

114TH CONGRESS  
2D SESSION

# H. R. 5971

To amend the Internal Revenue Code of 1986 to increase the amount excludable from gross income for dependent care assistance and dependent care flexible spending arrangements and to provide for a carryover of unused dependent care benefits in dependent care flexible spending arrangements.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2016

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to increase the amount excludable from gross income for dependent care assistance and dependent care flexible spending arrangements and to provide for a carryover of unused dependent care benefits in dependent care flexible spending arrangements.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. INCREASE IN AMOUNT EXCLUDABLE FOR DE-**  
2 **PENDENT CARE ASSISTANCE AND DEPEND-**  
3 **ENT CARE FLEXIBLE SPENDING ARRANGE-**  
4 **MENTS.**

5 (a) IN GENERAL.—Section 129(a)(2)(A) of the Inter-  
6 nal Revenue Code of 1986 is amended by striking “\$5,000  
7 (\$2,500” and inserting “\$7,500 (1/2 such amount”.

8 (b) INFLATION ADJUSTMENT.—Section 129(a)(2) of  
9 such Code is amended by adding at the end the following  
10 new subparagraph:

11 “(D) ADJUSTMENT FOR INFLATION.—In  
12 the case of any taxable year beginning after De-  
13 cember 31, 2017, the \$7,500 amount in sub-  
14 paragraph (A) shall be increased by an amount  
15 equal to—

16 “(i) such amount, multiplied by

17 “(ii) the cost-of-living adjustment de-  
18 termined under section 1(f)(3) for the cal-  
19 endar year in which such taxable year be-  
20 gins by substituting ‘calendar year 2016’  
21 for ‘calendar year 1992’ in subparagraph  
22 (B) thereof.

23 If any increase determined under this subpara-  
24 graph is not a multiple of \$50, such increase  
25 shall be rounded to the next lowest multiple of  
26 \$50.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2016.

4 **SEC. 2. CARRYOVER OF UNUSED DEPENDENT CARE BENE-**  
5 **FITS IN CAFETERIA PLANS AND FLEXIBLE**  
6 **SPENDING ARRANGEMENTS.**

7 (a) IN GENERAL.—Section 125(d) of the Internal  
8 Revenue Code of 1986 is amended by adding at the end  
9 the following new paragraph:

10 “(3) CARRYOVER OF UNUSED DEPENDENT  
11 CARE BENEFITS.—Notwithstanding paragraph  
12 (2)(A)—

13 “(A) IN GENERAL.—For purposes of this  
14 title, a plan or other arrangement shall not fail  
15 to be treated as a cafeteria plan or dependent  
16 care flexible spending arrangement solely be-  
17 cause qualified benefits under such plan include  
18 a dependent care flexible spending arrangement  
19 under which unused dependent care benefits  
20 may be carried forward to the succeeding plan  
21 year of such flexible spending arrangement.

22 “(B) DEPENDENT CARE FLEXIBLE SPEND-  
23 ING ARRANGEMENT.—For purposes of this  
24 paragraph, the term ‘dependent care flexible  
25 spending arrangement’ means a flexible spend-

1           ing arrangement (as defined in section 106(e))  
2           that is a qualified benefit and only permits re-  
3           imbursement for expenses for dependent care  
4           assistance.

5           “(C) UNUSED HEALTH BENEFITS.—For  
6           purposes of this paragraph, with respect to an  
7           employee, the term ‘unused dependent care ben-  
8           efits’ means the excess of—

9                   “(i) the maximum amount of reim-  
10                   bursement allowable to the employee dur-  
11                   ing a plan year under a dependent care  
12                   flexible spending arrangement, taking into  
13                   account any election by the employee, over

14                   “(ii) the actual amount of reimburse-  
15                   ment during such year under such ar-  
16                   rangement.”.

17           (b) EFFECTIVE DATE.—The amendments made by  
18           this section shall apply to plan years ending after the date  
19           of the enactment of this Act.

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