

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.

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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

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## 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.

