

109TH CONGRESS
2D SESSION

S. 2281

To amend the Internal Revenue Code of 1986 to allow Americans to age with respect and dignity by providing tax incentives to assist them in preparing for the financial impact of their long-term care needs.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2006

Mr. SANTORUM introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow Americans to age with respect and dignity by providing tax incentives to assist them in preparing for the financial impact of their 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 “Aging with Respect
5 and Dignity Act of 2005”.

1 **SEC. 2. LONG-TERM CARE INSURANCE OR SERVICES PER-**
 2 **MITTED TO BE OFFERED UNDER CAFETERIA**
 3 **PLANS AND FLEXIBLE SPENDING ARRANGE-**
 4 **MENTS.**

5 (a) CAFETERIA PLANS.—The last sentence of section
 6 125(f) of the Internal Revenue Code of 1986 (defining
 7 qualified benefits) is amended by inserting before the pe-
 8 riod at the end “; except that such term shall include the
 9 payment of premiums for any qualified long-term care in-
 10 surance contract (as defined in section 7702B) to the ex-
 11 tent the amount of such payment does not exceed the eligi-
 12 ble long-term care premiums (as defined in section
 13 213(d)(10)) for such contract”.

14 (b) FLEXIBLE SPENDING ARRANGEMENTS.—So
 15 much of section 106(c) of such Code as precedes para-
 16 graph (2) thereof is amended to read as follows:

17 “(c) RULES RELATING TO LONG-TERM CARE BENE-
 18 FITS PROVIDED THROUGH FLEXIBLE SPENDING AR-
 19 RANGEMENTS.—

20 “(1) IN GENERAL.—For purposes of subsection
 21 (a), in the case of employer-provided coverage for
 22 qualified long-term care services provided through a
 23 flexible spending or similar arrangement—

24 “(A) such coverage shall be treated as pro-
 25 vided under an accident or health plan, and

1 “(B) if such services are provided to an in-
 2 dividual who bears a relationship described in
 3 section 152(d)(2) (other than subparagraph (H)
 4 thereof) to the employee, such services shall be
 5 treated as provided to a dependent of the em-
 6 ployee without regard to whether the individual
 7 is treated as a dependent of the employee under
 8 section 152(a).”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to taxable years beginning after
 11 December 31, 2005.

12 **SEC. 3. DEDUCTION FOR CONTRIBUTIONS TO LONG-TERM**
 13 **CARE ACCOUNTS.**

14 (a) IN GENERAL.—Part VII of subchapter B of chap-
 15 ter 1 of the Internal Revenue Code of 1986 (relating to
 16 additional itemized deductions for individuals) is amended
 17 by redesignating section 224 as section 225 and by adding
 18 at the end the following new section:

19 **“SEC. 224. LONG-TERM CARE ACCOUNTS.**

20 “(a) DEDUCTION ALLOWED.—In the case of an indi-
 21 vidual, there shall be allowed as a deduction for the tax-
 22 able year an amount equal to the aggregate amount paid
 23 in cash during such taxable year by or on behalf of such
 24 individual to a long-term care account with respect to
 25 which the individual is the account beneficiary.

1 “(b) LIMITATIONS.—

2 “(1) DOLLAR LIMITATION.—

3 “(A) IN GENERAL.—The aggregate
4 amount allowable as a deduction under sub-
5 section (a) for any taxable year with respect to
6 any individual shall not exceed \$5,000.

7 “(B) INFLATION ADJUSTMENT.—In the
8 case of any taxable year beginning in a calendar
9 year after 2007, the \$5,000 amount under sub-
10 paragraph (A) shall be increased by an amount
11 equal to—

12 “(i) such dollar amount, multiplied by

13 “(ii) the medical care cost adjustment
14 under section 213(d)(10)(B)(ii) for the cal-
15 endar year in which the taxable year be-
16 gins, determined by substituting ‘2006’ for
17 ‘1996’ in subclause (II) thereof.

18 If any amount as adjusted under the preceding
19 sentence is not a multiple of \$10, such amount
20 shall be rounded to the next lowest multiple of
21 \$10.

22 “(2) DENIAL OF DEDUCTION TO DEPEND-
23 ENTS.—No deduction shall be allowed under this
24 section with respect to any individual with respect to
25 whom a deduction under section 151 is allowable to

1 another taxpayer for a taxable year beginning in the
2 calendar year in which the individual's taxable year
3 begins.

