

110TH CONGRESS  
1ST SESSION

# H. R. 4150

To amend the Internal Revenue Code of 1986 to encourage guaranteed lifetime income payments by excluding from income a portion of such payments.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 2007

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

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## A BILL

To amend the Internal Revenue Code of 1986 to encourage guaranteed lifetime income payments 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 “Lifetime Pension An-  
5 nuity for You Act of 2007”.

6 **SEC. 2. EXCLUSION FOR LIFETIME INCOME PAYMENTS.**

7 (a) LIFETIME INCOME PAYMENTS UNDER ANNUITY  
8 CONTRACTS.—Subsection (b) of section 72 of the Internal

1 Revenue Code of 1986 is amended by adding at the end  
2 the following new paragraph:

3           “(5) EXCLUSION FOR LIFETIME INCOME PAY-  
4           MENTS.—

5           “(A) IN GENERAL.—In the case of lifetime  
6 income payments received under one or more  
7 annuity contracts (which are not taken into ac-  
8 count under subparagraph (B)) in any taxable  
9 year, gross income shall not include 50 percent  
10 of the portion of such payments which would  
11 (without regard to this paragraph) be includible  
12 in gross income under this section. For pur-  
13 poses of the preceding sentence, the amount ex-  
14 cludible from gross income in any taxable year  
15 shall not exceed \$5,000 (twice such amount in  
16 the case of joint return).

17           “(B) LOWER PERCENTAGE EXCLUSION  
18 AND SEPARATE LIMITATION FOR ANNUITIES  
19 PROVIDED UNDER CERTAIN RETIREMENT  
20 PLANS.—In the case of lifetime income pay-  
21 ments received under any qualified retirement  
22 plan (as defined in section 4974(c)), or any eli-  
23 gible deferred compensation plan (as defined in  
24 section 457(b)) of an eligible employer de-  
25 scribed in section 457(e)(1)(A), gross income

1 shall not include 25 percent of the portion of  
2 such payments which would (without regard to  
3 this paragraph) be includible in gross income  
4 under this section. For purposes of the pre-  
5 ceding sentence, the amount excludible from  
6 gross income in any taxable year shall not ex-  
7 ceed \$5,000 (twice such amount in the case of  
8 a joint return).

9 “(C) COST-OF-LIVING ADJUSTMENT.—In  
10 the case of taxable years beginning after De-  
11 cember 31, 2008, the \$5,000 amounts in sub-  
12 paragraphs (A) and (B) shall each be increased  
13 by an amount equal to—

14 “(i) such dollar amount, multiplied by

15 “(ii) the cost-of-living adjustment de-  
16 termined under section 1(f)(3) for the cal-  
17 endar year in which the taxable year be-  
18 gins, determined by substituting ‘calendar  
19 year 2007’ for ‘calendar year 1992’ in sub-  
20 paragraph (B) thereof.

21 If any amount as increased under the preceding  
22 sentence is not a multiple of \$100, such amount  
23 shall be rounded to the next lower multiple of  
24 \$100.

1           “(D) APPLICATION OF PARAGRAPH.—Sub-  
2 paragraphs (A) and (B) shall not apply to—

3                   “(i) any amount received under a de-  
4 fined benefit plan,

5                   “(ii) any amount paid under an annu-  
6 ity contract that is received by the bene-  
7 ficiary under the contract—

8                           “(I) after the death of the annu-  
9 itant in the case of payments de-  
10 scribed in subsection (c)(5)(A)(ii)(III),  
11 unless the beneficiary is the surviving  
12 spouse of the annuitant, or

13                           “(II) after the death of the annu-  
14 itant and joint annuitant in the case  
15 of payments described in subsection  
16 (c)(5)(A)(ii)(IV), unless the bene-  
17 ficiary is the surviving spouse of the  
18 last to die of the annuitant and the  
19 joint annuitant, or

20                   “(iii) any annuity contract that is a  
21 qualified funding asset (as defined in sec-  
22 tion 130(d)), but without regard to wheth-  
23 er there is a qualified assignment.

24           “(E) INVESTMENT IN THE CONTRACT.—

25           For purposes of this section, the investment in

1           the contract shall be determined without regard  
2           to this paragraph.”.

