

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.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 2007

Mr. POMEROY 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 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.

○