

111TH CONGRESS
1ST SESSION

H. R. 1279

To amend the Internal Revenue Code of 1986 to increase the contribution limits to dependent care flexible spending accounts and to provide for a carryover of unused dependent care benefits.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2009

Mr. SENSENBRENNER (for himself and Mr. LATHAM) 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 increase the contribution limits to dependent care flexible spending accounts and to provide for a carryover of unused dependent care benefits.

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. INCREASE IN CONTRIBUTION LIMITS TO DE-**
4 **PENDENT CARE FLEXIBLE SPENDING AC-**
5 **COUNTS.**

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

1 and (k), respectively, and by inserting after subsection (h)
2 the following new subsection:

3 “(i) LIMITATION ON MAXIMUM ANNUAL BENEFITS
4 UNDER DEPENDENT CARE FLEXIBLE SPENDING AC-
5 COUNTS.—

6 “(1) IN GENERAL.—For purposes of this title,
7 a plan or other arrangement shall not fail to be
8 treated as a cafeteria plan or dependent care flexible
9 spending arrangement merely because qualified ben-
10 efits under such plan include a dependent care flexi-
11 ble spending arrangement under which the max-
12 imum annual benefit for the taxable year is not
13 more than \$3,750 (\$7,500 in the case of a joint re-
14 turn).

15 “(2) DEPENDENT CARE FLEXIBLE SPENDING
16 ARRANGEMENT.—For purposes of this subsection,
17 the term ‘dependent care flexible spending arrange-
18 ment’ means a flexible spending arrangement (as de-
19 fined in section 106(c)) that is a qualified benefit
20 and only permits reimbursement for expenses for de-
21 pendent care assistance.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall apply to plan years beginning after
24 December 31, 2009.

1 **SEC. 2. CARRYOVER OF UNUSED DEPENDENT CARE BENE-**
2 **FITS IN CAFETERIA PLANS AND FLEXIBLE**
3 **SPENDING ARRANGEMENTS.**

4 (a) IN GENERAL.—Section 125 of the Internal Rev-
5 enue Code of 1986 (relating to cafeteria plans), as amend-
6 ed by section 1, is amended by redesignating subsections
7 (j) and (k) as subsections (k) and (l), respectively, and
8 by inserting after subsection (i) the following new sub-
9 section:

10 “(j) CARRYOVER OF UNUSED DEPENDENT CARE
11 BENEFITS.—

12 “(1) IN GENERAL.—For purposes of this title,
13 a plan or other arrangement shall not fail to be
14 treated as a cafeteria plan or dependent care flexible
15 spending arrangement (as defined in subsection
16 (i)(2)) solely because qualified benefits under such
17 plan include a dependent care flexible spending ar-
18 rangement under which unused dependent care bene-
19 fits may be carried forward to the succeeding plan
20 year of such flexible spending arrangement.

21 “(2) UNUSED HEALTH BENEFITS.—For pur-
22 poses of this subsection, with respect to an em-
23 ployee, the term ‘unused dependent care benefits’
24 means the excess of—

25 “(A) the maximum amount of reimburse-
26 ment allowable to the employee during a plan

1 year under a dependent care flexible spending
2 arrangement, taking into account any election
3 by the employee, over

4 “(B) the actual amount of reimbursement
5 during such year under such arrangement.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall apply to plan years ending after the
8 date of the enactment of this Act.

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