

107TH CONGRESS
1ST SESSION

S. 464

To amend the Internal Revenue Code of 1986 to allow a tax credit for long-term care givers.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2001

Mr. BAYH (for himself and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow a tax credit for long-term care givers.

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. LONG-TERM CARE TAX CREDIT.**

4 (a) ALLOWANCE OF CREDIT.—

5 (1) IN GENERAL.—Section 24(a) of the Internal
6 Revenue Code of 1986 (relating to allowance of child
7 tax credit) is amended to read as follows:

8 “(a) ALLOWANCE OF CREDIT.—There shall be al-
9 lowed as a credit against the tax imposed by this chapter
10 for the taxable year an amount equal to the sum of—

1 “(1) \$500 multiplied by the number of quali-
2 fying children of the taxpayer, plus

3 “(2) \$3,000 multiplied by the number of appli-
4 cable individuals with respect to whom the taxpayer
5 is an eligible caregiver for the taxable year.”.

6 (2) ADDITIONAL CREDIT FOR TAXPAYER WITH
7 3 OR MORE SEPARATE CREDIT AMOUNTS.—So much
8 of section 24(d) of such Code as precedes paragraph
9 (1)(A) thereof is amended to read as follows:

10 “(d) ADDITIONAL CREDIT FOR TAXPAYERS WITH 3
11 OR MORE SEPARATE CREDIT AMOUNTS.—

12 “(1) IN GENERAL.—If the sum of the number
13 of qualifying children of the taxpayer and the num-
14 ber of applicable individuals with respect to which
15 the taxpayer is an eligible caregiver is 3 or more for
16 any taxable year, the aggregate credits allowed
17 under subpart C shall be increased by the lesser
18 of—”.

19 (3) CONFORMING AMENDMENTS.—

20 (A) The heading for section 32(n) of such
21 Code is amended by striking “CHILD” and in-
22 serting “FAMILY CARE”.

23 (B) The heading for section 24 of such
24 Code is amended to read as follows:

1 **“SEC. 24. FAMILY CARE CREDIT.”.**

2 (C) The table of sections for subpart A of
 3 part IV of subchapter A of chapter 1 of such
 4 Code is amended by striking the item relating
 5 to section 24 and inserting the following new
 6 item:

“Sec. 24. Family care credit.”.

7 (b) DEFINITIONS.—Section 24(c) of the Internal
 8 Revenue Code of 1986 (defining qualifying child) is
 9 amended to read as follows:

10 “(c) DEFINITIONS.—For purposes of this section—

11 “(1) QUALIFYING CHILD.—

12 “(A) IN GENERAL.—The term ‘qualifying
 13 child’ means any individual if—

14 “(i) the taxpayer is allowed a deduc-
 15 tion under section 151 with respect to such
 16 individual for the taxable year,

17 “(ii) such individual has not attained
 18 the age of 17 as of the close of the cal-
 19 endar year in which the taxable year of the
 20 taxpayer begins, and

21 “(iii) such individual bears a relation-
 22 ship to the taxpayer described in section
 23 32(c)(3)(B).

24 “(B) EXCEPTION FOR CERTAIN NONCITI-
 25 ZENS.—The term ‘qualifying child’ shall not in-

clude any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows ‘resident of the United States’.

“(2) APPLICABLE INDIVIDUAL.—

“(A) IN GENERAL.—The term ‘applicable individual’ means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

“(i) which is at least 180 consecutive days, and

“(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

1 “(B) INDIVIDUALS WITH LONG-TERM CARE
2 NEEDS.—An individual is described in this sub-
3 paragraph if the individual meets any of the fol-
4 lowing requirements:

5 “(i) The individual is at least 6 years
6 of age and—

7 “(I) is unable to perform (with-
8 out substantial assistance from an-
9 other individual) at least 3 activities
10 of daily living (as defined in section
11 7702B(c)(2)(B)) due to a loss of
12 functional capacity, or

13 “(II) requires substantial super-
14 vision to protect such individual from
15 threats to health and safety due to se-
16 vere cognitive impairment and is un-
17 able to perform at least 1 activity of
18 daily living (as so defined) or to the
19 extent provided in regulations pre-
20 scribed by the Secretary (in consulta-
21 tion with the Secretary of Health and
22 Human Services), is unable to engage
23 in age appropriate activities.

