

112TH CONGRESS
2D SESSION

S. 2048

To amend the Internal Revenue Code of 1986 to clarify the tax treatment of certain life insurance contract transactions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2012

Mr. CASEY 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 clarify the tax treatment of certain life insurance contract transactions, 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. TAX REPORTING FOR LIFE SETTLEMENT**
4 **TRANSACTIONS.**

5 (a) IN GENERAL.—Subpart B of part III of sub-
6 chapter A of chapter 61 of the Internal Revenue Code of
7 1986 is amended by adding at the end the following new
8 section:

1 **“SEC. 6050X. RETURNS RELATING TO CERTAIN LIFE INSUR-**
2 **ANCE CONTRACT TRANSACTIONS.**

3 “(a) REQUIREMENT OF REPORTING OF CERTAIN
4 PAYMENTS.—

5 “(1) IN GENERAL.—Every person who acquires
6 a life insurance contract or any interest in a life in-
7 surance contract in a reportable policy sale during
8 any taxable year shall make a return for such tax-
9 able year (at such time and in such manner as the
10 Secretary shall prescribe) setting forth—

11 “(A) the name, address, and TIN of such
12 person,

13 “(B) the name, address, and TIN of each
14 recipient of payment in the reportable policy
15 sale,

16 “(C) the date of such sale,

17 “(D) the name of the issuer of the life in-
18 surance contract sold and the policy number of
19 such contract, and

20 “(E) the amount of each payment.

21 “(2) STATEMENT TO BE FURNISHED TO PER-
22 SONS WITH RESPECT TO WHOM INFORMATION IS RE-
23 QUIRED.—Every person required to make a return
24 under this subsection shall furnish to each person
25 whose name is required to be set forth in such re-
26 turn a written statement showing—

1 “(A) the name, address, and phone num-
2 ber of the information contact of the person re-
3 quired to make such return, and

4 “(B) the information required to be shown
5 on such return with respect to such person, ex-
6 cept that in the case of an issuer of a life insur-
7 ance contract, such statement is not required to
8 include the information specified in paragraph
9 (1)(E).

10 “(b) REQUIREMENT OF REPORTING OF SELLER’S
11 BASIS IN LIFE INSURANCE CONTRACTS.—

12 “(1) IN GENERAL.—Upon receipt of the state-
13 ment required under subsection (a)(2) or upon no-
14 tice of a transfer of a life insurance contract to a
15 foreign person, each issuer of a life insurance con-
16 tract shall make a return (at such time and in such
17 manner as the Secretary shall prescribe) setting
18 forth—

19 “(A) the name, address, and TIN of the
20 seller who transfers any interest in such con-
21 tract in such sale,

22 “(B) the investment in the contract (as de-
23 fined in section 72(e)(6)) with respect to such
24 seller, and

25 “(C) the policy number of such contract.

1 “(2) STATEMENT TO BE FURNISHED TO PER-
2 SONS WITH RESPECT TO WHOM INFORMATION IS RE-
3 QUIRED.—Every person required to make a return
4 under this subsection shall furnish to each person
5 whose name is required to be set forth in such re-
6 turn a written statement showing—

7 “(A) the name, address, and phone num-
8 ber of the information contact of the person re-
9 quired to make such return, and

10 “(B) the information required to be shown
11 on such return with respect to each seller whose
12 name is required to be set forth in such return.

13 “(c) REQUIREMENT OF REPORTING WITH RESPECT
14 TO REPORTABLE DEATH BENEFITS.—

15 “(1) IN GENERAL.—Every person who makes a
16 payment of reportable death benefits during any tax-
17 able year shall make a return for such taxable year
18 (at such time and in such manner as the Secretary
19 shall prescribe) setting forth—

20 “(A) the name, address, and TIN of the
21 person making such payment,

22 “(B) the name, address, and TIN of each
23 recipient of such payment,

24 “(C) the date of each such payment, and

25 “(D) the amount of each such payment.

1 “(2) STATEMENT TO BE FURNISHED TO PER-
2 SONS WITH RESPECT TO WHOM INFORMATION IS RE-
3 QUIRED.—Every person required to make a return
4 under this subsection shall furnish to each person
5 whose name is required to be set forth in such re-
6 turn a written statement showing—

7 “(A) the name, address, and phone num-
8 ber of the information contact of the person re-
9 quired to make such return, and

10 “(B) the information required to be shown
11 on such return with respect to each recipient of
12 payment whose name is required to be set forth
13 in such return.

14 “(d) DEFINITIONS.—For purposes of this section:

15 “(1) PAYMENT.—The term ‘payment’ means
16 the amount of cash and the fair market value of any
17 consideration transferred in a reportable policy sale.

18 “(2) REPORTABLE POLICY SALE.—The term
19 ‘reportable policy sale’ has the meaning given such
20 term in section 101(a)(3)(B).