4 “(c) LONG-TERM CARE ACCOUNT.—For purposes of
5 this section, the term ‘long-term care account’ means a
6 trust which is created or organized in the United States
7 for the exclusive benefit of the individual who is the ac-
8 count beneficiary of the trust and members of the individ-
9 ual's family and which is designated (in such manner as
10 the Secretary shall prescribe) at the time of the establish-
11 ment of the trust as a long-term care account, but only
12 if the written governing instrument creating the trust
13 meets the following requirements:

14 “(1) Except in the case of a qualified rollover
15 contribution described in subsection (e)(5)—

16 “(A) no contribution will be accepted un-
17 less it is in cash, and

18 “(B) contributions will not be accepted for
19 the calendar year in excess of the limit specified
20 in subsection (b)(1).

21 “(2) The trustee is a bank (as defined in sec-
22 tion 408(n)), an insurance company (as defined in
23 section 816), or another person who demonstrates to
24 the satisfaction of the Secretary that the manner in
25 which that person will administer the trust will be

1 consistent with the requirements of this section or
 2 who has so demonstrated with respect to any indi-
 3 vidual retirement plan.

4 “(3) No part of the trust assets will be invested
 5 in life insurance contracts.

6 “(4) The interest of an individual in the bal-
 7 ance of his account is nonforfeitable.

8 “(5) The assets of the trust shall not be com-
 9 mingled with other property except in a common
 10 trust fund or common investment fund.

11 “(d) TAX TREATMENT OF ACCOUNTS.—

12 “(1) IN GENERAL.—A long-term care account
 13 shall be exempt from taxation under this subtitle.
 14 Notwithstanding the preceding sentence, such ac-
 15 count shall be subject to the taxes imposed by sec-
 16 tion 511 (relating to imposition of tax on unrelated
 17 business income of charitable organizations).

18 “(2) ACCOUNT TERMINATIONS.—Rules similar
 19 to the rules under paragraphs (2) and (4) of section
 20 408(e) shall apply to long-term care accounts, and
 21 any amount treated as distributed under such rules
 22 shall be treated as not used to pay for qualified
 23 long-term care expenses.

24 “(e) TAX TREATMENT OF DISTRIBUTIONS.—

1 “(1) AMOUNTS USED FOR QUALIFIED LONG-
 2 TERM CARE EXPENSES.—Any amount paid or dis-
 3 tributed out of a long-term care account which is
 4 used exclusively to pay qualified long-term care ex-
 5 penses of the account beneficiary or any member of
 6 the beneficiary’s family shall not be includible in
 7 gross income.

8 “(2) INCLUSION OF AMOUNTS NOT USED FOR
 9 QUALIFIED LONG-TERM CARE EXPENSES.—Any
 10 amount paid or distributed out of a long-term care
 11 account which is not used exclusively to pay the
 12 qualified long-term care expenses of the account ben-
 13 eficiary or any member of the beneficiary’s family
 14 shall be included in the gross income of such bene-
 15 ficiary.

16 “(3) EXCESS CONTRIBUTIONS RETURNED BE-
 17 FORE DUE DATE OF RETURN.—

18 “(A) IN GENERAL.—If any excess con-
 19 tribution is contributed for a taxable year to
 20 any long-term care account of an individual,
 21 paragraph (2) shall not apply to distributions
 22 from the long-term care accounts of such indi-
 23 vidual (to the extent such distributions do not
 24 exceed the aggregate excess contributions to all

1 such accounts of such individual for such year)
 2 if—

3 “(i) such distribution is received by
 4 the individual on or before the last day
 5 prescribed by law (including extensions of
 6 time) for filing such individual’s return for
 7 such taxable year, and

8 “(ii) such distribution is accompanied
 9 by the amount of net income attributable
 10 to such excess contribution.

11 Any net income described in clause (ii) shall be
 12 included in the gross income of the individual
 13 for the taxable year in which it is received.

14 “(B) EXCESS CONTRIBUTION.—For pur-
 15 poses of subparagraph (A), the term ‘excess
 16 contribution’ means any contribution (other
 17 than a rollover contribution described in para-
 18 graph (5)) which is not deductible under this
 19 section.

