

111TH CONGRESS
2D SESSION

H. R. 5491

To amend the Internal Revenue Code of 1986 to provide a refundable credit
for taxpayers with long-term care needs.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2010

Mr. CARNEY (for himself and Mr. PLATT) introduced the following bill; which
was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide
a refundable credit for taxpayers with long-term care needs.

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. SHORT TITLE.**

4 This Act may be cited as the “Caregiver Tax Relief
5 Act of 2010”.

6 **SEC. 2. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE**
7 **NEEDS.**

8 (a) IN GENERAL.—Subpart C of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to refundable personal credits) is amended
2 by inserting after section 36C the following new section:

3 **“SEC. 36D. CREDIT FOR TAXPAYERS WITH LONG-TERM**
4 **CARE NEEDS.**

5 “(a) ALLOWANCE OF CREDIT.—

6 “(1) IN GENERAL.—There shall be allowed as a
7 credit against the tax imposed by this chapter for
8 the taxable year an amount equal to the applicable
9 credit amount multiplied by the number of applica-
10 ble individuals with respect to whom the taxpayer is
11 an eligible caregiver for the taxable year.

12 “(2) APPLICABLE CREDIT AMOUNT.—For pur-
13 poses of paragraph (1), the applicable credit amount
14 shall be \$2,500.

15 “(b) LIMITATION BASED ON ADJUSTED GROSS IN-
16 COME.—

17 “(1) IN GENERAL.—The amount of the credit
18 allowable under subsection (a) shall be reduced (but
19 not below zero) by \$100 for each \$1,000 (or fraction
20 thereof) by which the taxpayer’s modified adjusted
21 gross income exceeds the threshold amount. For
22 purposes of the preceding sentence, the term ‘modi-
23 fied adjusted gross income’ means adjusted gross in-
24 come increased by any amount excluded from gross
25 income under section 911, 931, or 933.

1 “(2) THRESHOLD AMOUNT.—For purposes of
2 paragraph (1), the term ‘threshold amount’ means—

3 “(A) \$150,000 in the case of a joint re-
4 turn, and

5 “(B) \$75,000 in any other case.

6 “(3) INDEXING.—In the case of any taxable
7 year beginning in a calendar year after 2011, each
8 dollar amount contained in paragraph (2) shall be
9 increased by an amount equal to the product of—

10 “(A) such dollar amount; and

11 “(B) the medical care cost adjustment de-
12 termined under section 213(d)(10)(B)(ii) for
13 the calendar year in which the taxable year be-
14 gins, determined by substituting ‘2008’ for
15 ‘1996’ in subclause (II) thereof. If any increase
16 determined under the preceding sentence is not
17 a multiple of \$50, such increase shall be round-
18 ed to the next lowest multiple of \$50.

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

20 “(1) APPLICABLE INDIVIDUAL.—

21 “(A) IN GENERAL.—The term ‘applicable
22 individual’ means, with respect to any taxable
23 year, any individual who has been certified, be-
24 fore the due date for filing the return of tax for
25 the taxable year (without extensions), by a phy-

sician (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.

“(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

“(i) The individual is at least 18 years of age and—

“(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section

1 7702B(c)(2)(B)) due to a loss of
2 functional capacity, or

3 “(II) requires substantial super-
4 vision to protect such individual from
5 threats to health and safety due to se-
6 vere cognitive impairment and is un-
7 able to perform at least 1 activity of
8 daily living (as so defined) or to the
9 extent provided in regulations pre-
10 scribed by the Secretary (in consulta-
11 tion with the Secretary of Health and
12 Human Services), is unable to engage
13 in age appropriate activities.

14 “(ii) The individual is at least 6 but
15 not 18 years 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,

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 “(III) has a level of disability
9 similar to the level of disability de-
10 scribed in subclause (I) (as deter-
11 mined under regulations promulgated
12 by the Secretary), or

13 “(IV) has a complex medical con-
14 dition (as defined by the Secretary)
15 that requires medical management
16 and coordination of care.

17 “(iii) The individual is at least 2 but
18 not 6 years of age and—

19 “(I) is unable due to a loss of
20 functional capacity to perform (with-
21 out substantial assistance from an-
22 other individual) at least 2 of the fol-
23 lowing activities: eating, transferring,
24 or mobility,

1 “(II) has a level of disability
2 similar to the level of disability de-
3 scribed in subclause (I) (as deter-
4 mined under regulations promulgated
5 by the Secretary), or

6 “(III) has a complex medical con-
7 dition (as defined by the Secretary)
8 that requires medical management
9 and coordination of care.

10 “(iv) The individual is under 2 years
11 of age and—

12 “(I) requires specific durable
13 medical equipment by reason of a se-
14 vere health condition or requires a
15 skilled practitioner trained to address
16 the individual’s condition to be avail-
17 able if the individual’s parents or
18 guardians are absent,

19 “(II) has a level of disability
20 similar to the level of disability de-
21 scribed in subclause (I) (as deter-
22 mined under regulations promulgated
23 by the Secretary), or

24 “(III) has a complex medical con-
25 dition (as defined by the Secretary)

1 that requires medical management
2 and coordination of care.