3           (b) DEFINITIONS.—Subsection (c) of section 72 of  
4 such Code is amended by adding at the end the following  
5 new paragraph:

6           “(5) LIFETIME INCOME PAYMENTS.—

7                   “(A) IN GENERAL.—For purposes of sub-  
8 sections (b) and (x), the term ‘lifetime income  
9 payment’ means any amount received as an an-  
10 nuity under any portion of an annuity contract,  
11 but only if—

12                           “(i) the only person (or persons in the  
13 case of payments described in subclause  
14 (II) or (IV) of clause (ii)) legally entitled  
15 (by operation of the contract, a trust, or  
16 other legally enforceable means) to receive  
17 such amount during the life of the annu-  
18 itant or joint annuitant is such annuitant  
19 or joint annuitant, and

20                           “(ii) such amount is part of a series  
21 of substantially equal periodic payments  
22 made not less frequently than annually  
23 over—

24                                   “(I) the life of the annuitant,

1           “(II) the lives of the annuitant  
2           and a joint annuitant, but only to the  
3           extent that the requirement of sub-  
4           paragraph (D) is met,

5           “(III) the life of the annuitant  
6           with a minimum period of payments  
7           or with a minimum amount that must  
8           be paid in any event, or

9           “(IV) the lives of the annuitant  
10          and a joint annuitant with a minimum  
11          period of payments or with a min-  
12          imum amount that must be paid in  
13          any event, but only to the extent that  
14          the requirement of subparagraph (D)  
15          is met.

16          “(iii) EXCEPTIONS.—For purposes of  
17          clause (ii), annuity payments shall not fail  
18          to be treated as part of a series of substan-  
19          tially equal periodic payments—

20                 “(I) because the amount of the  
21                 periodic payments may vary in accord-  
22                 ance with investment experience, re-  
23                 allocations among investment options,  
24                 actuarial gains or losses, cost of living  
25                 indices, a constant percentage (not

1 less than zero) applied not less fre-  
2 quently than annually, or similar fluc-  
3 tuating criteria,

4 “(II) due to the existence of, or  
5 modification of the duration of, a pro-  
6 vision in the contract permitting a  
7 lump sum withdrawal after the annu-  
8 ity starting date,

9 “(III) because the period between  
10 each such payment is lengthened or  
11 shortened, but only if at all times  
12 such period is no longer than one cal-  
13 endar year,

14 “(IV) because the payments are  
15 reduced on account of a qualified do-  
16 mestic relations order (within the  
17 meaning of section 414(p)) which be-  
18 comes effective after the commence-  
19 ment of the annuity payments, or

20 “(V) because, in the case of an  
21 annuity payable over the lives of the  
22 annuitant and a joint annuitant, the  
23 amounts paid after the death of the  
24 annuitant or joint annuitant are less

1                   than the amounts payable during  
2                   their joint lives.

3                   “(B) MINIMUM PERIOD OF PAYMENTS.—  
4                   For purposes of subparagraph (A), the term  
5                   ‘minimum period of payments’ means a guaran-  
6                   teed term of payments that does not exceed the  
7                   greater of 10 years or—

8                   “(i) the life expectancy of the annu-  
9                   itant as of the annuity starting date, in the  
10                  case of lifetime income payments described  
11                  in subparagraph (A)(ii)(III), or

12                  “(ii) the life expectancy of the annu-  
13                  itant and joint annuitant as of the annuity  
14                  starting date, in the case of lifetime in-  
15                  come payments described in subparagraph  
16                  (A)(ii)(IV).

17                  For purposes of this subparagraph, life expect-  
18                  ancy shall be computed with reference to the ta-  
19                  bles prescribed by the Secretary under para-  
20                  graph (3). For purposes of subsection  
21                  (x)(1)(C)(ii), the minimum period of payments  
22                  shall be determined as of the annuity starting  
23                  date and reduced by one for each subsequent  
24                  year.

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

12           “(D) SPECIAL RULES FOR JOINT ANNU-  
13 ITANTS.—For purposes of subclauses (II) and  
14 (IV) of subparagraph (A)(ii), the requirement  
15 of this subparagraph is met only to the extent  
16 that—

17                   “(i) the annuitant is the spouse of the  
18 joint annuitant as of the annuity starting  
19 date,

20                   “(ii) the difference in age between the  
21 annuitant and joint annuitant is 15 years  
22 or less,

23                   “(iii) in the case of any payment re-  
24 ceived under an annuity contract described  
25 in subsection (b)(5)(A), such payment is

1           made to or for the benefit of the individual  
2           who furnished the consideration for such  
3           annuity contract, or

4                   “(iv) in the case of any payment re-  
5           ceived under a plan described in subsection  
6           (b)(5)(B), such payment is made to or for  
7           the benefit of the employee or the indi-  
8           vidual for whose benefit the plan was es-  
9           tablished.

