

108TH CONGRESS
2D SESSION

H. R. 5110

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, a credit for individuals who care for those with long-term care needs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2004

Ms. HERSETH introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, a credit for individuals who care for those with long-term care needs, and for other purposes.

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 “Comprehensive Long-
5 Term Care Support Act of 2004”.

6 **SEC. 2. FINDINGS.**

7 The Congress hereby finds:

1 (1) As our Nation’s seniors live longer lives, the
2 United States faces a major challenge in long-term
3 health care needs.

4 (2) The United States does not have a com-
5 prehensive system to support long-term care needs.

6 (3) Since the late 1980s the proportion of
7 households in the United States involved in unpaid
8 caregiving activities jumped to over 25 percent.

9 (4) Eighty-three percent of people over age 85
10 have a functional limitation or chronic health care
11 condition requiring care.

12 (5) Medicare spending on home health care has
13 decreased significantly during the last 10 years and
14 long-term care is expected to place a huge burden on
15 State Medicaid programs, which are the primary
16 source of funding for nursing homes.

17 **SEC. 3. DEDUCTION FOR QUALIFIED LONG-TERM CARE IN-**
18 **SURANCE PREMIUMS.**

19 (a) IN GENERAL.—Part VII of subchapter B of chap-
20 ter 1 of the Internal Revenue Code of 1986 (relating to
21 additional itemized deductions) is amended by redesignig-
22 nating section 224 as section 225 and by inserting after
23 section 223 the following new section:

1 **“SEC. 224. PREMIUMS ON QUALIFIED LONG-TERM CARE IN-**
 2 **SURANCE CONTRACTS.**

3 “(a) IN GENERAL.—In the case of an individual,
 4 there shall be allowed as a deduction an amount equal to
 5 the applicable percentage of the amount of eligible long-
 6 term care premiums (as defined in section 213(d)(10))
 7 paid during the taxable year for coverage for the taxpayer
 8 or any member of the family of the taxpayer under a quali-
 9 fied long-term care insurance contract (as defined in sec-
 10 tion 7702B(b)).

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

“For taxable years beginning The applicable percentage is— in calendar year—	
2005	50
2006	75
2007 or thereafter	100.

14 “(c) MEMBER OF THE FAMILY.—For purposes of
 15 this section, the term ‘member of the family’ means, with
 16 respect to any individual—

17 “(1) the spouse of the individual,

18 “(2) an ancestor or lineal descendant of the in-
 19 dividual or the individual’s spouse,

20 “(3) a brother or sister of the individual or any
 21 individual described in paragraph (1) or (2), and

22 “(4) the spouse of any individual described in
 23 paragraph (2) or (3).

1 “(d) COORDINATION WITH OTHER DEDUCTIONS.—
 2 Any amount paid by a taxpayer for any qualified long-
 3 term care insurance contract to which subsection (a) ap-
 4 plies shall not be taken into account in computing the
 5 amount allowable to the taxpayer as a deduction under
 6 section 162(l) or 213(a).”.

7 (b) LONG-TERM CARE INSURANCE PERMITTED TO
 8 BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE
 9 SPENDING ARRANGEMENTS.—

10 (1) CAFETERIA PLANS.—Section 125(f) of the
 11 Internal Revenue Code of 1986 (defining qualified
 12 benefits) is amended by inserting before the period
 13 at the end “; except that such term shall include the
 14 payment of premiums for any qualified long-term
 15 care insurance contract (as defined in section
 16 7702B) to the extent the amount of such payment
 17 does not exceed the eligible long-term care premiums
 18 (as defined in section 213(d)(10)) for such con-
 19 tract”.

20 (2) FLEXIBLE SPENDING ARRANGEMENTS.—
 21 Section 106 of such Code (relating to contributions
 22 by an employer to accident and health plans) is
 23 amended by striking subsection (c).

24 (c) CONFORMING AMENDMENTS.—

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

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

“Sec. 225. Cross reference.”.

