

111TH CONGRESS
1ST SESSION

H. R. 1192

To amend the Internal Revenue Code of 1986 to provide more help to
Alzheimer's disease caregivers.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2009

Ms. EDDIE BERNICE JOHNSON of Texas (for herself and Mr. SALAZAR) intro-
duced the following bill; which was referred to the Committee on Ways
and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide
more help to Alzheimer's disease caregivers.

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 “Alzheimer’s Family
5 Assistance Act of 2009”.

6 **SEC. 2. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE**
7 **NEEDS.**

8 (a) IN GENERAL.—Subpart A of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of
10 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:

“For taxable years beginning in calendar year—	The applicable credit amount is—
2009	\$2,000
2010	\$2,500
2011	\$3,000
2012 or thereafter	\$3,500.

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
22 gross income exceeds the threshold amount. For

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

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

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

9 “(B) \$75,000 in any other case.

10 “(3) INDEXING.—In the case of any taxable
11 year beginning in a calendar year after 2009, each
12 dollar amount contained in paragraph (2) shall be
13 increased by an amount equal to the product of—

14 “(A) such dollar amount, and

15 “(B) the medical care cost adjustment de-
16 termined under section 213(d)(10)(B)(ii) for
17 the calendar year in which the taxable year be-
18 gins, determined by substituting ‘2008’ for
19 ‘1996’ in subclause (II) thereof.

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

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

24 “(1) APPLICABLE INDIVIDUAL.—

“(A) IN GENERAL.—The term ‘applicable individual’ means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

“(i) which is at least 120 consecutive days, and

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

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

“(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

1 “(i) The individual is at least 18 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 at least 1 activity of
14 daily living (as so defined) or to the
15 extent provided in regulations pre-
16 scribed by the Secretary (in consulta-
17 tion with the Secretary of Health and
18 Human Services), is unable to engage
19 in age appropriate activities.

20 “(ii) The individual is at least 6 but
21 not 18 years of age and—

22 “(I) is unable to perform (with-
23 out substantial assistance from an-
24 other individual) at least 3 activities
25 of daily living (as defined in section

1 7702B(c)(2)(B)) due to a loss of
2 functional capacity,

3 “(II) requires substantial super-
4 vision to protect such individual from
5 threats to health and safety due to se-
6 vere cognitive impairment and is un-
7 able to perform at least 1 activity of
8 daily living (as so defined) or to the
9 extent provided in regulations pre-
10 scribed by the Secretary (in consulta-
11 tion with the Secretary of Health and
12 Human Services), is unable to engage
13 in age appropriate activities,

14 “(III) has a level of disability
15 similar to the level of disability de-
16 scribed in subclause (I) (as deter-
17 mined under regulations promulgated
18 by the Secretary), or

19 “(IV) has a complex medical con-
20 dition (as defined by the Secretary)
21 that requires medical management
22 and coordination of care.

23 “(iii) The individual is at least 2 but
24 not 6 years of age and—

1 “(I) is unable due to a loss of
2 functional capacity to perform (with-
3 out substantial assistance from an-
4 other individual) at least 2 of the fol-
5 lowing activities: eating, transferring,
6 or mobility,

7 “(II) has a level of disability
8 similar to the level of disability de-
9 scribed in subclause (I) (as deter-
10 mined under regulations promulgated
11 by the Secretary), or

12 “(III) has a complex medical con-
13 dition (as defined by the Secretary)
14 that requires medical management
15 and coordination of care.

16 “(iv) The individual is under 2 years
17 of age and—

18 “(I) requires specific durable
19 medical equipment by reason of a se-
20 vere health condition or requires a
21 skilled practitioner trained to address
22 the individual’s condition to be avail-
23 able if the individual’s parents or
24 guardians are absent,

1 “(II) has a level of disability
2 similar to the level of disability de-
3 scribed in subclause (I) (as deter-
4 mined under regulations promulgated
5 by the Secretary), or

6 “(III) has a complex medical con-
7 dition (as defined by the Secretary)
8 that requires medical management
9 and coordination of care.

10 “(v) The individual has 5 or more
11 chronic conditions (as defined in subpara-
12 graph (C)) and is unable to perform (with-
13 out substantial assistance from another in-
14 dividual) at least 1 activity of daily living
15 (as so defined) due to a loss of functional
16 capacity.

17 “(C) CHRONIC CONDITION.—For purposes
18 of this paragraph, the term ‘chronic condition’
19 means a condition that lasts for at least 6 con-
20 secutive months and requires ongoing medical
21 care.

