I

110TH CONGRESS
1ST SESSION

H. R. 2205

To amend the Internal Revenue Code of 1986 to encourage guaranteed lifetime income payments from annuities and similar payments of life insurance proceeds at dates later than death by excluding from income a portion of such payments.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2007

Mrs. JONES of Ohio (for herself, Mr. ENGLISH of Pennsylvania, Mr. GORDON of Tennessee, Mrs. CAPITO, Mr. CROWLEY, Mr. RAMSTAD, Mr. LEWIS of Kentucky, Mr. SHAYS, Mr. TERRY, Ms. ROS-LEHTINEN, Mr. ANDREWS, Ms. BERKLEY, Mr. COLE of Oklahoma, Ms. SCHWARTZ, Mr. MURPHY of Connecticut, Ms. PRYCE of Ohio, Mrs. BIGGERT, Ms. GINNY BROWN-WAITE of Florida, Mr. BURTON of Indiana, Mr. DAVIS of Alabama, Mr. PORTER, Ms. DELAURO, Mr. PENCE, Mr. SAM JOHNSON of Texas, Mr. EMANUEL, Mr. COURTNEY, Mr. PAUL, Mr. CANTOR, Mr. GERLACH, and Mr. LARSON of Connecticut) 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 from annuities and similar payments of life insurance proceeds at dates later than death by excluding from income a portion of such payments.

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 ''Retirement Security for Life Act of 2007''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Just over half of all United States workers actively participate in tax-deferred retirement savings plans which are comprised of assets of nearly $5,600,000,000,000.

(2) Congress has historically promoted policies that will encourage greater private savings for retirement, but has not devoted the same attention to developing policies that will help people manage the savings once they reach retirement age.

(3) Qualified retirement savings plans are the product of such policies and provide Americans with valuable resources for their later years.

(4) Non-qualified plans provide an additional retirement benefit.

(5) 77,000,000 members of the baby boom generation are approaching retirement age and demographic data indicate that members of this generation can expect to live on average an additional 20 to 30 years after retirement.

(6) The commitment of Congress to creating incentives to promote private savings and to manage

accumulated savings does not supercede the responsibility of Congress to reduce the national debt and bring the Federal budget back into balance.

(7) Failure to address long term savings issues will only serve to increase the strain on Federal programs such as Social Security, Medicare, and Medicaid.

(8) The national debt and annual budget deficits pose a significant risk not only to national security but also to the long-term solvency of the Social Security and Medicare programs.

(9) Encouraging the prudent management of accumulated savings and personal responsibility for retirement income security will reduce the potential financial threat to well-established entitlement programs for senior citizens.

(10) The budget impact of this Act will be mitigated through the legislative process so that the enactment of this Act will not add to the $8.8 trillion national debt.

SEC. 3. EXCLUSION FOR LIFETIME ANNUITY PAYMENTS.

(a) LIFETIME ANNUITY PAYMENTS UNDER ANNUITY CONTRACTS.—Section 72(b) of the Internal Revenue Code of 1986 (relating to exclusion ratio) is amended by adding at the end the following new paragraph:

"(5) EXCLUSION FOR LIFETIME ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of lifetime annuity payments received under one or more annuity contracts in any taxable year, gross income shall not include 50 percent of the portion of lifetime annuity payments otherwise includible (without regard to this paragraph) in gross income under this section. For purposes of the preceding sentence, the amount excludable from gross income in any taxable year shall not exceed $20,000.

"(B) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 2008, the $20,000 amount in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as increased under the preceding sentence is not a multiple of $500, such amount shall be rounded to the next lower multiple of $500.

"(C) APPLICATION OF PARAGRAPH.—Subparagraph (A) shall not apply to—

"(i) any amount received under an eligible deferred compensation plan (as defined in section 457(b)) or under a qualified retirement plan (as defined in section 4974(c)),

"(ii) any amount paid under an annuity contract that is received by the beneficiary under the contract—

"(I) after the death of the annuitant in the case of payments described in subsection (c)(5)(A)(ii)(III), unless the beneficiary is the surviving spouse of the annuitant, or

"(II) after the death of the annuitant and joint annuitant in the case of payments described in subsection (c)(5)(A)(ii)(IV), unless the beneficiary is the surviving spouse of the last to die of the annuitant and the joint annuitant, or

"(iii) any annuity contract that is a qualified funding asset (as defined in section 130(d)), but without regard to whether there is a qualified assignment.

