

108TH CONGRESS
2D SESSION

S. 2375

To amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans during the period that a military reservist or national guardsman is called to active duty for an extended period, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2004

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans during the period that a military reservist or national guardsman is called to active duty for an extended period, 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. SHORT TITLE.**

4 This Act may be cited as the “Guardsmen and Re-
5 servists Financial Relief Act of 2004”.

1 **SEC. 2. PENALTY-FREE WITHDRAWALS FROM RETIREMENT**
 2 **PLANS FOR INDIVIDUALS CALLED TO ACTIVE**
 3 **DUTY FOR AT LEAST 179 DAYS.**

4 (a) IN GENERAL.—Paragraph (2) of section 72(t) of
 5 the Internal Revenue Code of 1986 (relating to 10-percent
 6 additional tax on early distributions from qualified retire-
 7 ment plans) is amended by adding at the end the following
 8 new subparagraph:

9 “(G) DISTRIBUTIONS FROM RETIREMENT
 10 PLANS TO INDIVIDUALS CALLED TO ACTIVE
 11 DUTY.—

12 “(i) IN GENERAL.—Any qualified re-
 13 servist distribution.

14 “(ii) AMOUNT DISTRIBUTED MAY BE
 15 REPAID.—Any individual who receives a
 16 qualified reservist distribution may, at any
 17 time during the 2-year period beginning on
 18 the day after the end of the active duty pe-
 19 riod, make one or more contributions to an
 20 individual retirement plan of such indi-
 21 vidual in an aggregate amount not to ex-
 22 ceed the amount of such distribution. The
 23 dollar limitations otherwise applicable to
 24 contributions to individual retirement plans
 25 shall not apply to any contribution made
 26 pursuant to the preceding sentence. No de-

duction shall be allowed for any contribution pursuant to this clause.

“(iii) QUALIFIED RESERVIST DISTRIBUTION.—For purposes of this subparagraph, the term ‘qualified reservist distribution’ means any distribution to an individual if—

“(I) such distribution is from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii),

“(II) such individual was (by reason of being a member of a reserve component (as defined in section 101 of title 37, United States Code)), ordered or called to active duty for a period in excess of 179 days or for an indefinite period, and

“(III) such distribution is made during the period beginning on the date of such order or call and ending at the close of the active duty period.

1 “(iv) APPLICATION OF SUBPARA-
 2 GRAPH.—This subparagraph applies to in-
 3 dividuals ordered or called to active duty
 4 after September 11, 2001, and before Sep-
 5 tember 12, 2005. In no event shall the 2-
 6 year period referred to in clause (ii) end
 7 before the date which is 2 years after the
 8 date of the enactment of this subpara-
 9 graph.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 401(k)(2)(B)(i) of such Code is
 12 amended by striking “or” at the end of subclause
 13 (III), by striking “and” at the end of subclause (IV)
 14 and inserting “or”, and by inserting after subclause
 15 (IV) the following new subclause:

16 “(V) the date on which a period
 17 referred to in section
 18 72(t)(2)(G)(iii)(III) begins, and”.

19 (2) Section 403(b)(11) of such Code is amend-
 20 ed by striking “or” at the end of subparagraph (A),
 21 by striking the period at the end of subparagraph
 22 (B) and inserting “, or”, and by inserting after sub-
 23 paragraph (B) the following new subparagraph:

24 “(C) for distributions to which section
 25 72(t)(2)(G) applies.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to distributions after September
3 11, 2001.