22 “(2) ELIGIBLE CAREGIVER.—

23 “(A) IN GENERAL.—A taxpayer shall be
24 treated as an eligible caregiver for any taxable

1 year with respect to each of the following indi-
2 viduals:

3 “(i) The taxpayer.

4 “(ii) The taxpayer’s spouse.

5 “(iii) An individual who is a quali-
6 fying child (as defined in section 152(c))
7 or a qualifying relative (as defined in sec-
8 tion 152(d)) with respect to whom the tax-
9 payer is allowed a deduction under section
10 151(c) for the taxable year.

11 “(iv) An individual who would be a
12 qualifying relative described in clause (iii)
13 for the taxable year if section 152(d)(1)(B)
14 were applied by substituting for the exemp-
15 tion amount an amount equal to the sum
16 of the exemption amount, the standard de-
17 duction under section 63(c)(2)(C), and any
18 additional standard deduction under sec-
19 tion 63(c)(3) which would be applicable to
20 the individual if clause (iii) applied.

21 “(v) An individual who would be a
22 qualifying relative described in clause (iii)
23 for the taxable year if—

1 “(I) the requirements of clause
2 (iv) are met with respect to the indi-
3 vidual, and

4 “(II) the requirements of sub-
5 paragraph (B) are met with respect to
6 the individual in lieu of the support
7 test of section 152(d)(1)(C).

8 “(B) RESIDENCY TEST.—The require-
9 ments of this subparagraph are met if an indi-
10 vidual has as his principal place of abode the
11 home of the taxpayer and—

12 “(i) in the case of an individual who
13 is an ancestor or descendant of the tax-
14 payer or the taxpayer’s spouse, is a mem-
15 ber of the taxpayer’s household for over
16 half the taxable year, or

17 “(ii) in the case of any other indi-
18 vidual, is a member of the taxpayer’s
19 household for the entire taxable year.

20 “(C) SPECIAL RULES WHERE MORE THAN
21 1 ELIGIBLE CAREGIVER.—

22 “(i) IN GENERAL.—If more than 1 in-
23 dividual is an eligible caregiver with re-
24 spect to the same applicable individual for
25 taxable years ending with or within the

1 same calendar year, a taxpayer shall be
2 treated as the eligible caregiver if each
3 such individual (other than the taxpayer)
4 files a written declaration (in such form
5 and manner as the Secretary may pre-
6 scribe) that such individual will not claim
7 such applicable individual for the credit
8 under this section.

9 “(ii) NO AGREEMENT.—If each indi-
10 vidual required under clause (i) to file a
11 written declaration under clause (i) does
12 not do so, the individual with the highest
13 modified adjusted gross income (as defined
14 in section 32(c)(5)) shall be treated as the
15 eligible caregiver.

16 “(iii) MARRIED INDIVIDUALS FILING
17 SEPARATELY.—In the case of married indi-
18 viduals filing separately, the determination
19 under this subparagraph as to whether the
20 husband or wife is the eligible caregiver
21 shall be made under the rules of clause (ii)
22 (whether or not one of them has filed a
23 written declaration under clause (i)).

24 “(d) IDENTIFICATION REQUIREMENT.—No credit
25 shall be allowed under this section to a taxpayer with re-

1 spect to any applicable individual unless the taxpayer in-
 2 cludes the name and taxpayer identification number of
 3 such individual, and the identification number of the phy-
 4 sician certifying such individual, on the return of tax for
 5 the taxable year.

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

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 6213(g)(2) of the Internal Revenue
 13 Code of 1986 is amended by striking “and” at the
 14 end of subparagraph (L)(ii), by striking the period
 15 at the end of subparagraph (M) and inserting “,
 16 and”, and by inserting after subparagraph (M) the
 17 following new subparagraph:

18 “(N) an omission of a correct TIN or phy-
 19 sician identification required under section
 20 25E(d) (relating to credit for taxpayers with
 21 long-term care needs) to be included on a re-
 22 turn.”.

23 (2) The table of sections for subpart A of part
 24 IV of subchapter A of chapter 1 of such Code is

1 amended by inserting after the item relating to sec-
 2 tion 25D the following new item:

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

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to taxable years beginning after
 5 December 31, 2009.

