

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6234

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, a credit for individuals who care for those with long-term care needs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2010

Ms. HERSETH SANDLIN (for herself and Mr. HINCHEY) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, a credit for individuals who care for those with long-term care needs, 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 “Comprehensive Long-  
5       Term Care Support Act of 2010”.

6       **SEC. 2. FINDINGS.**

7       The Congress hereby finds:

1           (1) As our Nation’s seniors live longer lives, the  
2           United States faces a major challenge in long-term  
3           health care needs.

4           (2) The United States does not have a com-  
5           prehensive system to support long-term care needs.

6           (3) Eighty-six percent of people age 85 and  
7           older have at least one chronic condition which can  
8           cause pain, disability, and loss of functioning.

9           (4) Long-term care is expected to place a huge  
10          burden on State Medicaid programs, which are the  
11          primary source of funding for nursing homes.

12 **SEC. 3. DEDUCTION FOR QUALIFIED LONG-TERM CARE IN-**  
13 **SURANCE PREMIUMS.**

14          (a) IN GENERAL.—Part VII of subchapter B of chap-  
15          ter 1 of the Internal Revenue Code of 1986 (relating to  
16          additional itemized deductions) is amended by redesignig-  
17          nating section 224 as section 225 and by inserting after  
18          section 223 the following new section:

19 **“SEC. 224. PREMIUMS ON QUALIFIED LONG-TERM CARE IN-**  
20 **SURANCE CONTRACTS.**

21          “(a) IN GENERAL.—In the case of an individual,  
22          there shall be allowed as a deduction an amount equal to  
23          the applicable percentage of the amount of eligible long-  
24          term care premiums (as defined in section 213(d)(10))  
25          paid during the taxable year for coverage for the taxpayer

1 or any member of the family of the taxpayer under a quali-  
 2 fied long-term care insurance contract (as defined in sec-  
 3 tion 7702B(b)).

4 “(b) APPLICABLE PERCENTAGE.—For purposes of  
 5 subsection (a), the applicable percentage shall be deter-  
 6 mined in accordance with the following table:

<b>“The taxable years beginning in calendar year:</b>	<b>The applicable percentage is:</b>
2011 .....	50
2012 .....	75
2013 or thereafter .....	100.

7 “(c) MEMBER OF THE FAMILY.—For purposes of  
 8 this section, the term ‘member of the family’ means, with  
 9 respect to any individual—

10 “(1) the spouse of the individual,

11 “(2) an ancestor or lineal descendant of the in-  
 12 dividual or the individual’s spouse,

13 “(3) a brother or sister of the individual or any  
 14 individual described in paragraph (1) or (2), and

15 “(4) the spouse of any individual described in  
 16 paragraph (2) or (3).

17 “(d) COORDINATION WITH OTHER DEDUCTIONS.—  
 18 Any amount paid by a taxpayer for any qualified long-  
 19 term care insurance contract to which subsection (a) ap-  
 20 plies shall not be taken into account in computing the  
 21 amount allowable to the taxpayer as a deduction under  
 22 section 162(l) or 213(a).”

1 (b) LONG-TERM CARE INSURANCE PERMITTED TO  
2 BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE  
3 SPENDING ARRANGEMENTS.—

4 (1) CAFETERIA PLANS.—

5 (A) Section 125(f) of the Internal Revenue  
6 Code of 1986 (defining qualified benefits), as in  
7 effect for taxable years beginning before Janu-  
8 ary 1, 2014, is amended by inserting before the  
9 period at the end “; except that such term shall  
10 include the payment of premiums for any quali-  
11 fied long-term care insurance contract (as de-  
12 fined in section 7702B) to the extent the  
13 amount of such payment does not exceed the el-  
14 igible long-term care premiums (as defined in  
15 section 213(d)(10)) for such contract”.

16 (B) Section 125(f)(2) of such Code, as in  
17 effect for taxable years beginning after Decem-  
18 ber 31, 2013, is amended by inserting before  
19 the period at the end “; except that such term  
20 shall include the payment of premiums for any  
21 qualified long-term care insurance contract (as  
22 defined in section 7702B) to the extent the  
23 amount of such payment does not exceed the el-  
24 igible long-term care premiums (as defined in  
25 section 213(d)(10)) for such contract”.

1           (2) FLEXIBLE SPENDING ARRANGEMENTS.—  
2           Section 106 of such Code (relating to contributions  
3           by an employer to accident and health plans) is  
4           amended by striking subsection (c).

5           (c) CONFORMING AMENDMENTS.—

6           (1) Section 62(a) of the Internal Revenue Code  
7           of 1986 is amended by inserting after paragraph  
8           (21) the following new item:

9           “(22) PREMIUMS ON QUALIFIED LONG-TERM  
10          CARE INSURANCE CONTRACTS.—The deduction al-  
11          lowed by section 224.”.

