

111TH CONGRESS
1ST SESSION

H. R. 3399

To amend the Internal Revenue Code of 1986 to permit the consolidation
of life insurance companies with other companies.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2009

Mr. LARSON of Connecticut (for himself and Mr. TIBERI) 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 permit
the consolidation of life insurance companies with other
companies.

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. CONSOLIDATION OF LIFE INSURANCE COMPA-**
4 **NIES WITH OTHER COMPANIES PERMITTED.**

5 (a) IN GENERAL.—Section 1504(b) of the Internal
6 Revenue Code of 1986 (defining includible corporation) is
7 amended by striking paragraph (2) and by redesignating
8 paragraphs (3) through (8) as paragraphs (2) through
9 (7), respectively.

10 (b) CONFORMING AMENDMENTS.—

1 (1) Section 1503 of the Internal Revenue Code
2 of 1986 is amended by striking subsection (c) (relat-
3 ing to special rule for application of certain losses
4 against income of insurance companies taxed under
5 section 801) and by redesignating subsections (d),
6 (e), and (f) as subsections (c), (d), and (e), respec-
7 tively.

8 (2) Section 1504 of such Code is amended by
9 striking subsection (c) and by redesignating sub-
10 sections (d), (e), and (f) as subsections (c), (d), and
11 (e), respectively.

12 (3) Section 243(b)(2)(A) of such Code is
13 amended by striking “sections 1504(b)(2),
14 1504(b)(4), and 1504(c)” and inserting “section
15 1504(b)(3)”.

16 (4) Section 805(a)(4)(E) of such Code is
17 amended by striking “1504(b)(3)” and inserting
18 “1504(b)(2)”.

19 (5) Section 818(e)(1) of such Code is amended
20 to read as follows:

21 “(1) ITEMS OF COMPANIES OTHER THAN IN-
22 SURANCE COMPANIES.—If an affiliated group in-
23 cludes members which are and which are not taxed
24 under section 801, all items of the members of such
25 group which are not taxed under section 801 shall

1 not be taken into account in determining the amount
2 of the tentative LICTI of members of such group
3 which are taxed under section 801.”.

4 (6) Section 832(b)(5)(D)(ii)(II) of such Code is
5 amended by striking “1504(b)(3)” and inserting
6 “1504(b)(2)”.

7 (7) Section 864(e)(5)(A) of such Code is
8 amended by striking “paragraph (4)” and inserting
9 “paragraph (3)”.

10 (8) Section 936(i)(5)(A) of such Code is
11 amended by striking “section 1504(b)(3) or (4)”
12 and inserting “section 1504(b)(2) or (3)”.

13 (9) Section 952(c)(1)(B)(vii)(II) of such Code
14 is amended by striking “1504(b)(3)” and inserting
15 “1504(b)(2)”.

16 (10) Section 953(d)(3) of such Code is amend-
17 ed by striking “1503(d)” and inserting “1503(c)”.

18 (11) Section 954(h)(4)(F)(ii) of such Code is
19 amended by striking “1504(b)(3)” and inserting
20 “1504(b)(2)”.

21 (12) Section 6166(b)(10)(B)(ii)(V) of such
22 Code is amended by striking “1504(b)(3)” and in-
23 serting “1504(b)(2)”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to—

1 (1) in the case of an affiliated group with re-
 2 spect to which an election is in effect under section
 3 1504(c)(2) of the Internal Revenue Code of 1986
 4 (as in effect before the date of the enactment of this
 5 Act) for the first taxable year ending on or after the
 6 date of the enactment of this Act, taxable years be-
 7 ginning after such date, and

8 (2) in the case of an affiliated group the com-
 9 mon parent of which elects (at such time and in
 10 such manner as the Secretary may provide) to have
 11 the amendments made by this section apply to any
 12 taxable year beginning after the date of the enact-
 13 ment of this Act (and not described in paragraph
 14 (3)), such taxable year and all subsequent taxable
 15 years, and

16 (3) in any other case, taxable years beginning
 17 after the date which is 3 years after the date of the
 18 enactment of this Act.

