

116TH CONGRESS
2D SESSION

S. 4820

To amend the Internal Revenue Code of 1986 to expand the use of retirement plan funds to obtain long-term care insurance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 20 (legislative day, OCTOBER 19), 2020

Mr. TOOMEY 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 expand the use of retirement plan funds to obtain long-term care insurance, and for other purposes.

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 “Long-Term Care Af-
5 fordability Act”.

6 **SEC. 2. LONG-TERM CARE CONTRACTS PURCHASED WITH**
7 **RETIREMENT PLAN DISTRIBUTIONS.**

8 (a) IN GENERAL.—Section 402 of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end the
10 following new subsection:

1 “(m) DISTRIBUTIONS WITH RESPECT TO LONG-
2 TERM CARE INSURANCE.—

3 “(1) EXCLUSION.—

4 “(A) IN GENERAL.—Gross income of an
5 individual for the taxable year does not include
6 any distribution from an eligible retirement
7 plan to the extent that the aggregate amount of
8 such distributions does not exceed the amount
9 paid by or assessed to such individual during
10 the taxable year for or with respect to coverage
11 described in subparagraph (B) for the indi-
12 vidual, the individual’s spouse, or a dependent
13 (as defined in section 152, determined without
14 regard to subsections (b)(1), (b)(2), and
15 (d)(1)(B) thereof) of the individual.

16 “(B) COVERAGE DESCRIBED.—Coverage
17 described in this subparagraph is—

18 “(i) a qualified long-term care insur-
19 ance contract (as defined in section
20 7702B(b)) covering qualified long-term
21 care services (as defined in section
22 7702B(e)), and

23 “(ii) coverage of the risk that an in-
24 sured individual would become a chron-
25 ically ill individual (within the meaning of

1 section 101(g)(4)(B)) under a rider or
2 other provision of a life insurance contract
3 which satisfies the requirements of section
4 101(g)(3) (determined without regard to
5 subparagraph (D) thereof).

6 “(2) LIMITATION.—

7 “(A) IN GENERAL.—The amount excluded
8 from gross income under paragraph (1) for any
9 taxable year shall not exceed \$2,500 with re-
10 spect to payments for coverage for any insured
11 individual.

12 “(B) EXCLUSION AVAILABLE ONLY TO 1
13 TAXPAYER.—The exclusion under paragraph
14 (1) shall be allowed to only 1 taxpayer for any
15 taxable year with respect to any 1 insured indi-
16 vidual.

17 “(C) ADJUSTMENT FOR INFLATION.—

18 “(i) IN GENERAL.—In the case of any
19 taxable year beginning after December 31,
20 2020, the \$2,500 amount in subparagraph
21 (A) shall be increased by an amount equal
22 to—

23 “(I) such dollar amount, multi-
24 plied by

1 “(II) the cost-of-living adjust-
2 ment determined under section 1(f)(3)
3 for the calendar year in which the tax-
4 able year begins, determined by sub-
5 stituting ‘calendar year 2019’ for ‘cal-
6 endar year 2016’ in subparagraph
7 (A)(ii) thereof.

8 “(ii) ROUNDING.—If any increase de-
9 termined under clause (i) is not a multiple
10 of \$10, such increase shall be rounded to
11 the nearest multiple of \$10.

12 “(3) ELIGIBLE RETIREMENT PLAN.—For pur-
13 poses of this subsection, the term ‘eligible retirement
14 plan’ means any plan which—

15 “(A) is described in clause (i),(ii), (iv), (v),
16 or (vi) of subsection (c)(8)(B), or

17 “(B) is a defined contribution plan de-
18 scribed in clause (iii) of subsection (c)(8)(B).

19 “(4) DISTRIBUTIONS MUST OTHERWISE BE IN-
20 CLUDIBLE.—Rules similar to the rules of subsection
21 (1)(3) shall apply for purposes of this subsection.

