16 amended by inserting after section 25D the following new
17 section:

18 **“SEC. 25E. CREDIT FOR TAXPAYERS WITH LONG-TERM**
19 **CARE NEEDS.**

20 “(a) ALLOWANCE OF CREDIT.—

21 “(1) IN GENERAL.—There shall be allowed as a
22 credit against the tax imposed by this chapter for
23 the taxable year an amount equal to the applicable
24 credit amount multiplied by the number of applica-

1 ble individuals with respect to whom the taxpayer is
 2 an eligible caregiver for the taxable year.

3 “(2) APPLICABLE CREDIT AMOUNT.—For pur-
 4 poses of paragraph (1), the applicable credit amount
 5 shall be determined in accordance with the following
 6 table:

“For taxable years beginning in calendar year—	The applicable credit amount is—
2013	1,500
2014	2,000
2015	2,500
2016 or thereafter	3,000.

7 “(b) LIMITATION BASED ON ADJUSTED GROSS IN-
 8 COME.—

9 “(1) IN GENERAL.—The amount of the credit
 10 allowable under subsection (a) shall be reduced (but
 11 not below zero) by \$100 for each \$1,000 (or fraction
 12 thereof) by which the taxpayer’s modified adjusted
 13 gross income exceeds the threshold amount. For
 14 purposes of the preceding sentence, the term ‘modi-
 15 fied adjusted gross income’ means adjusted gross in-
 16 come increased by any amount excluded from gross
 17 income under section 911, 931, or 933.

18 “(2) THRESHOLD AMOUNT.—For purposes of
 19 paragraph (1), the term ‘threshold amount’ means—

20 “(A) \$150,000 in the case of a joint re-
 21 turn, and

22 “(B) \$75,000 in any other case.

1 “(3) INDEXING.—In the case of any taxable
 2 year beginning in a calendar year after 2013, each
 3 dollar amount contained in paragraph (2) shall be
 4 increased by an amount equal to the product of—

5 “(A) such dollar amount, and

6 “(B) the medical care cost adjustment de-
 7 termined under section 213(d)(10)(B)(ii) for
 8 the calendar year in which the taxable year be-
 9 gins, determined by substituting ‘August 2012’
 10 for ‘August 1996’ in subclause (II) thereof.

11 If any increase determined under the preceding sen-
 12 tence is not a multiple of \$50, such increase shall
 13 be rounded to the next lowest multiple of \$50.

14 “(c) DEFINITIONS.—For purposes of this section—

15 “(1) APPLICABLE INDIVIDUAL.—

16 “(A) IN GENERAL.—The term ‘applicable
 17 individual’ means, with respect to any taxable
 18 year, any individual who has been certified, be-
 19 fore the due date for filing the return of tax for
 20 the taxable year (without extensions), by a phy-
 21 sician (as defined in section 1861(r)(1) of the
 22 Social Security Act) as being an individual with
 23 long-term care needs described in subparagraph
 24 (B) for a period—

1 “(i) which is at least 180 consecutive
2 days, and

3 “(ii) a portion of which occurs within
4 the taxable year.

5 Notwithstanding the preceding sentence, a cer-
6 tification shall not be treated as valid unless it
7 is made within the 39½ month period ending
8 on such due date (or such other period as the
9 Secretary prescribes).

10 “(B) INDIVIDUALS WITH LONG-TERM CARE
11 NEEDS.—An individual is described in this sub-
12 paragraph if the individual meets any of the fol-
13 lowing requirements:

14 “(i) The individual is unable to per-
15 form (without substantial assistance from
16 another individual) at least 3 activities of
17 daily living (as defined in section
18 7702B(c)(2)(B)) due to a loss of func-
19 tional capacity.

20 “(ii) The individual requires substan-
21 tial supervision to protect such individual
22 from threats to health and safety due to
23 severe cognitive impairment and is unable
24 to perform, without reminding or cuing as-
25 sistance, at least 1 activity of daily living

1 (as so defined) or to the extent provided in
2 regulations prescribed by the Secretary (in
3 consultation with the Secretary of Health
4 and Human Services), is unable to engage
5 in age appropriate activities.

6 “(iii) The individual is unable due to
7 a loss of functional capacity to perform
8 (without substantial assistance from an-
9 other individual) at least 2 of the following
10 activities: eating, transferring, or mobility.

11 “(iv) The individual is under 2 years
12 of age and requires specific durable med-
13 ical equipment by reason of a severe health
14 condition or requires a skilled practitioner
15 trained to address the individual’s condi-
16 tion to be available if the individual’s par-
17 ents or guardians are absent.