"(D) INVESTMENT IN THE CONTRACT.—For purposes of this section, the investment in the contract shall be determined without regard to this paragraph.".

(b) DEFINITIONS.—Subsection (c) of section 72 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(5) LIFETIME ANNUITY PAYMENT.—

"(A) IN GENERAL.—For purposes of subsection (b)(5), the term 'lifetime annuity payment' means any amount received as an annuity under any portion of an annuity contract, but only if—

"(i) the only person (or persons in the case of payments described in subclause (II) or (IV) of clause (ii)) legally entitled (by operation of the contract, a trust, or other legally enforceable means) to receive such amount during the life of the annuitant or joint annuitant is such annuitant or joint annuitant, and

"(ii) such amount is part of a series of substantially equal periodic payments made not less frequently than annually over—

"(I) the life of the annuitant,

"(II) the lives of the annuitant and a joint annuitant, but only if the annuitant is the spouse of the joint annuitant as of the annuity starting date or the difference in age between the annuitant and joint annuitant is 15 years or less,

"(III) the life of the annuitant with a minimum period of payments or with a minimum amount that must be paid in any event, or

"(IV) the lives of the annuitant and a joint annuitant with a minimum period of payments or with a minimum amount that must be paid in any event, but only if the annuitant is the spouse of the joint annuitant as of the annuity starting date or the difference in age between the annuitant and joint annuitant is 15 years or less.

"(iii) EXCEPTIONS.—For purposes of clause (ii), annuity payments shall not fail to be treated as part of a series of substantially equal periodic payments—

"(I) because the amount of the periodic payments may vary in accordance with investment experience, reallocations among investment options, actuarial gains or losses, cost of living indices, a constant percentage applied not less frequently than annually, or similar fluctuating criteria,

"(II) due to the existence of, or modification of the duration of, a provision in the contract permitting a lump sum withdrawal after the annuity starting date,

"(III) because the period between each such payment is lengthened or shortened, but only if at all times such period is no longer than one calendar year, or

"(IV) because, in the case of an annuity payable over the life of an annuitant and a joint annuitant, the amounts paid to the surviving annuitant after the death of the first annuitant are less than the amounts payable during the joint lives of the two annuitants.

"(B) ANNUITY CONTRACT.—For purposes of subparagraph (A) and subsections (b)(5) and (x), the term 'annuity contract' means a commercial annuity (as defined by section 3405(e)(6)), other than an endowment or life insurance contract.

"(C) MINIMUM PERIOD OF PAYMENTS.—For purposes of subparagraph (A), the term 'minimum period of payments' means a guaranteed term of payments that does not exceed the greater of 10 years or—

"(i) the life expectancy of the annuitant as of the annuity starting date, in the case of lifetime annuity payments described in subparagraph (A)(ii)(III), or

"(ii) the life expectancy of the annuitant and joint annuitant as of the annuity starting date, in the case of lifetime annuity payments described in subparagraph (A)(ii)(IV).

For purposes of this subparagraph, life expectancy shall be computed with reference to the tables prescribed by the Secretary under paragraph (3). For purposes of subsection (x)(1)(C)(ii), the permissible minimum period of payments shall be determined as of the annuity starting date and reduced by one for each subsequent year.

''(D) MINIMUM AMOUNT THAT MUST BE PAID IN ANY EVENT.—For purposes of subparagraph (A), the term 'minimum amount that must be paid in any event' means an amount payable to the designated beneficiary under an annuity contract that is in the nature of a refund and does not exceed the greater of the amount applied to produce the lifetime annuity payments under the contract or the amount, if any, available for withdrawal under the contract on the date of death.''.