22 “(5) SEPARATELY STATED PORTIONS OF A CON-
23 TRACT.—For purposes of this subsection, the
24 amount taken into account as paid during the tax-
25 able year for coverage described in paragraph

1 (1)(B)(i) includes premiums paid and charges as-
2 sessed during such taxable year for any such cov-
3 erage which is treated as a separate contract under
4 section 7702B(e)(1), if such separate contract is a
5 qualified long-term care insurance contract (as de-
6 fined in section 7702B(b)).

7 “(6) COORDINATION WITH OTHER DEDUC-
8 TIONS.—The amounts excluded from gross income
9 under paragraph (1) shall not be taken into account
10 under section 162(l) or 213.”.

11 (b) AMOUNTS TREATED AS REQUIRED MINIMUM
12 DISTRIBUTION.—Section 401(a)(9) of the Internal Rev-
13 enue Code of 1986 is amended by adding at the end the
14 following new subparagraph:

15 “(I) TREATMENT OF DISTRIBUTIONS FOR
16 LONG-TERM CARE INSURANCE.—For purposes
17 of this title, if a distribution is required under
18 this paragraph for a taxable year, any distribu-
19 tion which is excluded from gross income under
20 section 402(m) for the taxable year shall be
21 treated as a distribution required under this
22 paragraph.”.

23 (c) CONFORMING AMENDMENTS.—

24 (1) Section 401(k)(2)(B)(i) of the Internal Rev-
25 enue Code of 1986 is amended by striking “or” at

1 the end of subclause (IV), by striking “and” at the
2 end of subclause (V) and inserting “or”, and by add-
3 ing at the end the following new subclause:

4 “(VI) as provided in section
5 402(m), and”.

6 (2) Section 403(b)(11) of such Code is amend-
7 ed by striking “or” at the end of subparagraph (B),
8 by striking the period at the end of subparagraph
9 (C) and inserting “, or”, and by inserting after sub-
10 paragraph (C) the following new subparagraph:

11 “(D) for distributions to which section
12 402(m) applies.”.

13 (3) Section 457(d)(1)(A) of such Code is
14 amended by striking “or” at the end of clause (ii),
15 by striking the comma at the end of clause (iii) and
16 inserting “, or”, and by adding at the end the fol-
17 lowing new clause:

18 “(iv) as provided in section 402(m),”.

19 (d) REPORTING.—

20 (1) IN GENERAL.—Subpart B of part III of
21 subchapter A of chapter 61 of the Internal Revenue
22 Code of 1986 is amended by adding at the end the
23 following new section:

1 **“SEC. 6050Z. CERTAIN WITHDRAWALS FROM QUALIFIED AR-**
 2 **RANGEMENTS FOR LONG-TERM CARE INSUR-**
 3 **ANCE.**

4 “(a) **REQUIREMENT OF REPORTING.**—Any issuer of
 5 a qualified long-term care insurance contract (as defined
 6 in section 7702B(b)), including a rider or other provision
 7 that is treated as a qualified long-term care insurance con-
 8 tract under section 7702B(e)(1), or of coverage described
 9 in section 402(m)(1)(B)(ii), shall make a return, accord-
 10 ing to forms or regulations prescribed by the Secretary,
 11 setting forth for each insured individual—

12 “(1) the aggregate amount of premiums and
 13 charges paid for the contract or coverage covering
 14 such individual during the calendar year,

15 “(2) the name, address, and TIN of the owner
 16 of the contract, if applicable, and

17 “(3) the name, address, and TIN of the insured
 18 under the contract.

19 “(b) **STATEMENT TO BE FURNISHED TO PERSONS**
 20 **WITH RESPECT TO WHOM INFORMATION IS REQUIRED.**—
 21 Every person required to make a return under subsection
 22 (a) shall furnish to each individual whose name is required
 23 to be set forth in such return a written statement show-
 24 ing—

25 “(1) the name, address, and phone number of
 26 the information contact of the issuer of the qualified

1 long-term care insurance contract or coverage de-
 2 scribed in section 402(m)(1)(B)(ii), and

3 “(2) the aggregate amount of premiums and
 4 charges paid under the contract or coverage covering
 5 the insured individual during the calendar year.