18 “(2) ELIGIBLE CAREGIVER.—

19 “(A) IN GENERAL.—A taxpayer shall be
20 treated as an eligible caregiver for any taxable
21 year with respect to the following individuals:

22 “(i) The taxpayer.

23 “(ii) The taxpayer’s spouse.

1 “(iii) An individual with respect to
2 whom the taxpayer is allowed a deduction
3 under section 151(c) for the taxable year.

4 “(iv) An individual who would be de-
5 scribed in clause (iii) for the taxable year
6 if section 151(c) were applied by sub-
7 stituting for the exemption amount an
8 amount equal to the sum of the exemption
9 amount, the standard deduction under sec-
10 tion 63(c)(2)(C), and any additional stand-
11 ard deduction under section 63(c)(3) which
12 would be applicable to the individual if
13 clause (iii) applied.

14 “(v) An individual who would be de-
15 scribed in clause (iii) for the taxable year
16 if—

17 “(I) the requirements of clause
18 (iv) are met with respect to the indi-
19 vidual, and

20 “(II) the requirements of sub-
21 paragraph (B) are met with respect to
22 the individual in lieu of the support
23 test under subsection (c)(1)(D) or
24 (d)(1)(C) of section 152.

1 “(B) RESIDENCY TEST.—The require-
2 ments of this subparagraph are met if an indi-
3 vidual has as his principal place of abode the
4 home of the taxpayer and—

5 “(i) in the case of an individual who
6 is an ancestor or descendant of the tax-
7 payer or the taxpayer’s spouse, is a mem-
8 ber of the taxpayer’s household for over
9 half the taxable year, or

10 “(ii) in the case of any other indi-
11 vidual, is a member of the taxpayer’s
12 household for the entire taxable year.

13 “(C) SPECIAL RULES WHERE MORE THAN
14 1 ELIGIBLE CAREGIVER.—

15 “(i) IN GENERAL.—If more than 1 in-
16 dividual is an eligible caregiver with re-
17 spect to the same applicable individual for
18 taxable years ending with or within the
19 same calendar year, a taxpayer shall be
20 treated as the eligible caregiver if each
21 such individual (other than the taxpayer)
22 files a written declaration (in such form
23 and manner as the Secretary may pre-
24 scribe) that such individual will not claim

1 such applicable individual for the credit
2 under this section.

3 “(ii) NO AGREEMENT.—If each indi-
4 vidual required under clause (i) to file a
5 written declaration under clause (i) does
6 not do so, the individual with the highest
7 adjusted gross income shall be treated as
8 the eligible caregiver.

9 “(iii) MARRIED INDIVIDUALS FILING
10 SEPARATELY.—In the case of married indi-
11 viduals filing separately, the determination
12 under this subparagraph as to whether the
13 husband or wife is the eligible caregiver
14 shall be made under the rules of clause (ii)
15 (whether or not one of them has filed a
16 written declaration under clause (i)).

17 “(d) IDENTIFICATION REQUIREMENT.—No credit
18 shall be allowed under this section to a taxpayer with re-
19 spect to any applicable individual unless the taxpayer in-
20 cludes the name and taxpayer identification number of
21 such individual, and the identification number of the phy-
22 sician certifying such individual, on the return of tax for
23 the taxable year.

24 “(e) TAXABLE YEAR MUST BE FULL TAXABLE
25 YEAR.—Except in the case of a taxable year closed by rea-

1 son of the death of the taxpayer, no credit shall be allow-
 2 able under this section in the case of a taxable year cov-
 3 ering a period of less than 12 months.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 6213(g)(2) of such Code is amend-
 6 ed by striking “and” at the end of subparagraph
 7 (L), by striking the period at the end of subpara-
 8 graph (M) and inserting “, and”, and by inserting
 9 after subparagraph (M) the following new subpara-
 10 graph:

11 “(N) an omission of a correct TIN or phy-
 12 sician identification required under section
 13 25E(d) (relating to credit for taxpayers with
 14 long-term care needs) to be included on a re-
 15 turn.”.

16 (2) The table of sections for subpart A of part
 17 IV of subchapter A of chapter 1 of such Code is
 18 amended by inserting after the item relating to sec-
 19 tion 25D the following new item:

“Sec. 25E. Credit for taxpayers with long-term care needs.”.

20 (c) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to taxable years beginning after
 22 December 31, 2012.