19 **SEC. 2. PHASE-IN OF APPLICATION OF CERTAIN LOSSES**
 20 **AGAINST INCOME OF INSURANCE COMPA-**
 21 **NIES.**

22 (a) PHASE-IN.—

23 (1) IN GENERAL.—In the case of the first tax-
 24 able year of an affiliated group to which the amend-

1 ments made by section 1 apply and each of the 5
2 succeeding taxable years, if—

3 (A) an affiliated group includes 1 or more
4 domestic insurance companies subject to tax
5 under section 801 of the Internal Revenue Code
6 of 1986, and

7 (B) the consolidated taxable income of the
8 members of the group not taxed under such
9 section 801 results in a consolidated net oper-
10 ating loss for such taxable year,

11 then, under regulations prescribed by the Secretary
12 of the Treasury or his delegate, the amount of such
13 loss which cannot be absorbed in the applicable
14 carryback periods against the taxable income of such
15 members not taxed under such section 801 shall be
16 taken into account in determining the consolidated
17 taxable income of the affiliated group for such tax-
18 able year to the extent of the applicable percentage
19 of such loss or the applicable percentage of the tax-
20 able income of the members taxed under such sec-
21 tion 801, whichever is less. The unused portion of
22 such loss shall be available as a carryover, subject to
23 the same limitations (but determined based on the
24 applicable percentage with respect to the year to
25 which carried and applicable to the sum of the loss

1 for the carryover year and the loss (or losses) car-
 2 ried over to such year), in applicable carryover
 3 years.

4 (2) APPLICABLE PERCENTAGE.—For purposes
 5 of paragraph (1), the applicable percentage shall be
 6 determined in accordance with the following table:

In the case of:	The applicable percentage is:
The first taxable year	40
The second taxable year	50
The third taxable year	60
The fourth taxable year	70
The fifth taxable year	80
The sixth taxable year	90.

7 (b) NO CARRYBACK BEFORE EFFECTIVE DATE.—To
 8 the extent that a consolidated net operating loss is allowed
 9 or increased by reason of this section or the amendments
 10 made by this Act, such loss (or increase in such loss, as
 11 the case may be) may not be carried back to any taxable
 12 year before the first taxable year of the affiliated group
 13 to which the amendments made by section 1 apply.

14 (c) NONTERMINATION OF GROUP.—No affiliated
 15 group shall terminate solely as a result of this section or
 16 the amendments made by this Act.

17 (d) SUBSIDIARY STOCK BASIS ADJUSTMENTS.—A
 18 member corporation's basis in the stock of a subsidiary
 19 corporation shall be adjusted upon consolidation to reflect
 20 the preconsolidation income, gain, deduction, loss, dis-
 21 tributions, and other relevant amounts during a period

1 when such corporations were members of an affiliated
2 group (determined without regard to section 1504(b)(2)
3 of the Internal Revenue Code of 1986 as in effect on the
4 day before the date of enactment of this Act) but were
5 not included in a consolidated return of such group by op-
6 eration of section 1504(c)(2)(A) of such Code (as in effect
7 on the day before the date of the enactment of this Act).

8 (e) WAIVER OF 5-YEAR WAITING PERIOD.—An auto-
9 matic waiver from the 5-year waiting period for reconsoli-
10 dation provided in section 1504(a)(3) of the Internal Rev-
11 enue Code of 1986 shall be granted to any corporation
12 which was previously an includible corporation but was
13 subsequently deemed a nonincludible corporation as a re-
14 sult of becoming a subsidiary of a corporation which was
15 not an includible corporation solely by operation of section
16 1504(c)(2) of such Code (as in effect on the day before
17 the date of enactment of this Act), subject to such condi-
18 tions as the Secretary may prescribe.

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