20 “(4) ADDITIONAL TAX ON DISTRIBUTIONS NOT
 21 USED FOR QUALIFIED LONG-TERM EXPENSES.—

22 “(A) IN GENERAL.—The tax imposed by
 23 this chapter on the account beneficiary for any
 24 taxable year in which there is a payment or dis-
 25 tribution from a long-term care account of such

beneficiary which is includible in gross income under paragraph (2) shall be increased by 10 percent of the amount which is so includible.

“(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account beneficiary becomes disabled within the meaning of section 72(m)(7) or dies.

“(5) ROLLOVER CONTRIBUTION.—

“(A) IN GENERAL.—An amount is a rollover contribution described in this paragraph if it meets the requirements of subparagraphs (B) and (C).

“(B) PAYMENT TO OTHER ACCOUNT.—Paragraph (2) shall not apply to any amount paid or distributed from a long-term care account to the account beneficiary to the extent the amount received is paid into a long-term care account for the benefit of such beneficiary not later than the 60th day after the day on which the beneficiary receives the payment or distribution.

“(C) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (B) received by an individual from a

1 long-term care account if, at any time during
2 the 1-year period ending on the day of such re-
3 ceipt, such individual received any other amount
4 described in subparagraph (B) from a long-
5 term care account which was not includible in
6 the individual's gross income because of the ap-
7 plication of this paragraph.

8 “(6) COORDINATION WITH MEDICAL EXPENSE
9 DEDUCTION.—For purposes of determining the
10 amount of the deduction under section 213, any pay-
11 ment or distribution out of a long-term care account
12 for qualified long-term care expenses shall not be
13 treated as an expense paid for medical care.

14 “(7) TRANSFER OF ACCOUNT INCIDENT TO DI-
15 VORCE.—The transfer of an individual's interest in
16 a long-term care account to an individual's spouse or
17 former spouse under a divorce or separation instru-
18 ment described in subparagraph (A) of section
19 71(b)(2) shall not be considered a taxable transfer
20 made by such individual notwithstanding any other
21 provision of this subtitle, and such interest shall,
22 after such transfer, be treated as a long-term care
23 account with respect to which such spouse is the ac-
24 count beneficiary.

1 “(8) TREATMENT AFTER DEATH OF ACCOUNT
2 BENEFICIARY.—

3 “(A) TREATMENT IF DESIGNATED BENE-
4 FICIARY IS SPOUSE.—If the account
5 beneficiary’s surviving spouse acquires such
6 beneficiary’s interest in a long-term care ac-
7 count by reason of being the beneficiary of such
8 account at the death of the account beneficiary,
9 such account shall be treated as if the spouse
10 were the account beneficiary.

11 “(B) OTHER CASES.—

12 “(i) IN GENERAL.—If, by reason of
13 the death of the account beneficiary, any
14 person acquires the account beneficiary’s
15 interest in a long-term care account in a
16 case to which subparagraph (A) does not
17 apply—

18 “(I) such account shall cease to
19 be a long-term care account as of the
20 date of death, and

21 “(II) an amount equal to the fair
22 market value of the assets in such ac-
23 count on such date shall be includible
24 in such person’s gross income for the
25 taxable year which includes such date

1 if such person is not the estate of
2 such beneficiary, or shall be includible
3 in such beneficiary's gross income for
4 the last taxable year of such bene-
5 ficiary if such person is the estate of
6 such beneficiary.

7 “(ii) SPECIAL RULES.—

8 “(I) REDUCTION OF INCLUSION
9 FOR PREDEATH EXPENSES.—The
10 amount includible in gross income
11 under clause (i) by any person (other
12 than the estate) shall be reduced by
13 the amount of qualified long-term care
14 expenses which were incurred by the
15 decedent before the date of the dece-
16 dent's death and paid by such person
17 within 1 year after such date.

18 “(II) DEDUCTION FOR ESTATE
19 TAXES.—An appropriate deduction
20 shall be allowed under section 691(c)
21 to any person (other than the dece-
22 dent or the decedent's spouse) with
23 respect to amounts included in gross
24 income under clause (i) by such per-
25 son.

1 “(9) GIFT TAX EXCEPTION.—A distribution to
 2 a member of the account beneficiary’s family which
 3 is not includible in gross income under paragraph
 4 (1) shall in no event be treated as a taxable gift for
 5 purposes of chapters 12 and 13.

