

111TH CONGRESS
1ST SESSION

H. R. 2705

To amend the Internal Revenue Code of 1986 to allow a refundable credit for advance directives.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2009

Mr. McDERMOTT 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 allow a refundable credit for advance directives.

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 “Advance Directive In-
5 centive Act”.

6 **SEC. 2. REFUNDABLE CREDIT FOR ADVANCE DIRECTIVES.**

7 (a) IN GENERAL.—Subpart C of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 (relating to refundable credits) is amended by insert-
10 ing after section 36A the following new section:

1 **“SEC. 36B. ADVANCE DIRECTIVES.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
3 dividual, there shall be allowed to the taxpayer as a credit
4 against the tax imposed by this subtitle for the taxable
5 year an amount equal to 30 percent of qualified expenses
6 of the taxpayer.

7 “(b) LIMITATION.—

8 “(1) IN GENERAL.—The aggregate amount of
9 expenses which may be taken into account under
10 subsection (a) for the taxable year shall not exceed
11 \$500, reduced (but not below zero) by the amount
12 of expenses taken into account under this section for
13 all prior taxable years.

14 “(2) SPECIAL RULE.—For purposes of para-
15 graph (1), in the case of a joint return for any prior
16 taxable year, amounts taken into account under this
17 section shall be treated as expenses of both the hus-
18 band and the wife.

19 “(c) QUALIFIED EXPENSES.—For purposes of this
20 section—

21 “(1) QUALIFIED EXPENSES.—The term ‘quali-
22 fied expenses’ means legal fees incurred for the pur-
23 pose of establishing an advance directive.

24 “(2) ADVANCE DIRECTIVE.—The term ‘advance
25 directive’ means, with respect to an individual, a
26 written instruction, such as a living will or durable

1 power of attorney for health care or establishment of
2 a health care proxy, recognized under State law
3 (whether statutory or as recognized by the courts of
4 the State) and relating to the provision of medical
5 care in the case the individual is incapacitated.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Paragraph (2) of section 1324(b) of title
8 31, United States Code, is amended by inserting
9 “36B,” after “section 36A,”.

10 (2) The table of sections for subpart C of part
11 IV of subchapter A of chapter 1 of such Code is
12 amended by inserting after the item relating to sec-
13 tion 36A the following new item:

“Sec. 36B. Advance directives.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2009.

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