11 (d) **EFFECTIVE DATES.**—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(2) CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2006.

20 SEC. 4. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE
21 NEEDS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is

1 amended by inserting after section 25B the following new
2 section:

3 **“SEC. 25C. CREDIT FOR TAXPAYERS WITH LONG-TERM**
4 **CARE NEEDS.**

5 “(a) ALLOWANCE OF CREDIT.—

6 “(1) IN GENERAL.—There shall be allowed as a
7 credit against the tax imposed by this chapter for
8 the taxable year an amount equal to the applicable
9 credit amount multiplied by the number of applica-
10 ble individuals with respect to whom the taxpayer is
11 an eligible caregiver for the taxable year.

12 “(2) APPLICABLE CREDIT AMOUNT.—For pur-
13 poses of paragraph (1), the applicable credit amount
14 shall be determined in accordance with the following
15 table:

“For taxable years beginning in calendar year—	The applicable credit amount is—
2005	\$1,000
2006	1,500
2007	2,000
2008	2,500
2009 or thereafter	3,000.

16 “(b) LIMITATION BASED ON ADJUSTED GROSS IN-
17 COME.—

18 “(1) IN GENERAL.—The amount of the credit
19 allowable under subsection (a) shall be reduced (but
20 not below zero) by \$100 for each \$1,000 (or fraction
21 thereof) by which the taxpayer’s modified adjusted
22 gross income exceeds the threshold amount. For

1 purposes of the preceding sentence, the term ‘modi-
2 fied adjusted gross income’ means adjusted gross in-
3 come increased by any amount excluded from gross
4 income under section 911, 931, or 933.

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

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

9 “(B) \$75,000 in any other case.

10 “(3) INDEXING.—In the case of any taxable
11 year beginning in a calendar year after 2005, each
12 dollar amount contained in paragraph (2) shall be
13 increased by an amount equal to the product of—

14 “(A) such dollar amount, and

15 “(B) the medical care cost adjustment de-
16 termined under section 213(d)(10)(B)(ii) for
17 the calendar year in which the taxable year be-
18 gins, determined by substituting ‘August 2004’
19 for ‘August 1996’ in subclause (II) thereof.

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

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

24 “(1) APPLICABLE INDIVIDUAL.—

“(A) IN GENERAL.—The term ‘applicable individual’ means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

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

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

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

“(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

1 “(i) The individual is at least 6 years
2 of age and—

3 “(I) is unable to perform (with-
4 out substantial assistance from an-
5 other individual) at least 3 activities
6 of daily living (as defined in section
7 7702B(c)(2)(B)) due to a loss of
8 functional capacity, or

9 “(II) requires substantial super-
10 vision to protect such individual from
11 threats to health and safety due to se-
12 vere cognitive impairment and is un-
13 able to preform, without reminding or
14 cuing assistance, at least 1 activity of
15 daily living (as so defined) or to the
16 extent provided in regulations pre-
17 scribed by the Secretary (in consulta-
18 tion with the Secretary of Health and
19 Human Services), is unable to engage
20 in age appropriate activities.

21 “(ii) The individual is at least 2 but
22 not 6 years of age and is unable due to a
23 loss of functional capacity to perform
24 (without substantial assistance from an-

1 other individual) at least 2 of the following
2 activities: eating, transferring, or mobility.

3 “(iii) The individual is under 2 years
4 of age and requires specific durable med-
5 ical equipment by reason of a severe health
6 condition or requires a skilled practitioner
7 trained to address the individual’s condi-
8 tion to be available if the individual’s par-
9 ents or guardians are absent.

10 “(2) ELIGIBLE CAREGIVER.—

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

14 “(i) The taxpayer.

15 “(ii) The taxpayer’s spouse.

16 “(iii) An individual with respect to
17 whom the taxpayer is allowed a deduction
18 under section 151 for the taxable year.

