

109TH CONGRESS
1ST SESSION

H. R. 621

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 HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2005

Mr. BEAUPREZ (for himself and Mr. BARRETT of South Carolina) 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 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 2005”.

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-

1 duction shall be allowed for any contribu-
2 tion pursuant to this clause.

3 “(iii) QUALIFIED RESERVIST DIS-
4 TRIBUTION.—For purposes of this sub-
5 paragraph, the term ‘qualified reservist
6 distribution’ means any distribution to an
7 individual if—

8 “(I) such distribution is from an
9 individual retirement plan, or from
10 amounts attributable to employer con-
11 tributions made pursuant to elective
12 deferrals described in subparagraph
13 (A) or (C) of section 402(g)(3) or sec-
14 tion 501(c)(18)(D)(iii),

15 “(II) such individual was (by rea-
16 son of being a member of a reserve
17 component (as defined in section 101
18 of title 37, United States Code)), or-
19 dered or called to active duty for a pe-
20 riod in excess of 179 days or for an
21 indefinite period, and

22 “(III) such distribution is made
23 during the period beginning on the
24 date of such order or call and ending
25 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, 2007. 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)(7)(A)(ii) of such Code is
20 amended by inserting “unless such amount is a dis-
21 tribution to which section 72(t)(2)(G) applies or”
22 after “distributee”.

23 (3) Section 403(b)(11) of such Code is amend-
24 ed by striking “or” at the end of subparagraph (A),
25 by striking the period at the end of subparagraph

1 (B) and inserting “, or”, and by inserting after sub-
2 paragraph (B) the following new subparagraph:

3 “(C) for distributions to which section
4 72(t)(2)(G) applies.”.

5 (c) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

6 (1) EFFECTIVE DATE.—The amendment made
7 by this section shall apply to distributions after Sep-
8 tember 11, 2001.

9 (2) WAIVER OF LIMITATIONS.—If refund or
10 credit of any overpayment of tax resulting from the
11 amendments made by this section is prevented at
12 any time before the close of the 1-year period begin-
13 ning on the date of the enactment of this Act by the
14 operation of any law or rule of law (including res ju-
15 dicata), such refund or credit may nevertheless be
16 made or allowed if claim therefor is filed before the
17 close of such period.

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