



JOINT COMMITTEE ON TAXATION

May 30, 2012

JCX-54-12

**DESCRIPTION OF AN AMENDMENT IN THE NATURE OF
A SUBSTITUTE TO THE PROVISIONS OF H.R. 1004,
THE “MEDICAL FSA IMPROVEMENT ACT OF 2011”**

The Chairman’s amendment in the nature of a substitute modifies H.R. 1004. The short title in section one is changed to “Health Flexible Spending Arrangements Improvements Act of 2012.”

In addition, section two is amended to provide that taxable distributions of unused amounts under a flexible spending arrangement for reimbursements for medical expenses are only allowed under a flexible spending arrangement for medical expenses under a cafeteria plan (“Health FSA”). Further, the amount of the distribution for any employee is limited to the lesser of \$500 or the amount of salary reduction contributions for the employee reduced by reimbursements for medical expenses for the plan year. Such a distribution is called a “qualified distribution” under the proposal, as modified. In order to be a qualified distribution, the distribution also must be made after the deadline for reimbursement of claims for the plan year and no later than the end of the seventh month after the close of the plan year.

As in the case of distributions of unused amounts under a flexible spending arrangement under H.R. 1004, qualified distributions will not cause a cafeteria plan and Health FSA to violate the use-it-or-lose-it rule or the requirement that amounts available for reimbursement for medical expenses under a Health FSA not be available for any other purpose. The amount of a qualified distribution is includable in gross income for the year in which the distribution is made and is taken into account as wages for employment tax purposes. Further the effective date is the same as in H.R. 1004 but the transition rule is eliminated as unnecessary because the proposal is expected to be enacted before December 31, 2012.

The following presents the estimated Federal fiscal year budget effects of the Chairman’s amendment.

Fiscal Years
[Millions of Dollars]

| <u>Item</u> | <u>2013</u> | <u>2014</u> | <u>2015</u> | <u>2016</u> | <u>2017</u> | <u>2018</u> | <u>2019</u> | <u>2020</u> | <u>2021</u> | <u>2022</u> | <u>2013-17</u> | <u>2013-22</u> |
|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|----------------|----------------|
| Permit \$500 cash out of amounts under Health FSA not used to reimburse medical expenses incurred during plan year (plus any grace period) [1]..... | -261 | -380 | -383 | -395 | -407 | -419 | -432 | -445 | -459 | -471 | -1,826 | -4,051 |

NOTE: Details do not add to totals due to rounding.

[1] Estimate includes the following off-budget effects:

| <u>2013</u> | <u>2014</u> | <u>2015</u> | <u>2016</u> | <u>2017</u> | <u>2018</u> | <u>2019</u> | <u>2020</u> | <u>2021</u> | <u>2022</u> | <u>2013-17</u> | <u>2013-22</u> |
|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|----------------|----------------|
| -69 | -94 | -93 | -95 | -97 | -99 | -101 | -104 | -106 | -108 | -447 | -965 |