What is a qualified long-term care insurance contract?

A long-term care insurance policy issued after 1996 is a qualified long-term care insurance contract under IRC Section 7702B(b) if:

(1) The only insurance protection provided under the contract is coverage of qualified long-term care services ;

(2) The contract does not pay or reimburse expenses incurred for services that are reimbursable under Title XVIII of the Social Security Act or that would be reimbursable but for the application of a deductible or coinsurance amount;

(3) The contract is guaranteed renewable[[1]](#footnote-1);

(4) The contract does not provide for a cash surrender value or other money that can be paid, assigned, or pledged as collateral for a loan or borrowed; and

(5) All premium refunds and dividends under the contract are to be applied as a reduction in future premiums or to increase future benefits. An exception to this rule is for a refund made on the death of an insured or on a complete surrender or cancellation of a contract that cannot exceed the aggregate premiums paid. Any refund given on cancellation or complete surrender of a policy will be includable in income to the extent that any deduction or exclusion was allowable with respect to the premiums.[[2]](#footnote-2)

In addition, a contract must satisfy certain consumer protection provisions concerning model regulation and model act provisions, disclosure, and nonforfeitability.[[3]](#footnote-3)

A policy will be considered to meet the disclosure requirements if the issuer of the policy discloses in the policy and in the required outline of coverage that the policy is intended to be a qualified long-term care insurance contract under IRC Section 7702B(b).[[4]](#footnote-4)

The nonforfeiture requirement is met for any level premium contract if the issuer of the contract offers to the policyholder, including any group policyholder, a non-forfeiture provision that:

(1) Is appropriately captioned;

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(2) Provides for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying contracts approved for the same contract form; and

(3) Provides for at least one of reduced paid-up insurance, extended term insurance, shortened benefit period, or other similar approved offerings.[[5]](#footnote-5)

A qualified long-term care insurance contract that is approved must be delivered to a policyholder within 30 days of the approval date.[[6]](#footnote-6) If a claim under a qualified long-term care insurance contract is denied, the issuer must provide a written explanation of the reasons for the denial and make available all information relating to the denial within 60 days of a written request from a policyholder.[[7]](#footnote-7)

The penalty for not meeting the disclosure and issuer responsibility requirements is a tax equal to $100 per insured for each day that any of these requirements are not met for each qualified long-term care insurance contract.[[8]](#footnote-8) If a failure is due to reasonable cause and not willful neglect, part or all of the penalty tax may be waived if paying the tax would be excessive in relation to the failure.[[9]](#footnote-9)

1. .Notably, the requirement for “guaranteed renewable” under (3) above requires only that the insurer is obligated to continue the coverage as long as premiums are paid; in other words, it only guarantees that the insurer cannot cancel the coverage, but doesn’t that premiums will remain level. Although premiums cannot be altered on an individual basis, they can be raised for an entire class of insured individuals (e.g., all those for a certain company’s policy issued in a certain year for insureds of a certain age), and if the policyowner happens to fit that class, premiums can increase. [↑](#footnote-ref-1)
2. .IRC Sec. 7702B(b)(2)(C). [↑](#footnote-ref-2)
3. .See IRC Sec. 7702B(g). [↑](#footnote-ref-3)
4. .IRC Sec. 4980C(d). [↑](#footnote-ref-4)
5. . IRC Sec. 7702B(g)(4). [↑](#footnote-ref-5)
6. . IRC Sec. 4980C(c)(2). [↑](#footnote-ref-6)
7. . IRC Sec. 4980C(c)(3). [↑](#footnote-ref-7)
8. . IRC Sec. 4980C(b)(1). [↑](#footnote-ref-8)
9. . IRC Sec. 4980C(b)(2). [↑](#footnote-ref-9)