10                   “(6) ANNUITY CONTRACT.—For purposes of  
11           paragraph (5) and subsection (b)(5), the term ‘an-  
12           nuity contract’ means a commercial annuity (as de-  
13           fined by section 3405(e)(6)), other than an endow-  
14           ment or life insurance contract.”.

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

19                   “(x) RECAPTURE TAX FOR MODIFICATIONS TO OR  
20           REDUCTIONS IN LIFETIME INCOME 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 exclusion  
24           for lifetime income payments), and—

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

4           “(B) after the date of receipt of the first  
5 lifetime income 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 income 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)(B)  
20 or a minimum amount that must be paid  
21 in any event (within the meaning of sub-  
22 section (c)(5)(C)),

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 excess of—

6                           “(i) the amount excludible from the  
7 taxpayer’s gross income under subsection  
8 (b)(5) before the modification or reduction  
9 described in paragraph (1), over

10                           “(ii) the amount that would have been  
11 so excludible if such modification or reduc-  
12 tion had been in effect at all times,  
13 plus interest for the deferral period at the un-  
14 derpayment rate established by section 6621.

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

23           “(3) EXCEPTIONS TO RECAPTURE TAX.—Para-  
24 graph (1) shall not apply in the case of any modi-

1       fication or reduction that occurs because an annu-  
2       itant—

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

5               “(B) becomes a chronically ill individual  
6               within the meaning of section 7702B(e)(2), or

7               “(C) encounters hardship.”.

8       (d) LIFETIME DISTRIBUTIONS OF LIFE INSURANCE  
9       DEATH BENEFITS.—

10           (1) IN GENERAL.—Subsection (d) of section  
11           101 of such Code (relating to payment of life insur-  
12           ance proceeds at a date later than death) is amend-  
13           ed by redesignating paragraph (3) as paragraph (4)  
14           and inserting after paragraph (2) the following new  
15           paragraph:

16               “(3) EXCLUSION FOR LIFETIME INCOME PAY-  
17               MENTS.—

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

21                   “(i) 50 percent of the portion of life-  
22                   time income payments (within the meaning  
23                   of section 72(c)(5), applied with the substi-  
24                   tutions described in subparagraph (B))  
25                   otherwise includible in gross income under

1           this section (determined without regard to  
2           this paragraph), or

3                   “(ii) the amount in effect under sec-  
4           tion 72(b)(5)(A).

5                   “(B) RECAPTURE AND OTHER SPECIAL  
6           RULES.—For purposes of this paragraph, rules  
7           similar to the rules of subparagraphs (D) and  
8           (E) of section 72(b)(5) and section 72(x) shall  
9           be applied by substituting ‘beneficiary of the  
10          life insurance contract’ for ‘annuitant’ and ‘life  
11          insurance contract’ for ‘annuity contract’ there-  
12          in.”.

13                   (2) CONFORMING AMENDMENT.—Paragraph (1)  
14          of section 101(d) of such Code is amended by insert-  
15          ing “or paragraph (3)” after “to the extent not ex-  
16          cluded by the preceding sentence”.

17                   (e) EFFECTIVE DATE.—

18                   (1) IN GENERAL.—The amendments made by  
19          this section shall apply to amounts received in tax-  
20          able years beginning after the date of the enactment  
21          of this Act.

22                   (2) SPECIAL RULE FOR EXISTING CON-  
23          TRACTS.—In the case of a contract in force on the  
24          date of the enactment of this Act that does not sat-  
25          isfy the requirements of section 72(c)(5)(A) of the

1 Internal Revenue Code of 1986 (as added by this  
2 section), any modification to such contract (includ-  
3 ing a change in ownership) or to the payments  
4 thereunder that is made to satisfy the requirements  
5 of such section shall not result in the recognition of  
6 any gain or loss, any amount being included in gross  
7 income, or any addition to tax that otherwise might  
8 result from such modification, but only if the modi-  
9 fication is completed prior to the date that is 2 years  
10 after the date of the enactment of this Act.