6 **SEC. 3. TREATMENT OF PREMIUMS ON QUALIFIED LONG-**
 7 **TERM CARE INSURANCE CONTRACTS.**

8 (a) IN GENERAL.—Part VII of subchapter B of chap-
 9 ter 1 of the Internal Revenue Code of 1986 (relating to
 10 additional itemized deductions) is amended by redesign-
 11 nating section 224 as section 225 and by inserting after
 12 section 223 the following new section:

13 **“SEC. 224. PREMIUMS ON QUALIFIED LONG-TERM CARE IN-**
 14 **SURANCE CONTRACTS.**

15 “(a) IN GENERAL.—In the case of an individual,
 16 there shall be allowed as a deduction an amount equal to
 17 the applicable percentage of the amount of eligible long-
 18 term care premiums (as defined in section 213(d)(10))
 19 paid during the taxable year for coverage for the taxpayer
 20 and the taxpayer’s spouse and dependents under a quali-
 21 fied long-term care insurance contract (as defined in sec-
 22 tion 7702B(b)).

23 “(b) APPLICABLE PERCENTAGE.—For purposes of
 24 subsection (a)—

1 “(1) IN GENERAL.—Except as otherwise pro-
 2 vided in this subsection, the applicable percentage
 3 shall be determined in accordance with the following
 4 table based on the number of years of continuous
 5 coverage (as of the close of the taxable year) of the
 6 individual under any qualified long-term care insur-
 7 ance contracts (as defined in section 7702B(b)):

“If the number of years of continuous coverage is—	The applicable percentage is—
Less than 1	60
At least 1 but less than 2	70
At least 2 but less than 3	80
At least 3 but less than 4	90
At least 4	100.

8 “(2) SPECIAL RULES FOR INDIVIDUALS WHO
 9 HAVE ATTAINED AGE 55.—In the case of an indi-
 10 vidual who has attained age 55 as of the close of the
 11 taxable year, the following table shall be substituted
 12 for the table in paragraph (1):

“If the number of years of continuous coverage is—	The applicable percentage is—
Less than 1	70
At least 1 but less than 2	85
At least 2	100.

13 “(3) ONLY COVERAGE AFTER 2009 TAKEN INTO
 14 ACCOUNT.—Only coverage for periods after Decem-
 15 ber 31, 2009, shall be taken into account under this
 16 subsection.

17 “(4) CONTINUOUS COVERAGE.—An individual
 18 shall not fail to be treated as having continuous cov-

1 erage if the aggregate breaks in coverage during any
 2 1-year period are less than 60 days.

3 “(c) COORDINATION WITH OTHER DEDUCTIONS.—
 4 Any amount paid by a taxpayer for any qualified long-
 5 term care insurance contract to which subsection (a) ap-
 6 plies shall not be taken into account in computing the
 7 amount allowable to the taxpayer as a deduction under
 8 section 162(l) or 213(a).”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 62(a) of the Internal Revenue Code
 11 of 1986 is amended by inserting after paragraph
 12 (21) the following new paragraph:

13 “(22) PREMIUMS ON QUALIFIED LONG-TERM
 14 CARE INSURANCE CONTRACTS.—The deduction al-
 15 lowed by section 224.”.

16 (2) The table of sections for part VII of sub-
 17 chapter B of chapter 1 of such Code is amended by
 18 striking the last item and inserting the following
 19 new items:

“Sec. 224. Premiums on qualified long-term care insurance contracts.
 “Sec. 225. Cross reference.”.

20 (c) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to taxable years beginning after
 22 December 31, 2009.

1 **SEC. 4. ADDITIONAL CONSUMER PROTECTIONS FOR LONG-**
2 **TERM CARE INSURANCE.**

3 (a) ADDITIONAL PROTECTIONS APPLICABLE TO
4 LONG-TERM CARE INSURANCE.—Subparagraphs (A) and
5 (B) of section 7702B(g)(2) of the Internal Revenue Code
6 of 1986 (relating to requirements of model regulation and
7 Act) are amended to read as follows:

8 “(A) IN GENERAL.—The requirements of
9 this paragraph are met with respect to any con-
10 tract if such contract meets—

11 “(i) MODEL REGULATION.—The fol-
12 lowing requirements of the model regula-
13 tion:

14 “(I) Section 6A (relating to guar-
15 anteed renewal or noncancellability),
16 and the requirements of section 6B of
17 the model Act relating to such section
18 6A.

19 “(II) Section 6B (relating to pro-
20 hibitions on limitations and exclu-
21 sions).

22 “(III) Section 6C (relating to ex-
23 tension of benefits).

24 “(IV) Section 6D (relating to
25 continuation or conversion of cov-
26 erage).

1 “(V) Section 6E (relating to dis-
2 continuance and replacement of poli-
3 cies).

