

108TH CONGRESS
1ST SESSION

S. 1031

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

MAY 8, 2003

Mr. BAYH 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) the per child amount multiplied by the
 2 number of qualifying 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) CONFORMING AMENDMENTS.—

7 (A) The heading for section 24 of such
 8 Code is amended to read as follows:

9 **“SEC. 24. FAMILY CARE CREDIT.”.**

10 (B) The table of sections for subpart A of
 11 part IV of subchapter A of chapter 1 of such
 12 Code is amended by striking the item relating
 13 to section 24 and inserting the following new
 14 item:

“Sec. 24. Family care credit.”.

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

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

19 “(1) QUALIFYING CHILD.—

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

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

1 “(ii) such individual has not attained
 2 the age of 17 as of the close of the cal-
 3 endar year in which the taxable year of the
 4 taxpayer begins, and

5 “(iii) such individual bears a relation-
 6 ship to the taxpayer described in section
 7 32(c)(3)(B).

8 “(B) EXCEPTION FOR CERTAIN NONCITI-
 9 ZENS.—The term ‘qualifying child’ shall not in-
 10 clude any individual who would not be a de-
 11 pendent if the first sentence of section
 12 152(b)(3) were applied without regard to all
 13 that follows ‘resident of the United States’.

14 “(2) APPLICABLE INDIVIDUAL.—

15 “(A) IN GENERAL.—The term ‘applicable
 16 individual’ means, with respect to any taxable
 17 year, any individual who has been certified, be-
 18 fore the due date for filing the return of tax for
 19 the taxable year (without extensions), by a phy-
 20 sician (as defined in section 1861(r)(1) of the
 21 Social Security Act) as being an individual with
 22 long-term care needs described in subparagraph
 23 (B) for a period—

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

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

3 Such term shall not include any individual oth-
4 erwise meeting the requirements of the pre-
5 ceding sentence unless within the 39½ month
6 period ending on such due date (or such other
7 period as the Secretary prescribes) a physician
8 (as so defined) has certified that such indi-
9 vidual meets such requirements.

10 “(B) INDIVIDUALS WITH LONG-TERM CARE
11 NEEDS.—An individual is described in this sub-
12 paragraph if the individual meets any of the fol-
13 lowing requirements:

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

16 “(I) is unable to perform (with-
17 out substantial assistance from an-
18 other individual) at least 3 activities
19 of daily living (as defined in section
20 7702B(c)(2)(B)) due to a loss of
21 functional capacity, or

22 “(II) requires substantial super-
23 vision to protect such individual from
24 threats to health and safety due to se-
25 vere cognitive impairment and is un-

1 able to perform at least 1 activity of
2 daily living (as so defined) or to the
3 extent provided in regulations pre-
4 scribed by the Secretary (in consulta-
5 tion with the Secretary of Health and
6 Human Services), is unable to engage
7 in age appropriate activities.

8 “(ii) The individual is at least 2 but
9 not 6 years of age and is unable due to a
10 loss of functional capacity to perform
11 (without substantial assistance from an-
12 other individual) at least 2 of the following
13 activities: eating, transferring, or mobility.

14 “(iii) The individual is under 2 years
15 of age and requires specific durable med-
16 ical equipment by reason of a severe health
17 condition or requires a skilled practitioner
18 trained to address the individual’s condi-
19 tion to be available if the individual’s par-
20 ents or guardians are absent.

21 “(3) ELIGIBLE CAREGIVER.—

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

25 “(i) The taxpayer.

1 “(ii) The taxpayer’s spouse.

2 “(iii) An individual with respect to
3 whom the taxpayer is allowed a deduction
4 under section 151 for the taxable year.

5 “(iv) An individual who would be de-
6 scribed in clause (iii) for the taxable year
7 if section 151(c)(1)(A) were applied by
8 substituting for the exemption amount an
9 amount equal to the sum of the exemption
10 amount, the standard deduction under sec-
11 tion 63(c)(2)(C), and any additional stand-
12 ard deduction under section 63(c)(3) which
13 would be applicable to the individual if
14 clause (iii) applied.

15 “(v) An individual who would be de-
16 scribed in clause (iii) for the taxable year
17 if—

18 “(I) the requirements of clause
19 (iv) are met with respect to the indi-
20 vidual, and

21 “(II) the requirements of sub-
22 paragraph (B) are met with respect to
23 the individual in lieu of the support
24 test of section 152(a).

“(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an individual has as his principal place of abode the home of the taxpayer and—

“(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer’s spouse, is a member of the taxpayer’s household for over half the taxable year, or

“(ii) in the case of any other individual, is a member of the taxpayer’s household for the entire taxable year.

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

“(i) IN GENERAL.—If more than 1 individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each such individual (other than the taxpayer) files a written declaration (in such form and manner as the Secretary may prescribe) that such individual will not claim

1 such applicable individual for the credit
2 under this section.

3 “(ii) NO AGREEMENT.—If each indi-
4 vidual required under clause (i) to file a
5 written declaration under clause (i) does
6 not do so, the individual with the highest
7 modified adjusted gross income (as defined
8 in section 32(c)(5)) shall be treated as the
9 eligible caregiver.

10 “(iii) MARRIED INDIVIDUALS FILING
11 SEPARATELY.—In the case of married indi-
12 viduals filing separately, the determination
13 under this subparagraph as to whether the
14 husband or wife is the eligible caregiver
15 shall be made under the rules of clause (ii)
16 (whether or not one of them has filed a
17 written declaration under clause (i)).”.

18 (c) IDENTIFICATION REQUIREMENTS.—

19 (1) IN GENERAL.—Section 24(e) of the Internal
20 Revenue Code of 1986 is amended by adding at the
21 end the following new sentence: “No credit shall be
22 allowed under this section to a taxpayer with respect
23 to any applicable individual unless the taxpayer in-
24 cludes the name and taxpayer identification number
25 of such individual, and the identification number of

1 the physician certifying such individual, on the re-
2 turn of tax for the taxable year.”.

3 (2) ASSESSMENT.—Section 6213(g)(2)(I) of
4 such Code is amended—

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

7 (B) by striking “child tax” and inserting
8 “family care”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2003.

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