

116TH CONGRESS
2D SESSION

H. R. 7997

To allow individuals to mitigate the financial impact of COVID–19 by taking a one-time distribution of flexible spending arrangement funds in certain plan years, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 11, 2020

Mrs. AXNE (for herself and Mr. BALDERSON) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To allow individuals to mitigate the financial impact of COVID–19 by taking a one-time distribution of flexible spending arrangement funds in certain plan years, 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 “COVID–19 Health and
5 Dependent Care Flexible Spending Account Distribution
6 Act”.

1 **SEC. 2. SPECIAL DISPOSITION RULES FOR UNUSED BENE-**
2 **FITS IN FLEXIBLE SPENDING ARRANGE-**
3 **MENTS OF INDIVIDUALS IN DURING CERTAIN**
4 **PLAN YEARS.**

5 (a) FSAS MAY ALLOW QUALIFIED DISTRIBUTION.—

6 For purposes of sections 106, 125, and 129 of the Internal
7 Revenue Code of 1986, a flexible spending arrangement
8 may allow a qualified distribution.

9 (b) TAXES APPLIED TO CERTAIN DISTRIBUTIONS.—

10 For purposes of sections 125(a) and 129(a) of such Code,
11 such sections shall not apply to any benefit distributed
12 under subsection (a) from a flexible spending arrangement
13 for a use other than the qualifying benefit for which such
14 arrangement was established.

15 (c) SPECIAL RULE FOR DISPOSITION OF UNUSED
16 BENEFITS.—For purposes of such Code, a plan shall not
17 fail to be treated as a cafeteria plan, health flexible spend-
18 ing arrangement, or dependent care flexible spending ar-
19 rangement merely because such arrangement provides for
20 a qualified distribution.

21 (d) QUALIFIED DISTRIBUTION.—For purposes of this
22 section, the term “qualified distribution” means a one-
23 time distribution in a qualifying plan year to an individual
24 of all or a portion of the balance in the employee’s account
25 under a cafeteria plan, health flexible spending arrange-
26 ment, or dependent care flexible spending arrangement.

1 (e) QUALIFYING PLAN YEAR.—The term “qualifying
2 plan year” means plan year 2020, plan year 2021, and
3 any plan year that falls during a calendar year in which
4 a national emergency is declared by the President under
5 the National Emergencies Act (50 U.S.C. 1601 et seq.)
6 with respect to the Coronavirus Disease 2019 (COVID–
7 19).

8 (f) GUIDANCE.—The Secretary of the Treasury (or
9 the Secretary’s delegate) shall issue guidance with respect
10 to the interaction between a qualified distribution under
11 subsection (a) and the nondiscrimination testing provi-
12 sions of section 125 of such Code.

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