4 “(VI) Section 7 (relating to unin-
5 tentional lapse).

6 “(VII) Section 8 (relating to dis-
7 closure), other than section 8F there-
8 of.

9 “(VIII) Section 11 (relating to
10 prohibitions against post-claims un-
11 derwriting).

12 “(IX) Section 12 (relating to
13 minimum standards).

14 “(X) Section 13 (relating to re-
15 quirement to offer inflation protec-
16 tion), except that any requirement for
17 a signature on a rejection of inflation
18 protection shall permit the signature
19 to be on an application or on a sepa-
20 rate form.

21 “(XI) Section 25 (relating to pro-
22 hibition against preexisting conditions
23 and probationary periods in replace-
24 ment policies or certificates).

1 “(XII) The provisions of section
2 26 relating to contingent nonforfeiture
3 benefits, if the policyholder declines
4 the offer of a nonforfeiture provision
5 described in paragraph (4).

6 “(ii) MODEL ACT.—The following re-
7 quirements of the model Act:

8 “(I) Section 6C (relating to pre-
9 existing conditions).

10 “(II) Section 6D (relating to
11 prior hospitalization).

12 “(III) The provisions of section 8
13 relating to contingent nonforfeiture
14 benefits, if the policyholder declines
15 the offer of a nonforfeiture provision
16 described in paragraph (4).

17 “(B) DEFINITIONS.—For purposes of this
18 paragraph—

19 “(i) MODEL PROVISIONS.—The terms
20 ‘model regulation’ and ‘model Act’ mean
21 the long-term care insurance model regula-
22 tion, and the long-term care insurance
23 model Act, respectively, promulgated by
24 the National Association of Insurance

Commissioners (as adopted as of September 2000).

“(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

“(iii) DETERMINATION.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.”.

(b) EXCISE TAX.—Paragraph (1) of section 4980C(c) of the Internal Revenue Code of 1986 (relating to requirements of model provisions) is amended to read as follows:

“(1) REQUIREMENTS OF MODEL PROVISIONS.—

“(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

“(i) Section 9 (relating to required disclosure of rating practices to consumer).

1 “(ii) Section 14 (relating to applica-
2 tion forms and replacement coverage).

3 “(iii) Section 15 (relating to reporting
4 requirements), except that the issuer shall
5 also report at least annually the number of
6 claims denied during the reporting period
7 for each class of business (expressed as a
8 percentage of claims denied), other than
9 claims denied for failure to meet the wait-
10 ing period or because of any applicable
11 preexisting condition.

12 “(iv) Section 22 (relating to filing re-
13 quirements for marketing).

14 “(v) Section 23 (relating to standards
15 for marketing), including inaccurate com-
16 pletion of medical histories, other than
17 paragraphs (1), (6), and (9) of section
18 23C, except that—

19 “(I) in addition to such require-
20 ments, no person shall, in selling or
21 offering to sell a qualified long-term
22 care insurance contract, misrepresent
23 a material fact; and

24 “(II) no such requirements shall
25 include a requirement to inquire or

1 identify whether a prospective appli-
2 cant or enrollee for long-term care in-
3 surance has accident and sickness in-
4 surance.

5 “(vi) Section 24 (relating to suit-
6 ability).

7 “(vii) Section 29 (relating to standard
8 format outline of coverage).

9 “(viii) Section 30 (relating to require-
10 ment to deliver shopper’s guide).

11 The requirements referred to in clause (vi) shall
12 not include those portions of the personal work-
13 sheet described in Appendix B relating to con-
14 sumer protection requirements not imposed by
15 section 4980C or 7702B.

16 “(B) MODEL ACT.—The following require-
17 ments of the model Act must be met:

18 “(i) Section 6F (relating to right to
19 return), except that such section shall also
20 apply to denials of applications and any re-
21 fund shall be made within 30 days of the
22 return or denial.

23 “(ii) Section 6G (relating to outline of
24 coverage).

1 “(iii) Section 6H (relating to require-
2 ments for certificates under group plans).

3 “(iv) Section 6I (relating to policy
4 summary).

5 “(v) Section 6J (relating to monthly
6 reports on accelerated death benefits).

7 “(vi) Section 7 (relating to incontest-
8 ability period).

9 “(C) DEFINITIONS.—For purposes of this
10 paragraph, the terms ‘model regulation’ and
11 ‘model Act’ have the meanings given such terms
12 by section 7702B(g)(2)(B).”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to policies issued more than 1 year
15 after the date of the enactment of this Act.

○