12          (2) The table of sections for part VII of sub-  
13          chapter B of chapter 1 of such Code is amended by  
14          striking the last item and inserting the following  
15          new items:

“Sec. 224. Premiums on qualified long-term care insurance contracts.

“Sec. 225. Cross reference.”.

16          (d) EFFECTIVE DATES.—The amendments made by  
17          this section shall apply to taxable years beginning after  
18          December 31, 2010.

19       **SEC. 4. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE**  
20               **NEEDS.**

21          (a) IN GENERAL.—Subpart A of part IV of sub-  
22          chapter A of chapter 1 of the Internal Revenue Code of  
23          1986 (relating to nonrefundable personal credits) is

1 amended by inserting after section 25D the following new  
2 section:

3 **“SEC. 25E. CREDIT FOR TAXPAYERS WITH LONG-TERM**  
4 **CARE NEEDS.**

5 “(a) ALLOWANCE OF CREDIT.—

6 “(1) IN GENERAL.—There shall be allowed as a  
7 credit against the tax imposed by this chapter for  
8 the taxable year an amount equal to the applicable  
9 credit amount multiplied by the number of applica-  
10 ble individuals with respect to whom the taxpayer is  
11 an eligible caregiver for the taxable year.

12 “(2) APPLICABLE CREDIT AMOUNT.—For pur-  
13 poses of paragraph (1), the applicable credit amount  
14 shall be determined in accordance with the following  
15 table:

<b>“For taxable years beginning in calendar year:</b>	<b>The applicable credit amount is:</b>
2011 .....	\$1,000
2012 .....	\$1,500
2013 .....	\$2,000
2014 .....	\$2,500
2015 or thereafter .....	\$3,000.

16 “(b) LIMITATION BASED ON ADJUSTED GROSS IN-  
17 COME.—

18 “(1) IN GENERAL.—The amount of the credit  
19 allowable under subsection (a) shall be reduced (but  
20 not below zero) by \$100 for each \$1,000 (or fraction  
21 thereof) by which the taxpayer’s modified adjusted

1 gross income exceeds the threshold amount. For  
2 purposes of the preceding sentence, the term ‘modi-  
3 fied adjusted gross income’ means adjusted gross in-  
4 come increased by any amount excluded from gross  
5 income under section 911, 931, or 933.

6 “(2) THRESHOLD AMOUNT.—For purposes of  
7 paragraph (1), the term ‘threshold amount’ means—

8 “(A) \$150,000 in the case of a joint re-  
9 turn, and

10 “(B) \$75,000 in any other case.

11 “(3) INDEXING.—In the case of any taxable  
12 year beginning in a calendar year after 2011, each  
13 dollar amount contained in paragraph (2) shall be  
14 increased by an amount equal to the product of—

15 “(A) such dollar amount, and

16 “(B) the medical care cost adjustment de-  
17 termined under section 213(d)(10)(B)(ii) for  
18 the calendar year in which the taxable year be-  
19 gins, determined by substituting ‘August of  
20 2010’ for ‘August of 1996’ in subclause (II)  
21 thereof.

22 If any increase determined under the preceding sen-  
23 tence is not a multiple of \$50, such increase shall  
24 be rounded to the next lowest multiple of \$50.

25 “(c) DEFINITIONS.—For purposes of this section—

1 “(1) APPLICABLE INDIVIDUAL.—

2 “(A) IN GENERAL.—The term ‘applicable  
3 individual’ means, with respect to any taxable  
4 year, any individual who has been certified, be-  
5 fore the due date for filing the return of tax for  
6 the taxable year (without extensions), by a phy-  
7 sician (as defined in section 1861(r)(1) of the  
8 Social Security Act) as being an individual with  
9 long-term care needs described in subparagraph  
10 (B) for a period—

11 “(i) which is at least 180 consecutive  
12 days, and

13 “(ii) a portion of which occurs within  
14 the taxable year.

15 Such term shall not include any individual oth-  
16 erwise meeting the requirements of the pre-  
17 ceding sentence unless within the 39½ month  
18 period ending on such due date (or such other  
19 period as the Secretary prescribes) a physician  
20 (as so defined) has certified that such indi-  
21 vidual meets such requirements.

22 “(B) INDIVIDUALS WITH LONG-TERM CARE  
23 NEEDS.—An individual is described in this sub-  
24 paragraph if the individual meets any of the fol-  
25 lowing requirements:



1           “(i) The individual is at least 6 years  
2 of age and—

3           “(I) is unable to perform (with-  
4 out substantial assistance from an-  
5 other individual) at least 3 activities  
6 of daily living (as defined in section  
7 7702B(c)(2)(B)) due to a loss of  
8 functional capacity, or

9           “(II) requires substantial super-  
10 vision to protect such individual from  
11 threats to health and safety due to se-  
12 vere cognitive impairment and is un-  
13 able to perform, without reminding or  
14 cuing assistance, at least 1 activity of  
15 daily living (as so defined) or to the  
16 extent provided in regulations pre-  
17 scribed by the Secretary (in consulta-  
18 tion with the Secretary of Health and  
19 Human Services), is unable to engage  
20 in age appropriate activities.

