

117TH CONGRESS  
1ST SESSION

# H. R. 5137

To amend the Internal Revenue Code of 1986 to create senior health planning accounts funded by the proceeds of the sale or assignment of life insurance contracts.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 31, 2021

Mr. HIGGINS of New York 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 create senior health planning accounts funded by the proceeds of the sale or assignment of life insurance contracts.

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 “Senior Health Plan-  
5 ning Account Act”.

6 **SEC. 2. SENIOR HEALTH PLANNING ACCOUNT.**

7 (a) IN GENERAL.—Part III of subchapter B of chap-  
8 ter 1 of the Internal Revenue Code of 1986 is amended  
9 by inserting after section 139H the following new section:

1 **“SEC. 139I. SENIOR HEALTH PLANNING ACCOUNT.**

2       “(a) EXCLUSION OF CONTRIBUTIONS OF GAIN FROM  
3 SALES OF LIFE INSURANCE CONTRACTS.—The amount of  
4 gain from the sale or assignment of a life insurance con-  
5 tract of a taxpayer shall be reduced (but not below zero)  
6 by the amount of contributions to a senior health planning  
7 account made by such taxpayer during the 30-day period  
8 beginning on the date of such sale or assignment.

9       “(b) TAX TREATMENT OF SENIOR HEALTH PLAN-  
10 NING ACCOUNT.—

11           “(1) IN GENERAL.—A senior health planning  
12 account is exempt from taxation under this subtitle  
13 unless such account has ceased to be a senior health  
14 planning account. Notwithstanding the preceding  
15 sentence, any such account is subject to the taxes  
16 imposed by section 511 (relating to imposition of tax  
17 on unrelated business income of charitable, etc. or-  
18 ganizations).

19           “(2) ACCOUNT TERMINATIONS.—Rules similar  
20 to the rules of paragraphs (2) and (4) of section  
21 408(e) shall apply to senior health planning ac-  
22 counts, and any amount treated as distributed under  
23 such rules shall be treated as not used to pay quali-  
24 fied health care expenses.

25           “(3) TAX TREATMENT OF DISTRIBUTIONS.—

1           “(A) AMOUNTS USED FOR QUALIFIED  
2 HEALTH CARE EXPENSES.—Any amount paid  
3 or distributed out of a senior health planning  
4 account which is used exclusively to pay quali-  
5 fied health care expenses of the account bene-  
6 ficiary or the account beneficiary’s spouse shall  
7 not be includible in gross income.

8           “(B) INCLUSION OF AMOUNTS NOT USED  
9 FOR QUALIFIED HEALTH CARE EXPENSES.—  
10 Any amount paid or distributed out of a senior  
11 health planning account which is not used to  
12 pay the qualified health care expenses of the ac-  
13 count beneficiary or the account beneficiary’s  
14 spouse shall be included in the gross income of  
15 such beneficiary.

16           “(C) ADDITIONAL TAX ON DISTRIBUTIONS  
17 NOT USED FOR QUALIFIED HEALTH CARE EX-  
18 PENSES.—The tax imposed by this chapter on  
19 the account beneficiary for any taxable year in  
20 which there is a payment or distribution from  
21 a senior health planning account of such bene-  
22 ficiary which is includible in gross income under  
23 subparagraph (B) shall be increased by 20 per-  
24 cent of the amount which is so includible. This  
25 subparagraph shall not apply if the payment or

1 distribution is made after the account bene-  
2 ficiary—

3 “(i) dies,

4 “(ii) becomes a terminally ill indi-  
5 vidual (as such term is defined in section  
6 101(g)(4)(A)), or

7 “(iii) becomes a chronically ill indi-  
8 vidual (as such term is defined in section  
9 101(g)(4)(B)).

10 “(4) COORDINATION WITH MEDICAL EXPENSE  
11 DEDUCTION.—For purposes of determining the  
12 amount of the deduction under section 213, any pay-  
13 ment or distribution out of a senior health planning  
14 account for qualified health care expenses shall not  
15 be treated as an expense paid for medical care.

16 “(5) TRANSFER OF ACCOUNT INCIDENT TO DI-  
17 VORCE.—The transfer of an individual’s interest in  
18 a senior health planning account to an individual’s  
19 spouse or former spouse under a divorce or separa-  
20 tion instrument described in subparagraph (A) of  
21 section 71(b)(2) shall not be considered a taxable  
22 transfer made by such individual notwithstanding  
23 any other provision of this subtitle, and such interest  
24 shall, after such transfer, be treated as a senior

1 health planning account with respect to which such  
2 spouse is the account beneficiary.

