

108TH CONGRESS
2D SESSION

H. R. 4849

To amend the Internal Revenue Code of 1986 to encourage guaranteed lifetime income payments from annuities and similar payments of life insurance proceeds at dates later than death by excluding from income a portion of such payments.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2004

Mrs. JOHNSON of Connecticut (for herself, Mr. TANNER, Mr. ENGLISH, and Mrs. JONES of Ohio) 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 encourage guaranteed lifetime income payments from annuities and similar payments of life insurance proceeds at dates later than death by excluding from income a portion of such payments.

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 “Retirement Security
5 for Life Act of 2004”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Just over half of all United States workers
2 actively participate in tax-deferred retirement sav-
3 ings plans which are comprised of assets of nearly
4 \$5,000,000,000,000.

5 (2) Congress has historically promoted policies
6 that will encourage greater private savings for retire-
7 ment, but has not devoted the same attention to de-
8 veloping policies that will help people manage the
9 savings once they reach retirement age;

10 (3) Qualified retirement savings plans are the
11 product of such policies and provide Americans with
12 valuable resources for their later years.

13 (4) Non-qualified plans provide an additional
14 retirement benefit.

15 (5) 77,000,000 members of the baby boom gen-
16 eration are approaching retirement age and demo-
17 graphic data indicate that members of this genera-
18 tion can expect to live on average an additional 20
19 to 30 years after retirement.

20 (6) The commitment of Congress to creating in-
21 centives to promote private savings and to manage
22 accumulated savings does not supercede the respon-
23 sibility of Congress to reduce the national debt and
24 bring the Federal budget back into balance.

1 (7) Failure to address long term savings issues
2 will only serve to increase the strain on Federal pro-
3 grams such as social security, medicare, and med-
4 icaid.

5 (8) The national debt and annual budget defi-
6 cits pose a significant risk not only to national secu-
7 rity but also to the long-term solvency of the social
8 security and medicare programs.

9 (9) Encouraging the prudent management of
10 accumulated savings and personal responsibility for
11 retirement income security will reduce the potential
12 financial threat to well-established entitlement pro-
13 grams for senior citizens.

14 (10) The budget impact of this Act will be miti-
15 gated through the legislative process so that the en-
16 actment of this Act will not add to the \$7.2 trillion
17 national debt.

18 **SEC. 3. EXCLUSION FOR LIFETIME ANNUITY PAYMENTS.**

19 (a) LIFETIME ANNUITY PAYMENTS UNDER ANNUITY
20 CONTRACTS.—Subsection (b) of section 72 of the Internal
21 Revenue Code (relating to annuities) is amended by add-
22 ing at the end thereof the following new paragraph:

23 “(5) EXCLUSION FOR LIFETIME ANNUITY PAY-
24 MENTS.—

1 “(A) IN GENERAL.—In the case of lifetime
2 annuity payments received under one or more
3 annuity contracts in any taxable year, gross in-
4 come shall not include 50 percent of the portion
5 of lifetime annuity payments otherwise includ-
6 ible (without regard to this paragraph) in gross
7 income under this section. For purposes of the
8 preceding sentence, the amount excludible from
9 gross income in any taxable year shall not ex-
10 ceed \$20,000.

11 “(B) COST-OF-LIVING ADJUSTMENT.—In
12 the case of taxable years beginning after De-
13 cember 31, 2005, the \$20,000 amounts in sub-
14 paragraph (A) shall be increased by an amount
15 equal to—

16 “(i) such dollar amount, multiplied by

17 “(ii) the cost-of-living adjustment de-
18 termined under section 1(f)(3) for the cal-
19 endar year in which the taxable year be-
20 gins, determined by substituting ‘calendar
21 year 2004’ for ‘calendar year 1992’ in sub-
22 paragraph (B) thereof.

23 If any amount as increased under the preceding
24 sentence is not a multiple of \$500, such amount

1 shall be rounded to the next lower multiple of
2 \$500.

3 “(C) APPLICATION OF PARAGRAPH.—Sub-
4 paragraph (A) shall not apply to—

5 “(i) any amount received under an eli-
6 gible deferred compensation plan (as de-
7 fined in section 457(b)) or under a quali-
8 fied retirement plan (as defined in section
9 4974(c)),

10 “(ii) any amount paid under an annu-
11 ity contract that is received by the bene-
12 ficiary under the contract—

13 “(I) after the death of the annu-
14 itant in the case of payments de-
15 scribed in subsection (c)(5)(A)(ii)(III),
16 unless the beneficiary is the surviving
17 spouse of the annuitant, or

18 “(II) after the death of the annu-
19 itant and joint annuitant in the case
20 of payments described in subsection
21 (c)(5)(A)(ii)(IV), unless the bene-
22 ficiary is the surviving spouse of the
23 last to die of the annuitant and the
24 joint annuitant, or

1 “(iii) any annuity contract that is a
2 qualified funding asset (as defined in sec-
3 tion 130(d)), but without regard to wheth-
4 er there is a qualified assignment.