6 “(10) OPERATING RULES.—For purposes of ap-
 7 plying section 72—

8 “(A) to the extent provided by the Sec-
 9 retary, all long-term care accounts of which an
 10 individual is an account beneficiary shall be
 11 treated as one account,

12 “(B) except to the extent provided by the
 13 Secretary, all distributions during a taxable
 14 year shall be treated as one distribution, and

15 “(C) except to the extent provided by the
 16 Secretary, the value of the contract, income on
 17 the contract, and investment in the contract
 18 shall be computed as of the close of the cal-
 19 endar year in which the taxable year begins.

20 “(f) DEFINITIONS AND SPECIAL RULES.—For pur-
 21 poses of this section—

22 “(1) ACCOUNT BENEFICIARY.—The term ‘ac-
 23 count beneficiary’ means the individual on whose be-
 24 half the long-term care account was established.

1 “(2) QUALIFIED LONG-TERM CARE EX-
 2 PENSES.—The term ‘qualified long-term care ex-
 3 penses’ means any amount paid or incurred—

4 “(A) for premiums for any qualified long-
 5 term care insurance contract (as defined in sec-
 6 tion 7702B) to the extent the amount of such
 7 payment does not exceed the eligible long-term
 8 care premiums (as defined in section
 9 213(d)(10)) for such contract, or

10 “(B) for qualified long-term care services
 11 (as defined in section 7702B(e)) unless such
 12 payment is not treated as paid for medical care
 13 under section 213(d)(11).

14 “(3) MEMBER OF THE FAMILY.—The term
 15 ‘member of the family’ means, with respect to any
 16 account beneficiary, an individual who bears a rela-
 17 tionship described in section 152(d)(2) (other than
 18 subparagraph (H) thereof) to the beneficiary.

19 “(4) OTHER RULES.—Rules similar to the rules
 20 described in section 223(d)(4) shall apply.

21 “(g) CUSTODIAL ACCOUNTS.—For purposes of this
 22 section, a custodial account or an annuity contract issued
 23 by an insurance company qualified to do business in a
 24 State shall be treated as a trust under this section if—

1 “(1) the custodial account or annuity contract
2 would, except for the fact that it is not a trust, con-
3 stitute a trust which meets the requirements of sub-
4 section (b), and

5 “(2) in the case of a custodial account, the as-
6 sets of such account are held by a bank (as defined
7 in section 408(n)) or another person who dem-
8 onstrates, to the satisfaction of the Secretary, that
9 the manner in which the person will administer the
10 account will be consistent with the requirements of
11 this section.

12 For purposes of this title, in the case of a custodial ac-
13 count or annuity contract treated as a trust by reason of
14 the preceding sentence, the person holding the assets of
15 such account or holding such annuity contract shall be
16 treated as the trustee thereof.

17 “(h) REPORTS.—The trustee of a long-term care ac-
18 count shall make such reports regarding such account to
19 the Secretary and to the beneficiary of the account with
20 respect to contributions, distributions, and such other
21 matters as the Secretary may require. The reports re-
22 quired by this subsection shall be filed at such time and
23 in such manner and furnished to such individuals at such
24 time and in such manner as may be required.”.

1 (b) DEDUCTION ALLOWED IN DETERMINING AD-
 2 JUSTED GROSS INCOME.—Section 62(a) of the Internal
 3 Revenue Code of 1986 (defining adjusted gross income)
 4 is amended by adding at the end the following:

5 “(21) LONG-TERM CARE ACCOUNTS.—The de-
 6 duction allowed by section 224.”

7 (c) TAX ON EXCESS CONTRIBUTIONS.—

8 (1) IN GENERAL.—Subsection (a) of section
 9 4973 of the Internal Revenue Code of 1986 (relating
 10 to tax on excess contributions to certain tax-favored
 11 accounts and annuities) is amended by striking “or”
 12 at the end of paragraph (4), by inserting “or” at the
 13 end of paragraph (5), and by inserting after para-
 14 graph (5) the following new paragraph:

15 “(6) a long-term care account (as defined in
 16 section 224(c)),”.