6 The written statement required under the preceding sen-
 7 tence shall be furnished to the individual or individuals
 8 on or before January 31 of the year following the calendar
 9 year for which the return required under subsection (a)
 10 was required to be made.

11 “(c) CONTRACTS OR COVERAGE COVERING MORE
 12 THAN ONE INSURED.—In the case of contracts or cov-
 13 erage covering more than one insured, the return and
 14 statement required by subsections (a) and (b) shall iden-
 15 tify only the portion of the premium that is properly allo-
 16 cable to the insured in respect of whom the return or
 17 statement is made.”.

18 (2) CLERICAL AMENDMENT.—The table of sec-
 19 tions for subpart B of part III of subchapter A of
 20 chapter 61 of such Code is amended by adding after
 21 the item relating to section 6050Y the following new
 22 item:

“Sec. 6050Z. Certain withdrawals from qualified arrangements for long-term
 care insurance.”.

1 (e) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to distributions received after the
 3 date of the enactment of this Act.

4 **SEC. 3. INFORMATION ABOUT LONG-TERM CARE INSUR-**
 5 **ANCE.**

6 Section 516 of the Employee Retirement Income Se-
 7 curity Act of 1974 (29 U.S.C. 1146) is amended—

8 (1) in the section heading, by inserting “**AND**
 9 **PARTICIPATION IN LONG-TERM CARE INSUR-**
 10 **ANCE**” after “**SAVINGS**”;

11 (2) in subsection (a), by inserting “and long-
 12 term care insurance” after “income savings”;

13 (3) in subsection (c)—

14 (A) in paragraph (1), by striking “; and”
 15 and inserting a semicolon;

16 (B) in paragraph (2), by striking the pe-
 17 riod and inserting “; and”; and

18 (C) by adding at the end the following:

19 “(3) a description of long-term care insurance
 20 arrangements, and information regarding matters
 21 relevant to enrolling in such insurance, including—

22 “(A) a fact sheet for employers, in an eas-
 23 ily accessible format; and

24 “(B) a fact sheet for workers, in an easily
 25 accessible format.”; and

1 (4) in subsection (d)—

2 (A) in the matter preceding paragraph (1),
3 by inserting “and long-term care insurance” be-
4 fore the period at the end of the first sentence;

5 (B) in paragraph (3), by adding “and”
6 after the semicolon;

7 (C) in paragraph (4), by striking “; and”
8 and inserting a period;

9 (D) by redesignating paragraphs (1)
10 through (4) as subparagraphs (A) through (D),
11 respectively, and adjusting the margins accord-
12 ingly;

13 (E) by redesignating paragraph (5) as
14 paragraph (3);

15 (F) by inserting before subparagraph (A),
16 as so redesignated, the following:

17 “(1) With respect to retirement income sav-
18 ings—”;

19 (G) by inserting before paragraph (3), as
20 so redesignated by subparagraph (E), the fol-
21 lowing:

22 “(2) With respect to long-term care insur-
23 ance—

24 “(A) a description in simple terms of the
25 common types of long-term care insurance

1 available to both individuals and employers
2 (specifically including small employers), includ-
3 ing information on the tax benefits of such in-
4 surance under the Internal Revenue Code of
5 1986; and

6 “(B) materials explaining to employers in
7 simple terms, the characteristics and operation
8 of the different long-term care insurance for
9 their workers and what the basic legal require-
10 ments are under this Act and the Internal Rev-
11 enue Code of 1986, including the steps to enroll
12 in such insurance and including links to the
13 fact sheets described in subsection (c)(3).”; and

14 (H) in paragraph (3), as so redesignated
15 by subparagraph (E)—

16 (i) by striking “links to other” and in-
17 serting “Links to other”; and

18 (ii) by inserting “and long-term care
19 insurance” after “retirement income sav-
20 ings arrangements”.

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