5 “(D) INVESTMENT IN THE CONTRACT.—
6 For purposes of this section, the investment in
7 the contract shall be determined without regard
8 to this paragraph.”.

9 (b) DEFINITIONS.—Subsection (c) of section 72 of
10 such Code is amended by adding at the end thereof the
11 following new paragraph:

12 “(5) LIFETIME ANNUITY PAYMENT.—

13 “(A) IN GENERAL.—For purposes of sub-
14 section (b)(5), the term ‘lifetime annuity pay-
15 ment’ means any amount received as an annu-
16 ity under any portion of an annuity contract,
17 but only if—

18 “(i) the only person (or persons in the
19 case of payments described in subclause
20 (II) or (IV) of clause (ii)) legally entitled
21 (by operation of the contract, a trust, or
22 other legally enforceable means) to receive
23 such amount during the life of the annu-
24 itant or joint annuitant is such annuitant
25 or joint annuitant, and

1 “(ii) such amount is part of a series
2 of substantially equal periodic payments
3 made not less frequently than annually
4 over—

5 “(I) the life of the annuitant,

6 “(II) the lives of the annuitant
7 and a joint annuitant, but only if the
8 annuitant is the spouse of the joint
9 annuitant as of the annuity starting
10 date or the difference in age between
11 the annuitant and joint annuitant is
12 15 years or less,

13 “(III) the life of the annuitant
14 with a minimum period of payments
15 or with a minimum amount that must
16 be paid in any event, or

17 “(IV) the lives of the annuitant
18 and a joint annuitant with a minimum
19 period of payments or with a min-
20 imum amount that must be paid in
21 any event, but only if the annuitant is
22 the spouse of the joint annuitant as of
23 the annuity starting date or the dif-
24 ference in age between the annuitant

1 and joint annuitant is 15 years or
2 less.

3 “(iii) EXCEPTIONS.—For purposes of
4 clause (ii), annuity payments shall not fail
5 to be treated as part of a series of substan-
6 tially equal periodic payments—

7 “(I) because the amount of the
8 periodic payments may vary in accord-
9 ance with investment experience, re-
10 allocations among investment options,
11 actuarial gains or losses, cost of living
12 indices, a constant percentage applied
13 not less frequently than annually, or
14 similar fluctuating criteria,

15 “(II) due to the existence of, or
16 modification of the duration of, a pro-
17 vision in the contract permitting a
18 lump sum withdrawal after the annu-
19 ity starting date, or

20 “(III) because the period between
21 each such payment is lengthened or
22 shortened, but only if at all times
23 such period is no longer than one cal-
24 endar year.

“(B) ANNUITY CONTRACT.—For purposes of subparagraph (A) and subsections (b)(5) and (w), the term ‘annuity contract’ means a commercial annuity (as defined by section 3405(e)(6)), other than an endowment or life insurance contract.

“(C) MINIMUM PERIOD OF PAYMENTS.—For purposes of subparagraph (A), the term ‘minimum period of payments’ means a guaranteed term of payments that does not exceed the greater of 10 years or—

“(i) the life expectancy of the annuitant as of the annuity starting date, in the case of lifetime annuity payments described in subparagraph (A)(ii)(III), or

“(ii) the life expectancy of the annuitant and joint annuitant as of the annuity starting date, in the case of lifetime annuity payments described in subparagraph (A)(ii)(IV).

For purposes of this subparagraph, life expectancy shall be computed with reference to the tables prescribed by the Secretary under paragraph (3). For purposes of subsection (w)(1)(C)(ii), the permissible minimum period

1 of payments shall be determined as of the annu-
2 ity starting date and reduced by one for each
3 subsequent year.

4 “(D) MINIMUM AMOUNT THAT MUST BE
5 PAID IN ANY EVENT.—For purposes of subpara-
6 graph (A), the term ‘minimum amount that
7 must be paid in any event’ means an amount
8 payable to the designated beneficiary under an
9 annuity contract that is in the nature of a re-
10 fund and does not exceed the greater of the
11 amount applied to produce the lifetime annuity
12 payments under the contract or the amount, if
13 any, available for withdrawal under the contract
14 on the date of death.”.