17 (2) EXCESS CONTRIBUTION.—Section 4973 of
 18 such Code is amended by adding at the end the fol-
 19 lowing new subsection:

20 “(h) EXCESS CONTRIBUTIONS TO LONG-TERM CARE
 21 ACCOUNTS.—For purposes of this section—

22 “(1) IN GENERAL.—In the case of long-term
 23 care accounts (within the meaning of section
 24 224(c)), the term ‘excess contributions’ means the
 25 sum of—

1 “(A) the amount by which the amount con-
 2 tributed for the calendar year to such accounts
 3 (other than qualified rollover contributions (as
 4 defined in section 224(e)(5)) exceeds the con-
 5 tribution limit under section 224(b)(1), and

6 “(B) the amount determined under this
 7 subsection for the preceding calendar year, re-
 8 duced by the excess (if any) of the maximum
 9 amount allowable as a contribution under sec-
 10 tion 224(b)(1) for the calendar year over the
 11 amount contributed to the accounts for the cal-
 12 endar year.

13 “(2) SPECIAL RULE.—A contribution which is
 14 distributed out of a long-term care account in a dis-
 15 tribution to which section 224(e)(3) applies shall not
 16 be taken into account under paragraph (1).”.

17 (d) FAILURE TO PROVIDE REPORTS ON LONG-TERM
 18 CARE ACCOUNTS.—Paragraph (2) of section 6693(a) of
 19 the Internal Revenue Code of 1986 (relating to failure to
 20 provide reports on individual retirement accounts or annu-
 21 ities) is amended by redesignating subparagraphs (D) and
 22 (E) as subparagraphs (E) and (F), respectively, and by
 23 inserting after subparagraph (C) the following new sub-
 24 paragraph:

1 “(D) section 224(h) (relating to long-term
2 care accounts),”.

3 (e) CONFORMING AMENDMENT.—The table of sec-
4 tions for part VII of subchapter B of chapter 1 of the
5 Internal Revenue Code of 1986 is amended by striking the
6 item relating to section 224 and inserting the following
7 new items:

“Sec. 224. Long-term care accounts.

“Sec. 225. Cross reference.”.

8 (f) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2005.

11 **SEC. 4. TREATMENT OF ANNUITY AND LIFE INSURANCE**
12 **CONTRACTS WITH A LONG-TERM CARE IN-**
13 **SURANCE FEATURE.**

14 (a) EXCLUSION FROM GROSS INCOME.—Subsection
15 (e) of section 72 of the Internal Revenue Code of 1986
16 (relating to amounts not received as annuities) is amended
17 by redesignating paragraph (11) as paragraph (12) and
18 by inserting after paragraph (10) the following new para-
19 graph:

20 “(11) SPECIAL RULES FOR CERTAIN COMBINA-
21 TION CONTRACTS PROVIDING LONG-TERM CARE IN-
22 SURANCE.—Notwithstanding paragraphs (2), (5)(C),
23 and (10), in the case of any charge against the cash
24 value of an annuity contract or the cash surrender

1 value of a life insurance contract made as payment
 2 for coverage under a qualified long-term care insur-
 3 ance contract which is part of or a rider on such an-
 4 nuity or life insurance contract—

5 “(A) the investment in the contract shall
 6 be reduced (but not below zero) by such charge,
 7 and

8 “(B) such charge shall not be includible in
 9 gross income.”.

10 (b) TAX-FREE EXCHANGES AMONG CERTAIN INSUR-
 11 ANCE POLICIES.—

12 (1) ANNUITY CONTRACTS CAN INCLUDE QUALI-
 13 FIED LONG-TERM CARE INSURANCE RIDERS.—Para-
 14 graph (2) of section 1035(b) of such Code is amend-
 15 ed by adding at the end the following new sentence:
 16 “For purposes of the preceding sentence, a contract
 17 shall not fail to be treated as an annuity contract
 18 solely because a qualified long-term care insurance
 19 contract is a part of or a rider on such contract.”.

20 (2) LIFE INSURANCE CONTRACTS CAN INCLUDE
 21 QUALIFIED LONG-TERM CARE INSURANCE RIDERS.—
 22 Paragraph (3) of section 1035(b) of such Code is
 23 amended by adding at the end the following new
 24 sentence: “For purposes of the preceding sentence,
 25 a contract shall not fail to be treated as a life insur-

1 ance contract solely because a qualified long-term
 2 care insurance contract is a part of or a rider on
 3 such contract.”.