1 **SEC. 4. ADDITIONAL CONSUMER PROTECTIONS FOR LONG-**
2 **TERM CARE INSURANCE.**

3 (a) ADDITIONAL PROTECTIONS APPLICABLE TO
4 LONG-TERM CARE INSURANCE.—Subparagraphs (A) and
5 (B) of section 7702B(g)(2) of the Internal Revenue Code
6 of 1986 (relating to requirements of model regulation and
7 Act) are amended to read as follows:

8 “(A) IN GENERAL.—The requirements of
9 this paragraph are met with respect to any con-
10 tract if such contract meets—

11 “(i) MODEL REGULATION.—The fol-
12 lowing requirements of the model regula-
13 tion:

14 “(I) Section 6A (relating to guar-
15 anteed renewal or noncancellability),
16 other than paragraph (5) thereof, and
17 the requirements of section 6B of the
18 model Act relating to such section 6A.

19 “(II) Section 6B (relating to pro-
20 hibitions on limitations and exclu-
21 sions) other than paragraph (7) there-
22 of.

23 “(III) Section 6C (relating to ex-
24 tension of benefits).

1 “(IV) Section 6D (relating to
2 continuation or conversion of cov-
3 erage).

4 “(V) Section 6E (relating to dis-
5 continuance and replacement of poli-
6 cies).

7 “(VI) Section 7 (relating to unin-
8 tentional lapse).

9 “(VII) Section 8 (relating to dis-
10 closure), other than sections 8F, 8G,
11 8H, and 8I thereof.

12 “(VIII) Section 11 (relating to
13 prohibitions against post-claims un-
14 derwriting).

15 “(IX) Section 12 (relating to
16 minimum standards for home health
17 and community care).

18 “(X) Section 13 (relating to re-
19 quirement to offer inflation protec-
20 tion).

21 “(XI) Section 25 (relating to pro-
22 hibition against preexisting conditions
23 and probationary periods in replace-
24 ment policies or certificates).

1 “(XII) The provisions of section
2 28 relating to contingent nonforfeiture
3 benefits, if the policyholder declines
4 the offer of a nonforfeiture provision
5 described in paragraph (4).

6 “(ii) MODEL ACT.—The following re-
7 quirements of the model Act:

8 “(I) Section 6C (relating to pre-
9 existing conditions).

10 “(II) Section 6D (relating to
11 prior hospitalization).

12 “(III) The provisions of section 8
13 relating to contingent nonforfeiture
14 benefits, if the policyholder declines
15 the offer of a nonforfeiture provision
16 described in paragraph (4).

17 “(B) DEFINITIONS.—For purposes of this
18 paragraph—

19 “(i) MODEL PROVISIONS.—The terms
20 ‘model regulation’ and ‘model Act’ mean
21 the long-term care insurance model regula-
22 tion, and the long-term care insurance
23 model Act, respectively, promulgated by
24 the National Association of Insurance

Commissioners (as adopted as of December 31, 2008).

“(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

“(iii) DETERMINATION.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.”.

(b) EXCISE TAX.—Paragraph (1) of section 4980C(c) of the Internal Revenue Code of 1986 (relating to requirements of model provisions) is amended to read as follows:

“(1) REQUIREMENTS OF MODEL PROVISIONS.—

“(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

“(i) Section 9 (relating to required disclosure of rating practices to consumer).

1 “(ii) Section 14 (relating to applica-
2 tion forms and replacement coverage).

3 “(iii) Section 15 (relating to reporting
4 requirements).

5 “(iv) Section 22 (relating to filing re-
6 quirements for advertising).

7 “(v) Section 23 (relating to standards
8 for marketing), other than paragraphs (1),
9 (6), and (9) of section 23C.

10 “(vi) Section 24 (relating to suit-
11 ability).

12 “(vii) Section 27 (relating to the right
13 to reduce coverage and lower premiums).

14 “(viii) Section 31 (relating to the
15 right to appeal an insurer’s determination
16 that a benefit trigger is not met).

17 “(ix) Section 32 (relating to prompt
18 payment of clean claims).

19 “(x) Section 33 (relating to standard
20 format outline of coverage).

21 “(xi) Section 34 (relating to require-
22 ment to deliver shopper’s guide).

23 The requirements referred to in clause (vi) shall
24 not include those portions of the personal work-
25 sheet described in Appendix B relating to con-

sumer protection requirements not imposed by
section 4980C or 7702B.

“(B) MODEL ACT.—The following requirements of the model Act must be met:

“(i) Section 6F (relating to right to return the policy).

“(ii) Section 6G (relating to outline of coverage).

“(iii) Section 6H (relating to requirements for certificates under group plans).

“(iv) Section 6J (relating to policy summary).

“(v) Section 6K (relating to monthly reports on LTC coverage funded by a life insurance policy’s accelerated death benefits).

“(vi) Section 7 (relating to incontestability period).

“(C) DEFINITIONS.—For purposes of this paragraph, the terms ‘model regulation’ and ‘model Act’ have the meanings given such terms by section 7702B(g)(2)(B).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to policies issued after December
3 31, 2012.

○