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115TH CONGRESS
2D SESSION

H. R. 7203

To amend the Internal Revenue Code of 1986 to create long-term care accounts funded by the proceeds of the sale or assignment of life insurance contracts.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 30, 2018

Mr. MARCHANT (for himself and Mr. HIGGINS of New York) 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 create long-term care accounts funded by the proceeds of the sale or assignment of life insurance contracts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Long-Term Care Account Act’’.

SEC. 2. LONG-TERM CARE ACCOUNT.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 139G the following new section:

"SEC. 139H. LONG-TERM CARE ACCOUNT.

"(a) EXCLUSION OF CONTRIBUTIONS OF LONG-TERM GAIN FROM SALES OF LIFE INSURANCE CONTRACTS.—The amount of gain from the sale or assignment of a life insurance contract of a taxpayer shall be reduced (but not below zero) by the amount of contributions to a long-term care account made by such taxpayer during the 30-day period beginning on the date of such sale or assignment.

"(b) TAX TREATMENT OF LONG-TERM CARE ACCOUNT.—

"(1) IN GENERAL.—A long-term account is exempt from taxation under this subtitle unless such account has ceased to be a long-term care account. Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT TERMINATIONS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to health savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay long-term care expenses.

"(3) TAX TREATMENT OF DISTRIBUTIONS.—

"(A) AMOUNTS USED FOR LONG-TERM CARE EXPENSES.—Any amount paid or distributed out of a long-term care account which is used exclusively to pay long-term care expenses of the account beneficiary or the account beneficiary's spouse shall not be includible in gross income.

"(B) INCLUSION OF AMOUNTS NOT USED FOR LONG-TERM CARE EXPENSES.—Any amount paid or distributed out of a long-term care account which is not used to pay the long-term care expenses of the account beneficiary or the account beneficiary's spouse shall be included in the gross income of such beneficiary.

"(C) ADDITIONAL TAX ON DISTRIBUTIONS NOT USED FOR LONG-TERM CARE EXPENSES.—The tax imposed by this chapter on the account beneficiary for any taxable year in which there is a payment or distribution from a long-term care account of such beneficiary which is includible in gross income under subparagraph (B) shall be increased by 20 percent of the amount which is so includible. This subparagraph shall not apply if the payment or distribution is made after the account beneficiary—

"(i) dies,

"(ii) becomes a terminally ill individual (as such term is defined in section 101(g)(4)(A)), or

"(iii) becomes a chronically ill individual (as such term is defined in section 101(g)(4)(B)).

"(4) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of determining the amount of the deduction under section 213, any payment or distribution out of a long-term care account for long-term care expenses shall not be treated as an expense paid for medical care.

"(5) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a long-term care account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a long-term care account with respect to which such spouse is the account beneficiary.

"(6) TREATMENT AFTER DEATH OF ACCOUNT BENEFICIARY.—

"(A) TREATMENT IF DESIGNATED BENEFICIARY IS SPOUSE.—If the account beneficiary's surviving spouse acquires such beneficiary's interest in a long-term care account by reason of being the designated beneficiary of such account at the death of the account beneficiary, such long-term care account shall be treated as if the spouse were the account beneficiary.

"(B) OTHER CASES.—

"(i) IN GENERAL.—If, by reason of the death of the account beneficiary, any person acquires the account beneficiary's interest in a long-term care account in a case to which subparagraph (A) does not apply—

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

"(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of such beneficiary, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such beneficiary, in such beneficiary's gross income for the last taxable year of such beneficiary.

"(ii) SPECIAL RULES.—

"(I) REDUCTION OF INCLUSION FOR PREDEATH EXPENSES.—The amount includible in gross income under clause (i) by any person (other than the estate) shall be reduced by the amount of qualified long-term care expenses which were incurred by the decedent before the date of the decedent's death and paid by such person within 1 year after such date.

"(II) DEDUCTION FOR ESTATE TAXES.—An appropriate deduction shall be allowed under section 691(c) to any person (other than the decedent or the decedent's spouse) with respect to amounts included in gross income under clause (i) by such person.

"(c) DEFINITIONS.—For purposes of this subsection—

"(1) ACCOUNT BENEFICIARY.—The term 'account beneficiary' means, with respect to a long-term care account, the individual on whose behalf such account was established.

"(2) LONG-TERM CARE ACCOUNT.—The term 'long-term care account' means a trust created or organized in the United States as a long-term care account, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash and in consideration of the sale or assignment of any portion of the death benefits under a life insurance contract on the life of the account beneficiary.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(3) LONG-TERM CARE EXPENSES.—The term 'long-term care expenses' means amounts paid or incurred—

"(A) as premiums for a qualified long-term care insurance contract (as such term is defined in section 7702B(b)),

"(B) for qualified long-term care services (as such term is defined in section 7702B(c)), or

"(C) for qualified health services.

"(4) QUALIFIED HEALTH SERVICES.—The term 'qualified health services' means—

"(A) diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which are—

"(i) required by an instrumentally impaired individual, and

"(ii) provided pursuant to a plan of care prescribed by a licensed health care practitioner, or

"(B) items or services that a licensed health care practitioner determines are reasonable and necessary to reduce the likelihood of an individual becoming an instrumentally impaired individual.

"(5) INSTRUMENTALLY IMPAIRED INDIVIDUAL.—The term 'instrumentally impaired individual' means an individual who has been certified by a licensed health care practitioner as being unable to perform (without substantial assistance from another individual) at least 2 instrumental activities of daily living for a period of at least 90 days due to a loss of functional capacity.

"(6) INSTRUMENTAL ACTIVITIES OF DAILY LIVING.—The term 'instrumental activities of daily living' means activities related to living independently in the community, including—

"(A) meal planning and preparation,

"(B) managing finances,

"(C) shopping for food, clothing, and other essential items,

"(D) performing essential household chores,

"(E) communicating by phone or other media, or

"(F) traveling in and participating in the community.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 139G the following new item:

"Sec. 139G. Long-term care account.".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to sales or assignments of life insurance contracts after the date of enactment of this Act.

(d) REPORTS.—The Secretary may require the trustee of a long-term care account to make such reports regarding such account to the Secretary and to the account beneficiary with respect to contributions, distributions, and such other matters as the Secretary determines appropriate.

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