24 “(ii) The individual is at least 2 but
25 not 6 years of age and is unable due to a

1 loss of functional capacity to perform
 2 (without substantial assistance from an-
 3 other individual) at least 2 of the following
 4 activities: eating, transferring, or mobility.

5 “(iii) The individual is under 2 years
 6 of age and requires specific durable med-
 7 ical equipment by reason of a severe health
 8 condition or requires a skilled practitioner
 9 trained to address the individual’s condi-
 10 tion to be available if the individual’s par-
 11 ents or guardians are absent.

12 “(3) ELIGIBLE CAREGIVER.—

13 “(A) IN GENERAL.—A taxpayer shall be
 14 treated as an eligible caregiver for any taxable
 15 year with respect to the following individuals:

16 “(i) The taxpayer.

17 “(ii) The taxpayer’s spouse.

18 “(iii) An individual with respect to
 19 whom the taxpayer is allowed a deduction
 20 under section 151 for the taxable year.

21 “(iv) An individual who would be de-
 22 scribed in clause (iii) for the taxable year
 23 if section 151(c)(1)(A) were applied by
 24 substituting for the exemption amount an
 25 amount equal to the sum of the exemption

1 amount, the standard deduction under sec-
 2 tion 63(c)(2)(C), and any additional stand-
 3 ard deduction under section 63(c)(3) which
 4 would be applicable to the individual if
 5 clause (iii) applied.

6 “(v) An individual who would be de-
 7 scribed in clause (iii) for the taxable year
 8 if—

9 “(I) the requirements of clause
 10 (iv) are met with respect to the indi-
 11 vidual, and

12 “(II) the requirements of sub-
 13 paragraph (B) are met with respect to
 14 the individual in lieu of the support
 15 test of section 152(a).

16 “(B) RESIDENCY TEST.—The require-
 17 ments of this subparagraph are met if an indi-
 18 vidual has as his principal place of abode the
 19 home of the taxpayer and—

20 “(i) in the case of an individual who
 21 is an ancestor or descendant of the tax-
 22 payer or the taxpayer’s spouse, is a mem-
 23 ber of the taxpayer’s household for over
 24 half the taxable year, or

1 “(ii) in the case of any other indi-
 2 vidual, is a member of the taxpayer’s
 3 household for the entire taxable year.

4 “(C) SPECIAL RULES WHERE MORE THAN
 5 1 ELIGIBLE CAREGIVER.—

6 “(i) IN GENERAL.—If more than 1 in-
 7 dividual is an eligible caregiver with re-
 8 spect to the same applicable individual for
 9 taxable years ending with or within the
 10 same calendar year, a taxpayer shall be
 11 treated as the eligible caregiver if each
 12 such individual (other than the taxpayer)
 13 files a written declaration (in such form
 14 and manner as the Secretary may pre-
 15 scribe) that such individual will not claim
 16 such applicable individual for the credit
 17 under this section.

18 “(ii) NO AGREEMENT.—If each indi-
 19 vidual required under clause (i) to file a
 20 written declaration under clause (i) does
 21 not do so, the individual with the highest
 22 modified adjusted gross income (as defined
 23 in section 32(c)(5)) shall be treated as the
 24 eligible caregiver.

1 “(iii) MARRIED INDIVIDUALS FILING
 2 SEPARATELY.—In the case of married indi-
 3 viduals filing separately, the determination
 4 under this subparagraph as to whether the
 5 husband or wife is the eligible caregiver
 6 shall be made under the rules of clause (ii)
 7 (whether or not one of them has filed a
 8 written declaration under clause (i)).”.

9 (c) IDENTIFICATION REQUIREMENTS.—

10 (1) IN GENERAL.—Section 24(e) of the Internal
 11 Revenue Code of 1986 is amended by adding at the
 12 end the following new sentence: “No credit shall be
 13 allowed under this section to a taxpayer with respect
 14 to any applicable individual unless the taxpayer in-
 15 cludes the name and taxpayer identification number
 16 of such individual, and the identification number of
 17 the physician certifying such individual, on the re-
 18 turn of tax for the taxable year.”.

19 (2) ASSESSMENT.—Section 6213(g)(2)(I) of
 20 such Code is amended—

21 (A) by inserting “or physician identifica-
 22 tion” after “correct TIN”, and

23 (B) by striking “child” and inserting
 24 “family care”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2001.

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