

106TH CONGRESS  
1ST SESSION

# H. R. 27

To amend the Internal Revenue Code of 1986 to allow the carryover of unused nontaxable benefits under cafeteria plans and flexible spending arrangements, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. DREIER 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 allow the carryover of unused nontaxable benefits under cafeteria plans and flexible spending arrangements, and for other purposes.

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. CARRYOVER OF UNUSED BENEFITS FROM**  
4                       **CAFETERIA PLANS AND FLEXIBLE SPENDING**  
5                       **ARRANGEMENTS.**

6       (a) IN GENERAL.—Section 125 of the Internal Reve-  
7       nue Code of 1986 (relating to cafeteria plans) is amended  
8       by redesignating subsections (h) and (i) as subsections (i)

1 and (j), respectively, and by inserting after subsection (g)  
 2 the following new subsection:

3 “(h) ALLOWANCE OF CARRYOVERS OF UNUSED BEN-  
 4 EFITS TO LATER TAXABLE YEARS.—

5 “(1) IN GENERAL.—For purposes of this title—

6 “(A) a plan or other arrangement shall not  
 7 fail to be treated as a cafeteria plan or flexible  
 8 spending or similar arrangement, and

9 “(B) no amount shall be required to be in-  
 10 cluded in gross income by reason of this section  
 11 or any other provision of this chapter,

12 solely because under such plan or other arrangement  
 13 any nontaxable benefit which is unused as of the  
 14 close of a taxable year may be carried forward to 1  
 15 or more succeeding taxable years.

16 “(2) LIMITATION.—Paragraph (1) shall not  
 17 apply to amounts carried from a plan to the extent  
 18 such amounts exceed \$500 (applied on an annual  
 19 basis). For purposes of this paragraph, all plans and  
 20 arrangements maintained by an employer or any re-  
 21 lated person shall be treated as 1 plan.

22 “(3) ALLOWANCE OF ROLLOVER.—

23 “(A) IN GENERAL.—Each flexible spending  
 24 or similar arrangement which permits a carry-  
 25 over under paragraph (1) of an amount of un-

1           used benefit shall provide that each participant  
2           may elect, in lieu of a carryover of such  
3           amount, to have such amount distributed to the  
4           participant.

5           “(B) AMOUNTS NOT INCLUDED IN IN-  
6           COME.—Any distribution under subparagraph  
7           (A) shall not be included in gross income to the  
8           extent that such amount is transferred in a  
9           trustee-to-trustee transfer, or is contributed  
10          within 60 days of the date of the distribution,  
11          to—

12                   “(i) an individual retirement plan,

13                   “(ii) a qualified cash or deferred ar-  
14                   rangement described in section 401(k),

15                   “(iii) a plan under which amounts are  
16                   contributed by an individual’s employer for  
17                   an annuity contract described in section  
18                   403(b),

19                   “(iv) an eligible deferred compensa-  
20                   tion plan described in section 457,

21                   “(v) a medical savings account (within  
22                   the meaning of section 220), or

23                   “(vi) an education individual retire-  
24                   ment account (within the meaning of sec-  
25                   tion 530(b)).

1 Any amount rolled over under this subpara-  
2 graph shall be treated as a rollover contribution  
3 for the taxable year from which the unused  
4 amount would otherwise be carried.

5 “(C) TREATMENT OF ROLLOVER.—Any  
6 amount rolled over under subparagraph (B)  
7 shall be treated as an eligible rollover under  
8 section 219, 220, 401(k), 403(b), 457, or 530,  
9 whichever is applicable, and shall not be taken  
10 into account in applying any limitation (or par-  
11 ticipation requirement) on contributions under  
12 such section or any other provision of this chap-  
13 ter for the taxable year of the rollover.

14 “(4) COST-OF-LIVING ADJUSTMENT.—In the  
15 case of any taxable year beginning in a calendar  
16 year after 1999, the \$500 amount under paragraph  
17 (2) shall be adjusted at the same time and in the  
18 same manner as under section 415(d)(2), except  
19 that the base period taken into account shall be the  
20 calendar quarter beginning October 1, 1998, and  
21 any increase which is not a multiple of \$50 shall be  
22 rounded to the next lowest multiple of \$50.”

1       (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 1998.

○