3 “(v) The individual has 5 or more
4 chronic conditions (as defined in subpara-
5 graph (C)) and is unable to perform (with-
6 out substantial assistance from another in-
7 dividual) at least 1 activity of daily living
8 (as so defined) due to a loss of functional
9 capacity.

10 “(C) CHRONIC CONDITION.—For purposes
11 of this paragraph, the term ‘chronic condition’
12 means a condition that lasts for at least 6 con-
13 secutive months and requires ongoing medical
14 care.

15 “(2) ELIGIBLE CAREGIVER.—

16 “(A) IN GENERAL.—A taxpayer shall be
17 treated as an eligible caregiver for any taxable
18 year with respect to each of the following indi-
19 viduals:

20 “(i) The taxpayer.

21 “(ii) The taxpayer’s spouse.

22 “(iii) An individual who is a quali-
23 fying child (as defined in section 152(e))
24 or a qualifying relative (as defined in sec-
25 tion 152(d)) with respect to whom the tax-

1 payer is allowed a deduction under section
2 151(c) for the taxable year.

3 “(iv) An individual who would be a
4 qualifying relative described in clause (iii)
5 for the taxable year if section 152(d)(1)(B)
6 were applied by substituting for the exemp-
7 tion amount an amount equal to the sum
8 of the exemption amount, the standard de-
9 duction under section 63(c)(2)(C), and any
10 additional standard deduction under sec-
11 tion 63(c)(3) which would be applicable to
12 the individual if clause (iii) applied.

13 “(v) An individual who would be a
14 qualifying relative described in clause (iii)
15 for the taxable year if—

16 “(I) the requirements of clause
17 (iv) are met with respect to the indi-
18 vidual; and

19 “(II) the requirements of sub-
20 paragraph (B) are met with respect to
21 the individual in lieu of the support
22 test of section 152(d)(1)(C).

23 “(B) RESIDENCY TEST.—The require-
24 ments of this subparagraph are met if an indi-

vidual 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 such applicable individual for the credit under this section.

1 “(ii) NO AGREEMENT.—If each indi-
2 vidual required under clause (i) to file a
3 written declaration under clause (i) does
4 not do so, the individual with the highest
5 modified adjusted gross income (as defined
6 in section 32(c)(5) (as in effect on the day
7 before the enactment of the Economic
8 Growth and Tax Relief Reconciliation Act
9 of 2001)) shall be treated as the eligible
10 caregiver.

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

19 “(d) IDENTIFICATION REQUIREMENT.—No credit
20 shall be allowed under this section to a taxpayer with re-
21 spect to any applicable individual unless the taxpayer in-
22 cludes the name and taxpayer identification number of
23 such individual, and the identification number of the phy-
24 sician certifying such individual, on the return of tax for
25 the taxable year.

1 “(e) TAXABLE YEAR MUST BE FULL TAXABLE
2 YEAR.—Except in the case of a taxable year closed by rea-
3 son of the death of the taxpayer, no credit shall be allow-
4 able under this section in the case of a taxable year cov-
5 ering a period of less than 12 months.

6 “(f) CITIZENS OR NATIONALS OF OTHER COUN-
7 TRIES.—

8 “(1) IN GENERAL.—The terms ‘applicable indi-
9 vidual’ and ‘eligible caregiver’ do not include an indi-
10 vidual who is not a citizen or national of the United
11 States unless such individual is a resident alien (as
12 defined in section 7702(b)).

13 “(2) EXCEPTION FOR ADOPTED CHILD.—Para-
14 graph (1) shall not exclude any child of a taxpayer
15 (within the meaning of section 152(f)(1)(B)) if—

16 “(A) for the taxable year of the taxpayer,
17 the child has the same principal place of abode
18 as the taxpayer and is a member of the tax-
19 payer’s household, and

20 “(B) the taxpayer is a citizen, national, or
21 resident alien of the United States.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 6213(g)(2) of such Code is amend-
24 ed by striking “and” at the end of subparagraph
25 (O), by striking the period at the end of subpara-

1 graph (P) and inserting “, and”, and by inserting
2 after subparagraph (P) the following new subpara-
3 graph:

4 “(Q) an omission of a correct TIN or phy-
5 sician identification required under section
6 36D(d) (relating to credit for taxpayers with
7 long-term care needs) to be included on a re-
8 turn.”.

9 (2) The table of sections for subpart C of part
10 IV of subchapter A of chapter 1 of such Code is
11 amended by inserting after the item relating to sec-
12 tion 36C the following new item:

“Sec. 36D. Credit for taxpayers with long-term care needs.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2010.

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