21           “(ii) The individual is at least 2 but  
22 not 6 years of age and is unable due to a  
23 loss of functional capacity to perform  
24 (without substantial assistance from an-

1 other individual) at least 2 of the following  
2 activities: eating, transferring, or mobility.

3 “(iii) The individual is under 2 years  
4 of age and requires specific durable med-  
5 ical equipment by reason of a severe health  
6 condition or requires a skilled practitioner  
7 trained to address the individual’s condi-  
8 tion to be available if the individual’s par-  
9 ents or guardians are absent.

10 “(2) ELIGIBLE CAREGIVER.—

11 “(A) IN GENERAL.—A taxpayer shall be  
12 treated as an eligible caregiver for any taxable  
13 year with respect to the following individuals:

14 “(i) The taxpayer.

15 “(ii) The taxpayer’s spouse.

16 “(iii) An individual with respect to  
17 whom the taxpayer is allowed a deduction  
18 under section 151 for the taxable year.

19 “(iv) An individual who would be de-  
20 scribed in clause (iii) for the taxable year  
21 if section 152(d)(1)(B) were applied by  
22 substituting for the exemption amount an  
23 amount equal to the sum of the exemption  
24 amount, the standard deduction under sec-  
25 tion 63(c)(2)(C), and any additional stand-

1           ard deduction under section 63(c)(3) which  
2           would be applicable to the individual if  
3           clause (iii) applied.

4           “(v) An individual who would be de-  
5           scribed in clause (iii) for the taxable year  
6           if the requirements of clause (iv) are met  
7           with respect to the individual and section  
8           152(c)(1) were applied without regard to  
9           subparagraph (D).

10           “(B) SPECIAL RULES WHERE MORE THAN  
11           1 ELIGIBLE CAREGIVER.—

12           “(i) IN GENERAL.—If more than 1 in-  
13           dividual is an eligible caregiver with re-  
14           spect to the same applicable individual for  
15           taxable years ending with or within the  
16           same calendar year, a taxpayer shall be  
17           treated as the eligible caregiver if each  
18           such individual (other than the taxpayer)  
19           files a written declaration (in such form  
20           and manner as the Secretary may pre-  
21           scribe) that such individual will not claim  
22           such applicable individual for the credit  
23           under this section.

24           “(ii) NO AGREEMENT.—If each indi-  
25           vidual required under clause (i) to file a

1 written declaration under clause (i) does  
2 not do so, the individual with the highest  
3 modified adjusted gross income (as defined  
4 in section 32(c)(5)) shall be treated as the  
5 eligible caregiver.

6 “(iii) MARRIED INDIVIDUALS FILING  
7 SEPARATELY.—In the case of married indi-  
8 viduals filing separately, the determination  
9 under this subparagraph as to whether the  
10 husband or wife is the eligible caregiver  
11 shall be made under the rules of clause (ii)  
12 (whether or not one of them has filed a  
13 written declaration under clause (i)).

14 “(d) IDENTIFICATION REQUIREMENT.—No credit  
15 shall be allowed under this section to a taxpayer with re-  
16 spect to any applicable individual unless the taxpayer in-  
17 cludes the name and taxpayer identification number of  
18 such individual, and the identification number of the phy-  
19 sician certifying such individual, on the return of tax for  
20 the taxable year.

21 “(e) TAXABLE YEAR MUST BE FULL TAXABLE  
22 YEAR.—Except in the case of a taxable year closed by rea-  
23 son of the death of the taxpayer, no credit shall be allow-  
24 able under this section in the case of a taxable year cov-  
25 ering a period of less than 12 months.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 6213(g)(2) of the Internal Revenue  
3 Code of 1986 is amended by striking “and” at the  
4 end of subparagraph (O), by striking the period at  
5 the end of subparagraph (P) and inserting “, and”,  
6 and by inserting after subparagraph (P) the fol-  
7 lowing new subparagraph:

8 “(Q) an omission of a correct TIN or phy-  
9 sician identification required under section  
10 25E(d) (relating to credit for taxpayers with  
11 long-term care needs) to be included on a re-  
12 turn.”.

13 (2) The table of sections for subpart A of part  
14 IV of subchapter A of chapter 1 of such Code is  
15 amended by inserting after the item relating to sec-  
16 tion 25D the following new item:

“Sec. 25E. Credit for taxpayers with long-term care needs.”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years beginning after  
19 December 31, 2010.

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