3 “(6) TREATMENT AFTER DEATH OF ACCOUNT  
4 BENEFICIARY.—

5 “(A) TREATMENT IF DESIGNATED BENE-  
6 FICIARY IS SPOUSE.—If the account bene-  
7 ficiary’s surviving spouse acquires such bene-  
8 ficiary’s interest in a senior health planning ac-  
9 count by reason of being the designated bene-  
10 ficiary of such account at the death of the ac-  
11 count beneficiary, such senior health planning  
12 account shall be treated as if the spouse were  
13 the account beneficiary.

14 “(B) OTHER CASES.—

15 “(i) IN GENERAL.—If, by reason of  
16 the death of the account beneficiary, any  
17 person acquires the account beneficiary’s  
18 interest in a senior health planning ac-  
19 count in a case to which subparagraph (A)  
20 does not apply—

21 “(I) such account shall cease to  
22 be a senior health planning account as  
23 of the date of death, and

24 “(II) an amount equal to the fair  
25 market value of the assets in such ac-

1 count on such date shall be includible  
2 if such person is not the estate of  
3 such beneficiary, in such person's  
4 gross income for the taxable year  
5 which includes such date, or if such  
6 person is the estate of such bene-  
7 ficiary, in such beneficiary's gross in-  
8 come for the last taxable year of such  
9 beneficiary.

10 “(ii) SPECIAL RULES.—

11 “(I) REDUCTION OF INCLUSION  
12 FOR PREDEATH EXPENSES.—The  
13 amount includible in gross income  
14 under clause (i) by any person (other  
15 than the estate) shall be reduced by  
16 the amount of qualified health care  
17 expenses which were incurred by the  
18 decedent before the date of the dece-  
19 dent's death and paid by such person  
20 within 1 year after such date.

21 “(II) DEDUCTION FOR ESTATE  
22 TAXES.—An appropriate deduction  
23 shall be allowed under section 691(c)  
24 to any person (other than the dece-  
25 dent or the decedent's spouse) with

1                   respect to amounts included in gross  
2                   income under clause (i) by such per-  
3                   son.

4       “(c) DEFINITIONS.—For purposes of this sub-  
5 section—

6               “(1) ACCOUNT BENEFICIARY.—The term ‘ac-  
7       count beneficiary’ means, with respect to a senior  
8       health planning account, the individual on whose be-  
9       half such account was established.

10              “(2) SENIOR HEALTH PLANNING ACCOUNT.—  
11       The term ‘senior health planning account’ means a  
12       trust created or organized in the United States as  
13       a senior health planning account, but only if the  
14       written governing instrument creating the trust  
15       meets the following requirements:

16              “(A) No contribution will be accepted un-  
17       less it is in cash and in consideration of the sale  
18       or assignment of any portion of the death bene-  
19       fits under a life insurance contract on the life  
20       of the account beneficiary.

21              “(B) The trustee is a bank (as defined in  
22       section 408(n)), an insurance company (as de-  
23       fined in section 816), or another person who  
24       demonstrates to the satisfaction of the Sec-  
25       retary that the manner in which such person

1 will administer the trust will be consistent with  
 2 the requirements of this section.

3 “(C) No part of the trust assets will be in-  
 4 vested in life insurance contracts.

5 “(D) The assets of the trust will not be  
 6 commingled with other property except in a  
 7 common trust fund or common investment  
 8 fund.

9 “(E) The interest of an individual in the  
 10 balance in his account is nonforfeitable.

11 “(3) QUALIFIED HEALTH CARE EXPENSES.—  
 12 The term ‘qualified health care expenses’ means,  
 13 with respect to an account beneficiary, amounts paid  
 14 by such beneficiary for medical care (as defined in  
 15 section 213(d)) for such individual and the spouse of  
 16 such individual, but only to the extent such amounts  
 17 are not compensated for by insurance or otherwise.”.

18 (b) CLERICAL AMENDMENT.—The table of sections  
 19 for part III of subchapter B of chapter 1 of such Code  
 20 is amended by inserting after the item relating to section  
 21 139H the following new item:

“Sec. 139I. Senior health planning account.”.

22 (c) EFFECTIVE DATE.—The amendments made by  
 23 this subsection shall apply with respect to sales or assign-  
 24 ments of life insurance contracts after the date of enact-  
 25 ment of this Act.



1       (d) REPORTS.—The Secretary may require the trust-  
2 ee of a senior health planning account to make such re-  
3 ports regarding such account to the Secretary and to the  
4 account beneficiary with respect to contributions, distribu-  
5 tions, and such other matters as the Secretary determines  
6 appropriate.

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