4 (3) EXPANSION OF TAX-FREE EXCHANGES OF
 5 LIFE INSURANCE, ENDOWMENT, AND ANNUITY CON-
 6 TRACTS FOR LONG-TERM CARE CONTRACTS.—Sub-
 7 section (a) of section 1035 of such Code (relating to
 8 certain exchanges of insurance policies) is amend-
 9 ed—

10 (A) in paragraph (1) by striking “con-
 11 tract;” and inserting “contract or for a quali-
 12 fied long-term care insurance contract;”,

13 (B) in paragraph (2) by striking “con-
 14 tract;” and inserting “contract, or (C) for a
 15 qualified long-term care insurance contract;”,
 16 and

17 (C) in paragraph (3) by striking “con-
 18 tract.” and inserting “contract or for a quali-
 19 fied long-term care insurance contract.”.

20 (4) TAX-FREE EXCHANGES OF QUALIFIED
 21 LONG-TERM CARE INSURANCE CONTRACT.—Sub-
 22 section (a) of section 1035 of such Code (relating to
 23 certain exchanges of insurance policies) is amended
 24 by striking “or” at the end of paragraph (2), by
 25 striking the period at the end of paragraph (3) and

1 inserting “; or”, and by inserting after paragraph
 2 (3) the following new paragraph:

3 “(4) a qualified long-term care insurance con-
 4 tract for a qualified long-term care insurance con-
 5 tract.”.

6 (c) TREATMENT OF COVERAGE PROVIDED AS PART
 7 OF A LIFE INSURANCE OR ANNUITY CONTRACT.—Sub-
 8 section (e) of section 7702B of such Code (relating to
 9 treatment of qualified long-term care insurance) is amend-
 10 ed to read as follows:

11 “(e) TREATMENT OF COVERAGE PROVIDED AS PART
 12 OF A LIFE INSURANCE OR ANNUITY CONTRACT.—

13 “(1) COVERAGE TREATED AS CONTRACT.—Ex-
 14 cept as otherwise provided in regulations prescribed
 15 by the Secretary, in the case of any long-term care
 16 insurance coverage (whether or not qualified) pro-
 17 vided by a rider on or as part of a life insurance
 18 contract or an annuity contract, this title shall apply
 19 as if the portion of the contract providing such cov-
 20 erage is a separate contract.

21 “(2) DENIAL OF DEDUCTION UNDER SECTION
 22 213.—No deduction shall be allowed under section
 23 213(a) for any payment made for coverage under a
 24 qualified long-term care insurance contract if such
 25 payment is made as a charge against the cash value

1 of an annuity contract or the cash surrender value
 2 of a life insurance contract.

3 “(3) APPLICATION OF SECTION 7702.—Section
 4 7702(c)(2) (relating to the guideline premium limi-
 5 tation) shall be applied by increasing the guideline
 6 premium limitation with respect to the life insurance
 7 contract, as of any date—

8 “(A) by the sum of any charges (but not
 9 premium payments) against the life insurance
 10 contract’s cash surrender value (within the
 11 meaning of section 7702(f)(2)(A)) for coverage
 12 under the qualified long-term care insurance
 13 contract made to that date under the life insur-
 14 ance contract, less

15 “(B) any such charges the imposition of
 16 which reduces the premiums paid for the life in-
 17 surance contract (within the meaning of section
 18 7702(f)(1)).

19 This paragraph shall not apply to any charges de-
 20 scribed in subparagraph (A) which are otherwise
 21 taken into account in computing the guideline pre-
 22 mium limitation by reason of section
 23 7702(f)(5)(A)(v).

24 “(4) PORTION DEFINED.—For purposes of this
 25 subsection, the term ‘portion’ means only the terms

1 and benefits under a life insurance contract or annu-
 2 ity contract that are in addition to the terms and
 3 benefits under the contract without regard to long-
 4 term care insurance coverage.

5 “(5) ANNUITY CONTRACTS TO WHICH PARA-
 6 GRAPH (1) DOES NOT APPLY.—For purposes of this
 7 subsection, none of the following shall be treated as
 8 an annuity contract:

9 “(A) A trust described in section 401(a)
 10 which is exempt from tax under section 501(a).

11 “(B) A contract—

12 “(i) purchased by a trust described in
 13 subparagraph (A),

14 “(ii) purchased as part of a plan de-
 15 scribed in section 403(a),

16 “(iii) described in section 403(b),

17 “(iv) provided for employees of a life
 18 insurance company under a plan described
 19 in section 818(a)(3), or

20 “(v) from an individual retirement ac-
 21 count or an individual retirement annuity.

