Kilpatrick

MARCH 14, 2011

Use or Lose Rule Proposed Amendment

Treasury has always maintained that it could not change the Code Section 125 use or lose rule for health and dependent care flexible spending arrangements, and that any such change would have to be done by Congress. Recently, HR 1004 was introduced in the House that would change the "use or lose" rule to a "use and cash out" rule. The new bill would allow health FSAs to reimburse medical expenses and then cash out any unused amounts at the end of the year, thereby ensuring that no one would lose any health FSA contributions. A copy of the bill is at the following link:
http://www.gpo.gov/fdsys/pkg/BILLS-112hr1004ih/pdf/BILLS-112hr1004ih.pdf