19 “(iv) An individual who would be de-
20 scribed in clause (iii) for the taxable year
21 if section 151(c)(1)(A) were applied by
22 substituting for the exemption amount an
23 amount equal to the sum of the exemption
24 amount, the standard deduction under sec-
25 tion 63(c)(2)(C), and any additional stand-

ard deduction under section 63(c)(3) which would be applicable to the individual if clause (iii) applied.

“(v) An individual who would be described in clause (iii) for the taxable year if—

“(I) the requirements of clause (iv) are met with respect to the individual, and

“(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test of section 152(a).

“(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an individual has as his principal place of abode the home of the taxpayer and—

“(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer’s spouse, is a member of the taxpayer’s household for over half the taxable year, or

“(ii) in the case of any other individual, is a member of the taxpayer’s household for the entire taxable year.

1 “(C) SPECIAL RULES WHERE MORE THAN
2 1 ELIGIBLE CAREGIVER.—

3 “(i) IN GENERAL.—If more than 1 in-
4 dividual is an eligible caregiver with re-
5 spect to the same applicable individual for
6 taxable years ending with or within the
7 same calendar year, a taxpayer shall be
8 treated as the eligible caregiver if each
9 such individual (other than the taxpayer)
10 files a written declaration (in such form
11 and manner as the Secretary may pre-
12 scribe) that such individual will not claim
13 such applicable individual for the credit
14 under this section.

15 “(ii) NO AGREEMENT.—If each indi-
16 vidual required under clause (i) to file a
17 written declaration under clause (i) does
18 not do so, the individual with the highest
19 modified adjusted gross income (as defined
20 in section 32(c)(5)) shall be treated as the
21 eligible caregiver.

22 “(iii) MARRIED INDIVIDUALS FILING
23 SEPARATELY.—In the case of married indi-
24 viduals filing separately, the determination
25 under this subparagraph as to whether the

1 husband or wife is the eligible caregiver
2 shall be made under the rules of clause (ii)
3 (whether or not one of them has filed a
4 written declaration under clause (i)).

5 “(d) IDENTIFICATION REQUIREMENT.—No credit
6 shall be allowed under this section to a taxpayer with re-
7 spect to any applicable individual unless the taxpayer in-
8 cludes the name and taxpayer identification number of
9 such individual, and the identification number of the phy-
10 sician certifying such individual, on the return of tax for
11 the taxable year.

12 “(e) TAXABLE YEAR MUST BE FULL TAXABLE
13 YEAR.—Except in the case of a taxable year closed by rea-
14 son of the death of the taxpayer, no credit shall be allow-
15 able under this section in the case of a taxable year cov-
16 ering a period of less than 12 months.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Section 6213(g)(2) of the Internal Revenue
19 Code of 1986 is amended by striking “and” at the
20 end of subparagraph (K), by striking the period at
21 the end of subparagraph (M) and inserting “, and”,
22 and by inserting after subparagraph (M) the fol-
23 lowing new subparagraph:

24 “(N) an omission of a correct TIN or phy-
25 sician identification required under section

1 25C(d) (relating to credit for taxpayers with
2 long-term care needs) to be included on a re-
3 turn.”.

4 (2) The table of sections for subpart A of part
5 IV of subchapter A of chapter 1 of such Code is
6 amended by inserting after the item relating to sec-
7 tion 25B the following new item:

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

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2004.

11 **SEC. 5. INCREASED FUNDING FOR NATIONAL FAMILY**
12 **CAREGIVER SUPPORT PROGRAM.**

13 (a) IN GENERAL.—Section 303(e)(1) of the Older
14 Americans Act of 1965 (42 U.S.C. 3023(e)(1)) is amend-
15 ed by striking “\$125,000,000 for fiscal year 2001” and
16 inserting “\$250,000,000 for fiscal year 2005”.

17 (b) NATIVE AMERICANS.—Section 643(2) of the
18 Older Americans Act of 1965 (42 U.S.C. 3057n(2)) is
19 amended by striking “\$5,000,000 for fiscal year 2001”
20 and inserting “\$10,000,000 for fiscal year 2005”.

○