

108TH CONGRESS
2D SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

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 ON DEATH BENEFITS FROM CORPORATE-**
4 **OWNED LIFE INSURANCE.**

5 (a) IN GENERAL.—Section 101 of the Internal Rev-
6 enue Code of 1986 (relating to certain death benefits) is
7 amended by adding at the end the following new sub-
8 section:

9 “(j) TREATMENT OF CERTAIN EMPLOYER-OWNED
10 LIFE INSURANCE CONTRACTS.—

11 “(1) GENERAL RULE.—In the case of an em-
12 ployer-owned life insurance contract, the amount ex-

1 cluded from gross income by paragraph (1) of sub-
2 section (a) shall not exceed an amount equal to the
3 sum of the premiums or other amounts paid for the
4 contract. The preceding sentence shall not apply—

5 “(A) in the case of amounts received by
6 reason of the death of an individual who was an
7 employee of the policyholder (or of an affiliate
8 of the policyholder) at anytime during the 12-
9 month period prior to his or her death, or

10 “(B) to the extent that proceeds are pay-
11 able to a member of the family (within the
12 meaning of section 267(c)(4)) of the insured,
13 any individual who is the designated beneficiary
14 (other than the employer or an affiliate of the
15 employer) of the insured under the contract, a
16 trust established for the benefit of any such
17 person, or the estate of the insured, or are to
18 be used to purchase an equity interest in the
19 employer (or an affiliate) from any such per-
20 sons,

21 but only if the notice and consent requirements of
22 paragraph (3) are satisfied.

23 “(2) EMPLOYER-OWNED LIFE INSURANCE CON-
24 TRACT.—

1 “(A) IN GENERAL.—For purposes of this
2 subsection, the term ‘employer-owned life insur-
3 ance contract’ means a life insurance contract
4 which—

5 “(i) is owned by an entity engaged in
6 a trade or business, and under which such
7 entity (or the trade or business of such en-
8 tity) is directly or indirectly the beneficiary
9 under the contract, and

10 “(ii) covers the life of an insured who
11 is an employee with respect to the trade or
12 business of such entity (or an affiliate
13 thereof) on the date the contract is issued.

14 For purposes of the preceding sentence, if cov-
15 erage for each insured under a master contract
16 is treated as a separate contract for purposes of
17 sections 817(h), 7702, and 7702A, coverage for
18 each such insured shall be treated as a separate
19 contract.

20 “(B) EXCEPTION FOR INSURANCE ON KEY
21 EMPLOYEES.—Notwithstanding subparagraph
22 (A), the term ‘employer-owned life insurance
23 contract’ shall not include a life insurance con-
24 tract under which, at the time the contract is
25 issued, the insured is either a highly com-

1 compensated employee within the meaning of sec-
2 tion 414(q) (without regard to paragraph
3 (1)(B)(ii) thereof) or a highly compensated in-
4 dividual within the meaning of section
5 105(h)(5) (except that ‘35 percent’ shall be
6 substituted for ‘25 percent’ in subparagraph
7 (C) thereof), including any director, but only if
8 the notice and consent requirements of para-
9 graph (3) are satisfied.

10 “(3) NOTICE AND CONSENT REQUIREMENTS.—

11 The notice and consent requirements of this para-
12 graph are satisfied if, prior to the issuance of the
13 contract, the employee—

14 “(A) is notified in writing that the em-
15 ployer intends to insure the employee’s life,

16 “(B) provides written consent to being in-
17 sured under the contract and that such cov-
18 erage may continue after the insured terminates
19 his or her employment with such employer, and

20 “(C) is informed in writing that the em-
21 ployer will be the beneficiary of any proceeds
22 payable upon the death of the employee.

23 “(4) DEFINITIONS.—For purposes of this
24 subsection—

1 “(A) EMPLOYEE.—The term ‘employee’ in-
2 cludes an officer, director, and highly com-
3 pensated employee.

4 “(B) INSURED.—The term ‘insured’ means
5 an individual who is a United States citizen or
6 resident, and references to an insured include
7 the coverage of joint lives.”.

8 (b) REPORTING REQUIREMENTS.—Subpart A of part
9 III of subchapter A of chapter 61 of the Internal Revenue
10 Code of 1986 (relating to information concerning persons
11 subject to special provisions) is amended by inserting after
12 section 6039H the following new section:

13 **“SEC. 6039I. RETURNS AND RECORDS WITH RESPECT TO**
14 **EMPLOYER-OWNED LIFE INSURANCE CON-**
15 **TRACTS.**

16 “(a) IN GENERAL.—Every employer maintaining any
17 program for the purchase of employer-owned life insur-
18 ance contracts within the meaning of section 101(j) (with-
19 out regard to paragraph (2)(B) thereof) during any year
20 beginning after December 31, 2003, shall file a return (at
21 such time and in such manner as the Secretary shall by
22 regulations prescribe) with respect to such program show-
23 ing for such year—

24 “(1) the number of employees of the employer
25 at the end of the year,

1 “(2) the number of employees insured under
2 the program at the end of the year,

3 “(3) the total amount of insurance in force at
4 the end of the year, and

5 “(4) the name, address, and taxpayer identifica-
6 tion number of the employer and the type of busi-
7 ness in which the employer is engaged.

8 “(b) RECORDKEEPING REQUIREMENT.—Each em-
9 ployer maintaining a program for the purchase of em-
10 ployer-owned life insurance contracts during any year
11 shall keep such records as may be necessary for purposes
12 of determining whether the requirements of section 101(j)
13 are met.”.

14 (c) CONFORMING AMENDMENTS.—

15 (1) Paragraph (1) of section 101(a) of the In-
16 ternal Revenue Code of 1986 is amended by striking
17 “and subsection (f)” and inserting “subsection (f),
18 and subsection (j)”.

19 (2) The table of sections for subpart A of part
20 III of subchapter A of chapter 61 of such Code is
21 amended by inserting after the item relating to sec-
22 tion 6039H the following new item:

 “Sec. 6039I. Returns and records with respect to employer-
 owned life insurance contracts.”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to life insurance contracts issued

1 after the date of the enactment of this Act, except for a
2 contract issued after such date pursuant to an exchange
3 described in section 1035 of the Internal Revenue Code
4 of 1986 for a contract issued prior to that date. For pur-
5 poses of the preceding sentence, any material increase in
6 the death benefit or other material change shall be treated
7 as a new contract except that, in the case of a master
8 contract (within the meaning of section 264(f)(4)(E) of
9 such Code), the addition of covered lives shall be treated
10 as a new contract only with respect to such additional cov-
11 ered lives.