11 **SEC. 3. FACILITATING LONGEVITY INSURANCE.**

12 (a) IN GENERAL.—Paragraph (9) of section 401(a)  
13 of the Internal Revenue Code of 1986 is amended by in-  
14 serting after subparagraph (G) the following new subpara-  
15 graph:

16 “(H) LONGEVITY INSURANCE.—

17 “(i) IN GENERAL.—For purposes of  
18 this paragraph, any value attributable to  
19 longevity insurance shall be disregarded in  
20 determining the value of an employee’s in-  
21 terest under a plan prior to the first date  
22 that payments are made under the lon-  
23 gevity insurance.

24 “(ii) LONGEVITY INSURANCE DE-  
25 FINED.—For purposes of this subpara-

1 graph, the term ‘longevity insurance’  
2 means an annuity payable on behalf of the  
3 employee under which—

4 “(I) payments commence not  
5 later than 12 months following the  
6 calendar month in which the employee  
7 attains age 85 (or would have at-  
8 tained age 85),

9 “(II) payments are made in sub-  
10 stantially equal periodic payments  
11 (not less frequently than annually)  
12 over the life of the employee or the  
13 joint lives of the employee and the  
14 employee’s designated beneficiary,  
15 taking into account the rules of clause  
16 (i) of section 402(e)(7)(D), except as  
17 otherwise provided in subclause (III)  
18 of such section,

19 “(III) prior to the death of the  
20 employee, the annuity does not make  
21 available any commutation benefit,  
22 cash surrender value, or other similar  
23 feature, and

24 “(IV) except as provided in rules  
25 prescribed by the Secretary, in the

1 case of an employee's death prior to  
2 the date that payments commence, the  
3 value of any death benefits paid may  
4 not exceed the premiums paid for  
5 such annuity, plus interest com-  
6 pounded annually at 3 percent.

7 “(iii) ADJUSTING AGE.—For purposes  
8 of clause (ii)(I), the Secretary shall annu-  
9 ally increase age 85 to reflect increases in  
10 life expectancy (as determined by the Sec-  
11 retary) that occur on or after January 1,  
12 2006, except that any such increased age  
13 which is not a whole number shall be  
14 rounded to the next lower whole number.”.

15 (b) RULES.—Not later than one year after the date  
16 of enactment of this Act, the Secretary of the Treasury  
17 shall prescribe rules under which all or a portion of a par-  
18 ticipant's benefits under any plan described in section  
19 402(c)(8)(B) of the Internal Revenue Code of 1986 may  
20 be treated as longevity insurance under the rules of section  
21 401(a)(9)(H) of such Code.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to years beginning after December  
24 31, 2008.

1 **SEC. 4. SPECIAL RULES FOR ANNUITIES RECEIVED FROM**  
2 **ONLY A PORTION OF A CONTRACT.**

3 (a) IN GENERAL.—Subsection (a) of section 72 of the  
4 Internal Revenue Code of 1986 is amended to read as fol-  
5 lows:

6 “(a) GENERAL RULE FOR ANNUITIES.—If any  
7 amount is received as an annuity (whether for a period  
8 certain or during one or more lives) under any portion  
9 of an annuity, endowment, or life insurance contract—

10 “(1) except as otherwise provided in this chap-  
11 ter, gross income includes such amount,

12 “(2) such portion shall be treated as a separate  
13 contract for purposes of this section,

14 “(3) for purposes of applying subsections (b),  
15 (c), and (e), the investment in the contract shall be  
16 allocated pro rata between each portion of the con-  
17 tract from which amounts are received as an annuity  
18 and the portion of the contract from which amounts  
19 are not received as an annuity, and

20 “(4) a separate annuity starting date under  
21 subsection (c)(4) shall be determined with respect to  
22 each portion of the contract from which amounts are  
23 received as an annuity.”.

24 (b) EFFECTIVE DATE.—

25 (1) IN GENERAL.—The amendments made by  
26 this section shall apply to amounts received in tax-

1       able years beginning after the date of the enactment  
2       of this Act.

3               (2) NO INFERENCE AS TO PRIOR YEARS.—  
4       Nothing in the amendments made by this section  
5       shall create an inference as to the treatment of  
6       amounts received under any portion of an annuity,  
7       endowment, or life insurance contract in any taxable  
8       year beginning on or before the date of the enact-  
9       ment of this Act.

○