22 “(C) A contract purchased by an employer
 23 for the benefit of the employee (or the employ-
 24 ee’s spouse).

1 Any dividend described in section 404(k) which is
 2 received by a participant or beneficiary shall, for
 3 purposes of this paragraph, be treated as paid under
 4 a separate contract to which subparagraph (B)(i)
 5 applies.”.

6 (d) INFORMATION REPORTING.—

7 (1) Subpart B of part III of subchapter A of
 8 chapter 61 of such Code (relating to information
 9 concerning transactions with other persons) is
 10 amended by adding at the end the following new sec-
 11 tion:

12 **“SEC. 6050U. CHARGES OR PAYMENTS FOR QUALIFIED**
 13 **LONG-TERM CARE INSURANCE CONTRACTS**
 14 **UNDER COMBINED ARRANGEMENTS.**

15 “(a) REQUIREMENT OF REPORTING.—Any person
 16 who makes a charge against the cash value of an annuity
 17 contract, or the cash surrender value of a life insurance
 18 contract, which is excludable from gross income under sec-
 19 tion 72(e)(11) shall make a return, according to the forms
 20 or regulations prescribed by the Secretary, setting forth—

21 “(1) the amount of the aggregate of such
 22 charges against each such contract for the calendar
 23 year,

1 “(2) the amount of the reduction in the invest-
 2 ment in each such contract by reason of such
 3 charges, and

4 “(3) the name, address, and TIN of the indi-
 5 vidual who is the holder of each such contract.

6 “(b) STATEMENTS TO BE FURNISHED TO PERSONS
 7 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—
 8 Every person required to make a return under subsection
 9 (a) shall furnish to each individual whose name is required
 10 to be set forth in such return a written statement show-
 11 ing—

12 “(1) the name, address, and phone number of
 13 the information contact of the person making the
 14 payments, and

15 “(2) the information required to be shown on
 16 the return with respect to such individual.

17 The written statement required under the preceding sen-
 18 tence shall be furnished to the individual on or before Jan-
 19 uary 31 of the year following the calendar year for which
 20 the return under subsection (a) was required to be made.”.

21 (2) CLERICAL AMENDMENT.—The table of sec-
 22 tions for subpart B of part III of subchapter A of
 23 such chapter 61 of such Code is amended by adding
 24 at the end the following new item:

“Sec. 6050U. Charges or payments for qualified long-term care insur-
 ance contracts under combined arrangements”.

1 (e) TREATMENT OF POLICY ACQUISITION EX-
 2 PENSES.—Subsection (e) of section 848 of such Code (re-
 3 lating to classification of contracts) is amended by adding
 4 at the end the following new paragraph:

5 “(6) TREATMENT OF CERTAIN QUALIFIED
 6 LONG-TERM CARE INSURANCE CONTRACT ARRANGE-
 7 MENTS.—An annuity or life insurance contract
 8 which includes a qualified long-term care insurance
 9 contract as a part of or a rider on such annuity or
 10 life insurance contract shall be treated as a specified
 11 insurance contract not described in subparagraph
 12 (A) or (B) of subsection (c)(1).”.

13 (f) APPLICATION TO OTHER DEFINITIONS AND
 14 RULES.—Section 7702(f) of such Code (relating to other
 15 definitions and special rules) is amended

16 (1) in paragraph (1), by inserting “(other than
 17 paragraph (11) thereof)” after “section 72(e)”, and

18 (2) in paragraph (5)(A), by striking “or” at the
 19 end of clause (iv), by redesignating clause (v) as
 20 clause (vi), and by inserting after clause (iv) the fol-
 21 lowing new clause:

22 “(v) qualified long-term care insur-
 23 ance contract which is a part of or a rider
 24 on the life insurance contract, or”.

25 (g) EFFECTIVE DATES.—

1 (1) IN GENERAL.—Except as provided by para-
2 graph (2), the amendments made by this section
3 shall apply to contracts issued before, on, or after
4 December 31, 2005, but only with respect to periods
5 beginning after such date.

6 (2) SUBSECTION (b).—The amendments made
7 by subsection (b) shall apply with respect to ex-
8 changes occurring after December 31, 2005.

○