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119TH CONGRESS
2D SESSION

H. R. 9753

To amend the Internal Revenue Code of 1986 to exempt certain retirement plan distributions used to pay qualified fertility treatment expenses from the early withdrawal tax.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2026

Mr. LEVIN (for himself and Mr. CAREY) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to exempt certain retirement plan distributions used to pay qualified fertility treatment expenses from the early withdrawal tax.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fertility Cost Relief Act''.

SEC. 2. DISTRIBUTIONS FOR QUALIFIED FERTILITY TREATMENT EXPENSES EXEMPTED FROM EARLY WITHDRAWAL TAX.

(a) IN GENERAL.—Section 72(t)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(O) QUALIFIED FERTILITY TREATMENT DISTRIBUTIONS.—

"(i) IN GENERAL.—Any qualified fertility treatment distribution.

"(ii) LIFETIME DOLLAR LIMITATION.—

"(I) IN GENERAL.—The aggregate amount of distributions received by an individual which may be treated as qualified fertility treatment distributions for any taxable year shall not exceed the excess (if any) of—

"(aa) $20,000, over

"(bb) the aggregate amounts treated as qualified fertility treatment distributions with respect to such individual for all prior taxable years.

"(II) INFLATION ADJUSTMENT.—In the case of a taxable year beginning in a calendar year after 2026, the $20,000 amount in subclause (I)(aa) shall be increased by an amount equal to—

"(aa) such dollar amount, multiplied by

"(bb) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2025' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

"(iii) QUALIFIED FERTILITY TREATMENT DISTRIBUTION.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'qualified fertility treatment distribution' means any distribution received by an individual from an applicable eligible retirement plan to the extent such distribution is used, within 1 year of the date on which such distribution is received, to pay qualified fertility treatment expenses for the individual or the spouse or domestic partner of the individual.

"(II) QUALIFIED FERTILITY TREATMENT EXPENSES.—The term 'qualified fertility treatment expenses' means any expenses for—

"(aa) the preservation of human oocytes, sperm, or embryos,

"(bb) artificial insemination, including intravaginal, intracervical, and intrauterine insemination,

"(cc) assisted reproductive technology, including in vitro fertilization and other treatments or procedures in which oocytes, sperm, fertilized eggs, embryos, or other reproductive genetic materials are handled,

"(dd) the genetic testing of embryos,

"(ee) fertility medications,

"(ff) gamete donation, or

"(gg) such other fertility treatments, procedures, medications, or services as determined appropriate in accordance with regulations prescribed by the Secretary of Health and Human Services.

"(III) APPLICABLE ELIGIBLE RETIREMENT PLAN.—The term 'applicable eligible retirement plan' means an eligible retirement plan (as defined in section 402(c)(8)(B)) other than a defined benefit plan.

"(iv) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would (without regard to clause (ii)) be a qualified fertility treatment distribution, a plan shall not be treated as failing to meet any requirement of this title merely because the plan treats the distribution as a qualified fertility treatment distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer, determined as provided in subparagraph (H)(iv)(II)) to such individual exceeds the limitation under clause (ii).

"(v) AMOUNT DISTRIBUTED MAY BE REPAID.—Rules similar to the rules of subparagraph (H)(v) shall apply with respect to an individual who receives a qualified fertility treatment distribution.

"(vi) SPECIAL RULES.—For purposes of this subparagraph—

"(I) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405, a qualified fertility treatment distribution shall not be treated as an eligible rollover distribution.

"(II) DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—Any qualified fertility treatment distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(i), 403(b)(11), and 457(d)(1)(A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to distributions made after December 31, 2025.

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