

BENEFITS ALERT 2008-02

To All FBMC Clients

Date May 23, 2008

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Re: H.R. 6081- Heroes Earnings Assistance and Relief Tax Act of 2008

Purpose: To amend the Internal Revenue Code of 1986 to provide benefits for military personnel, and for other purposes.

***Immediate Impact on Plan Sponsors:
Changes to Section 125, specifically as it relates to Medical Flexible
Spending Arrangements***

On May 16, 2008 the House of Representatives met to discuss Bill H.R. 6081 which among other things amends code Section 125; allowing military personnel called to duty for a minimum of 179 days to receive **taxable distribution of unused medical flexible spending arrangement (MFSA) funds**. On May 22 the bill was passed in the Senate, without amendment by unanimous consent. Section 114 of the bill outlines the new special disposition rules for the unused benefits in health flexible spending arrangements of individuals called to active duty.

The bill clarifies that in no way will this change disqualify a plan or other arrangement from being treated as a cafeteria plan or health flexible spending arrangement solely because the plan allows for qualified reservist distributions.

The bill defines "qualified reservist distribution" as any distribution to an individual of all or a portion of the balance in the employee's account under such arrangement if:

(A) the member of a reserve component (as defined in section 101 of title 37, United States Code) is ordered or called to active duty for a period in excess of 179 days or for an indefinite period.

(B) the distribution is made during the period beginning on the date the individual is ordered or called and ending on the last date that reimbursements could otherwise be made under such arrangement for the plan year which includes the date of order or call.

The amendment made by this section **applies to distributions made after the date of the enactment**. As of this writing this has not been signed into law by the President. Stay tuned.

*** Updates to this benefit alert will be provided as additional information is received.**

For questions, please contact the undersigned.

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