15 (c) RECAPTURE TAX FOR LIFETIME ANNUITY PAY-
16 MENTS.—Section 72 of such Code is amended by redesign-
17 ating subsection (w) as subsection (x) and inserting after
18 subsection (v) the following new subsection (w):

19 “(w) RECAPTURE TAX FOR MODIFICATIONS TO OR
20 REDUCTIONS IN LIFETIME ANNUITY PAYMENTS.—

21 “(1) IN GENERAL.—If any amount received
22 under an annuity contract is excluded from income
23 by reason of subsection (b)(5) (relating to lifetime
24 annuity payments), and—

1 “(A) the series of payments under such
2 contract is subsequently modified so any future
3 payments are not lifetime annuity payments,

4 “(B) after the date of receipt of the first
5 lifetime annuity payment under the contract an
6 annuitant receives a lump sum and thereafter is
7 to receive annuity payments in a reduced
8 amount under the contract, or

9 “(C) after the date of receipt of the first
10 lifetime annuity payment under the contract the
11 dollar amount of any subsequent annuity pay-
12 ment is reduced and a lump sum is not paid in
13 connection with the reduction, unless such re-
14 duction is—

15 “(i) due to an event described in sub-
16 section (c)(5)(A)(iii), or

17 “(ii) due to the addition of, or in-
18 crease in, a minimum period of payments
19 within the meaning of subsection (c)(5)(C)
20 or a minimum amount that must be paid
21 in any event (within the meaning of sub-
22 section (c)(5)(D)),

23 then gross income for the first taxable year in
24 which such modification or reduction occurs
25 shall be increased by the recapture amount.

1 “(2) RECAPTURE AMOUNT.—

2 “(A) IN GENERAL.—For purposes of this
3 subsection, the recapture amount shall be the
4 amount, determined under rules prescribed by
5 the Secretary, equal to the amount that (but for
6 subsection (b)(5)) would have been includible in
7 the taxpayer’s gross income if the modification
8 or reduction described in paragraph (1) had
9 been in effect at all times, plus interest for the
10 deferral period at the underpayment rate estab-
11 lished by section 6621.

12 “(B) DEFERRAL PERIOD.—For purposes
13 of this subsection, the term ‘deferral period’
14 means the period beginning with the taxable
15 year in which (without regard to subsection
16 (b)(5)) the payment would have been includible
17 in gross income and ending with the taxable
18 year in which the modification described in
19 paragraph (1) occurs.

20 “(3) EXCEPTIONS TO RECAPTURE TAX.—Para-
21 graph (1) shall not apply in the case of any modi-
22 fication or reduction that occurs because an annu-
23 itant—

24 “(A) dies or becomes disabled (within the
25 meaning of subsection (m)(7)),

1 “(B) becomes a chronically ill individual
 2 within the meaning of section 7702B(c)(2), or
 3 “(C) encounters hardship.”.

4 (d) LIFETIME DISTRIBUTIONS OF LIFE INSURANCE
 5 DEATH BENEFITS.—

6 (1) IN GENERAL.—Subsection (d) of section
 7 101 of such Code (relating to life insurance pro-
 8 ceeds) is amended by adding at the end thereof the
 9 following new paragraph:

10 “(4) EXCLUSION FOR LIFETIME ANNUITY PAY-
 11 MENTS.—

12 “(A) IN GENERAL.—In the case of
 13 amounts to which this subsection applies, gross
 14 income shall not include the lesser of—

15 “(i) 50 percent of the portion of life-
 16 time annuity payments otherwise includible
 17 in gross income under this section (deter-
 18 mined without regard to this paragraph),
 19 or

20 “(ii) the amount in effect under sec-
 21 tion 72(b)(5).

22 “(B) RULES OF SECTION 72(B)(5) TO
 23 APPLY.—For purposes of this paragraph, rules
 24 similar to the rules of section 72(b)(5) and sec-
 25 tion 72(w) shall apply, substituting the term

1 ‘beneficiary of the life insurance contract’ for
2 the term ‘annuitant’ wherever it appears, and
3 substituting the term ‘life insurance contract’
4 for the term ‘annuity contract’ wherever it ap-
5 pears.”.

6 (2) CONFORMING AMENDMENT.—Paragraph (1)
7 of subsection (d) of section 101 of such Code is
8 amended by adding “or paragraph (4)” after “to the
9 extent not excluded by the preceding sentence”.

10 (e) EFFECTIVE DATE.—

11 (1) IN GENERAL.—The amendments made by
12 this section shall apply to amounts received in cal-
13 endar years beginning after the date of the enact-
14 ment of this Act.

15 (2) SPECIAL RULE FOR EXISTING CON-
16 TRACTS.—In the case of a contract in force on the
17 date of the enactment of this Act that does not sat-
18 isfy the requirements of section 72(c)(5)(A) of the
19 Internal Revenue Code of 1986 (as added by this
20 section), or requirements similar to such section
21 72(c)(5)(A) in the case of a life insurance contract),
22 any modification to such contract (including a
23 change in ownership) or to the payments thereunder
24 that is made to satisfy the requirements of such sec-
25 tion (or similar requirements) shall not result in the

1 recognition of any gain or loss, any amount being in-
2 cluded in gross income, or any addition to tax that
3 otherwise might result from such modification, but
4 only if the modification is completed prior to the
5 date that is 2 years after the date of the enactment
6 of this Act.

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