21 “(3) ISSUER.—The term ‘issuer’ means any life
22 insurance company that bears the risk with respect
23 to a life insurance contract on the date any return
24 or statement is required to be made under this sec-
25 tion.

1 “(4) REPORTABLE DEATH BENEFITS.—The
2 term ‘reportable death benefits’ means amounts paid
3 by reason of the death of the insured under a life
4 insurance contract that has been transferred in a re-
5 portable policy sale.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 for subpart B of part III of subchapter A of chapter 61
8 of the Internal Revenue Code of 1986 is amended by in-
9 serting after the item relating to section 6050W the fol-
10 lowing new item:

 “Sec. 6050X. Returns relating to certain life insurance contract transactions.”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) Subsection (d) of section 6724 of the Inter-
13 nal Revenue Code of 1986 is amended—

14 (A) by striking “or” at the end of clause
15 (xxiv) of paragraph (1)(B), by striking “and”
16 at the end of clause (xxv) of such paragraph
17 and inserting “or”, and by inserting after such
18 clause (xxv) the following new clause:

19 “ (xxvi) section 6050X (relating to re-
20 turns relating to certain life insurance con-
21 tract transactions), and”, and

22 (B) by striking “or” at the end of subpara-
23 graph (GG) of paragraph (2), by striking the
24 period at the end of subparagraph (HH) of
25 such paragraph and inserting “, or”, and by in-

1 serting after such subparagraph (HH) the fol-
2 lowing new subparagraph:

3 “(II) subsection (a)(2), (b)(2), or (c)(2) of
4 section 6050X (relating to returns relating to
5 certain life insurance contract transactions).”.

6 (2) Section 6047 of such Code is amended—

7 (A) by redesignating subsection (g) as sub-
8 section (h),

9 (B) by inserting after subsection (f) the
10 following new subsection:

11 “(g) INFORMATION RELATING TO LIFE INSURANCE
12 CONTRACT TRANSACTIONS.—This section shall not apply
13 to any information which is required to be reported under
14 section 6050X.”, and

15 (C) by adding at the end of subsection (h),
16 as so redesignated, the following new para-
17 graph:

18 “(4) For provisions requiring reporting of infor-
19 mation relating to certain life insurance contract
20 transactions, see section 6050X.”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to—

23 (1) reportable policy sales after December 31,
24 2012, and

1 (2) reportable death benefits paid after Decem-
2 ber 31, 2012.

3 **SEC. 2. CLARIFICATION OF TAX BASIS OF LIFE INSURANCE**

4 **CONTRACTS.**

5 (a) **IN GENERAL.**—Paragraph (1) of section 1016(a)
6 of the Internal Revenue Code of 1986 is amended by strik-
7 ing subparagraph (A) and all that follows and inserting
8 the following:

9 “(A) for—

10 “(i) taxes or other carrying charges
11 described in section 266; or

12 “(ii) expenditures described in section
13 173 (relating to circulation expenditures),
14 for which deductions have been taken by the
15 taxpayer in determining taxable income for the
16 taxable year or prior taxable years; or

17 “(B) for mortality, expense, or other rea-
18 sonable charges incurred under an annuity or
19 life insurance contract;”.

20 (b) **EFFECTIVE DATE.**—The amendment made by
21 this section shall apply to transactions entered into after
22 August 25, 2009.

1 **SEC. 3. EXCEPTION TO TRANSFER FOR VALUABLE CONSID-**
2 **ERATION RULES.**

3 (a) **IN GENERAL.**—Subsection (a) of section 101 of
4 the Internal Revenue Code of 1986 is amended by adding
5 at the end the following new paragraph:

6 “(3) **EXCEPTION TO VALUABLE CONSIDERATION**
7 **RULES FOR COMMERCIAL TRANSFERS.**—

8 “(A) **IN GENERAL.**—The second sentence
9 of paragraph (2) shall not apply in the case of
10 a transfer of a life insurance contract, or any
11 interest therein, which is a reportable policy
12 sale.

13 “(B) **REPORTABLE POLICY SALE.**—For
14 purposes of this paragraph, the term ‘reportable
15 policy sale’ means the acquisition of an interest
16 in a life insurance contract, directly or indi-
17 rectly, if the acquirer has no substantial family,
18 business, or financial relationship with the in-
19 sured apart from the acquirer’s interest in such
20 life insurance contract. For purposes of the pre-
21 ceding sentence, the term ‘indirectly’ applies to
22 the acquisition of an interest in a partnership,
23 trust, or other entity that holds an interest in
24 the life insurance contract.”.

25 (b) **CONFORMING AMENDMENT.**—Paragraph (1) of
26 section 101(a) of the Internal Revenue Code of 1986 is

1 amended by striking “paragraph (2)” and inserting “para-
2 graphs (2) and (3)”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to transfers after December 31,
5 2012.

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