(c) RECAPTURE TAX FOR LIFETIME ANNUITY PAYMENTS.—Section 72 of the Internal Revenue Code of 1986 is amended by redesignating subsection (x) as subsection (y) and by inserting after subsection (w) the following new subsection:

"(x) Recapture Tax for Modifications to or Reductions in Lifetime Annuity Payments.—

"(1) In general.—If any amount received under an annuity contract is excluded from income by reason of subsection (b)(5) (relating to lifetime annuity payments), and—

"(A) the series of payments under such contract is subsequently modified so any future payments are not lifetime annuity payments,

"(B) after the date of receipt of the first lifetime annuity payment under the contract an annuitant receives a lump sum and thereafter is to receive annuity payments in a reduced amount under the contract, or

"(C) after the date of receipt of the first lifetime annuity payment under the contract the dollar amount of any subsequent annuity payment is reduced and a lump sum is not paid in connection with the reduction, unless such reduction is—

"(i) due to an event described in subsection (c)(5)(A)(iii), or "(ii) due to the addition of, or increase in, a minimum period of payments within the meaning of subsection (c)(5)(C) or a minimum amount that must be paid in any event (within the meaning of subsection (c)(5)(D)),

then gross income for the first taxable year in which such modification or reduction occurs shall be increased by the recapture amount.

"(2) RECAPTURE AMOUNT.—

"(A) IN GENERAL.—For purposes of this subsection, the recapture amount shall be the amount, determined under rules prescribed by the Secretary, equal to the sum of—

"(i) the excess of—

"(I) the amount that was excluded from the taxpayer's gross income under subsection (b)(5) for all taxable years prior to the modification or reduction described in paragraph (1), over

"(II) the amount that would have been excludable under such subsection for such taxable years had such modifications or reductions been in effect at all times, plus

"(ii) interest for the deferral period at the underpayment rate established by section 6621.

"(B) DEFERRAL PERIOD.—For purposes of this subsection, the term 'deferral period' means the period beginning with the taxable year in which (without regard to subsection (b)(5)) the payment would have been includible in gross income and ending with the taxable year in which the modification described in paragraph (1) occurs.

"(3) EXCEPTIONS TO RECAPTURE TAX.—Paragraph (1) shall not apply in the case of any modification or reduction that occurs because an annuitant—

"(A) dies or becomes disabled (within the meaning of subsection (m)(7)),

"(B) becomes a chronically ill individual within the meaning of section 7702B(c)(2), or

"(C) encounters hardship.".

(d) LIFETIME DISTRIBUTIONS OF LIFE INSURANCE DEATH BENEFITS.—

(1) IN GENERAL.—Section 101(d) of the Internal Revenue Code of 1986 (relating to payment of life insurance proceeds at a date later than death) is amended by adding at the end the following new paragraph:

"(4) EXCLUSION FOR LIFETIME ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of amounts to which this subsection applies, gross income shall not include the lesser of—

"(i) 50 percent of the portion of lifetime annuity payments otherwise includible in gross income under this section (determined without regard to this paragraph), or

"(ii) the amount in effect under section 72(b)(5).

"(B) RULES OF SECTION 72(b)(5) TO APPLY.—For purposes of this paragraph, rules similar to the rules of section 72(b)(5) and section 72(x) shall apply, substituting the term 'beneficiary of the life insurance contract' for the term 'annuitant' wherever it appears, and substituting the term 'life insurance contract' for the term 'annuity contract' wherever it appears.''.

(2) CONFORMING AMENDMENT.—Section 101(d)(1) of such Code is amended by inserting ''or paragraph (4)'' after ''to the extent not excluded by the preceding sentence''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to amounts received in calendar years beginning after the date of the enactment of this Act.

(2) SPECIAL RULE FOR EXISTING CONTRACTS.—In the case of a contract in force on the date of the enactment of this Act that does not satisfy the requirements of section 72(c)(5)(A) of the Internal Revenue Code of 1986 (as added by this section), or requirements similar to such section 72(c)(5)(A) in the case of a life insurance contract, any modification to such contract (including a change in ownership) or to the payments thereunder that is made to satisfy the requirements of such section (or similar requirements) shall not result in the recognition of any gain or loss, any amount being included in gross income, or any addition to tax that otherwise might result from such modification, but

only if the modification is completed prior to the date that is 2 years after the date of the enactment of this Act.

○