To amend the Internal Revenue Code of 1986 to provide an income tax credit for the costs of certain infertility treatments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Family Act of 2017”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The American Society of Reproductive Medicine recognizes infertility as a disease, and the Centers for Disease Control and Prevention have described infertility as an emerging public health pri-
ority in the United States. Globally, the World Health Organization also formally recognizes infertility as a disease.

(2) According to the National Survey of Family Growth of the Centers for Disease Control and Prevention, approximately 3,000,000 women in the United States had trouble conceiving or carrying a pregnancy to term.

(3) A portion of those 3,000,000 women are cancer survivors who were diagnosed as infants, children, or young adults. Their treatments included chemotherapy, radiation, and surgery which have led to irreparable damage to their reproductive systems.

(4) Military families notably are also impacted by infertility as a result of lower extremity war injuries arising from the perils of modern warfare. For active duty individuals, frequent changes in permanent duty station, combat deployments, and training rotations complicate access to fertility treatments. In addition, active duty individuals or veterans have no coverage for in vitro fertilization (IVF) through their military health insurance and must pay out of pocket for those expenses, even within military treatment facilities.
(5) For many, the cost of treatment for the disease of infertility is prohibitive. According to the American Society for Reproductive Medicine, the cost per cycle of IVF is approximately $12,500, and on average couples require at least 2 cycles. Many couples have to choose between their desire to establish a family and their future financial well-being.

(6) Medical insurance coverage for infertility treatments is sparse and inconsistent at the State level. Only 8 States have passed laws to require comprehensive infertility coverage, and under those State laws employer-sponsored plans are exempt; therefore, coverage for treatments such as IVF is limited. According to Mercer’s 2005 National Survey of Employer-Sponsored Health Plans, IVF was voluntarily covered by 19 percent of large employer-sponsored health plans and only 11 percent of small employer-sponsored health plans. Even in States with coverage mandates, out-of-pocket expenses for these treatments are significant.

(7) According to the latest National Survey of Family Growth, African-American and Hispanic women are more likely to be infertile than Caucasian women, yet studies indicate that they are less likely to use infertility services.
SEC. 3. CREDIT FOR CERTAIN INFERTILITY TREATMENTS.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting before section 24 the following new section:

“SEC. 23A. CREDIT FOR CERTAIN INFERTILITY TREATMENTS.

“(a) Allowance of Credit.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified infertility treatment expenses paid or incurred during the taxable year.

“(b) Limitations.—

“(1) Dollar Limitation.—The amount of the credit under subsection (a) for any taxable year shall not exceed the excess (if any) of—

“(A) the dollar amount in effect under section 23(b)(1) for the taxable year, over

“(B) the aggregate amount of the credits allowed under subsection (a) for all preceding taxable years.

“(2) Income Limitation.—

“(A) In General.—The amount otherwise allowable as a credit under subsection (a) for any taxable year (determined after the applica-
tion of paragraph (1) and without regard to
this paragraph and subsection (c)) shall be re-
duced (but not below zero) by an amount which
bears the same ratio to the amount so allowable
as—

“(i) the amount (if any) by which the
taxpayer’s adjusted gross income exceeds
the dollar amount in effect under clause (i)
of section 23(b)(2)(A), bears to

“(ii) $40,000.

“(B) Determination of Adjusted
Gross Income.—For purposes of subparagraph
(A), adjusted gross income shall be determined
without regard to sections 911, 931, and 933.

“(3) Denial of Double Benefit.—

“(A) In General.—No credit shall be al-
lowed under subsection (a) for any expense for
which a deduction or credit is taken under any
other provision of this chapter.

“(B) Grants.—No credit shall be allowed
under subsection (a) for any expense to the ex-
tent that reimbursement or other funds in com-
pensation for such expense are received under
any Federal, State, or local program.
“(C) INSURANCE REIMBURSEMENT.—No credit shall be allowed under subsection (a) for any expense to the extent that payment for such expense is made, or reimbursement for such expense is received, under any insurance policy.

“(e) CARRYFORWARDS OF UNUSED CREDIT.—

“(1) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(2) LIMITATION.—No credit may be carried forward under this subsection to any taxable year after the 5th taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in, first-out basis.

“(d) QUALIFIED INFERTILITY TREATMENT EXPENSES.—For purposes of this section:
“(1) IN GENERAL.—The term ‘qualified infertility treatment expenses’ means amounts paid or incurred for the treatment of infertility via in vitro fertilization if such treatment is—

“(A) provided by a licensed physician, licensed surgeon, or other licensed medical practitioner, and

“(B) administered with respect to a diagnosis of infertility by a physician licensed in the United States.

“(2) TREATMENTS IN ADVANCE OF INFERTILITY ARISING FROM MEDICAL TREATMENTS.—In the case of expenses incurred in advance of a diagnosis of infertility for fertility preservation procedures which are conducted prior to medical procedures that, as determined by a physician licensed in the United States, may cause involuntary infertility or sterilization, such expenses shall be treated as qualified infertility treatment expenses—

“(A) notwithstanding paragraph (1)(B), and

“(B) without regard to whether a diagnosis of infertility subsequently results.

Expenses for fertility preservation procedures in advance of a procedure designed to result in infertility
or sterilization shall not be treated as qualified infertility treatment expenses.

“(3) INFERTILITY.—The term ‘infertility’ means the inability to conceive or to carry a pregnancy to live birth, including iatrogenic infertility resulting from medical treatments such as chemotherapy, radiation or surgery. Such term does not include infertility or sterilization resulting from a procedure designed for such purpose.

“(e) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term ‘eligible individual’ means an individual—

“(1) who has been diagnosed with infertility by a physician licensed in the United States, or

“(2) with respect to whom a physician licensed in the United States has made the determination described in subsection (d)(2).

“(f) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.”.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting before
the item relating to section 24 the following new item:

“Sec. 23A. Credit for certain infertility treatments.”.

(2) Section 23(c)(1) of such Code is amended by striking “25D” and inserting “23A, 25D,”.

(3) Section 25(e)(1)(C) of such Code is amended by inserting “23A,” before “25D, ”.

(4) Section 25D(c) of such Code is amended by inserting “and section 23A” after “other than this section”.

(5) Section 1400C(d) of such Code is amended by striking “section 25D” and inserting “sections 23A and 25D”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.