

112TH CONGRESS  
2D SESSION

# H. R. 4397

To amend the Internal Revenue Code of 1986 to allow a deduction for expenses paid for household and dependent care services necessary for gainful employment and to increase, and make refundable, the credit for such expenses.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 2012

Mrs. MALONEY introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a deduction for expenses paid for household and dependent care services necessary for gainful employment and to increase, and make refundable, the credit for such expenses.

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 “Child Care Afford-  
5       ability Act of 2012”.

1 **SEC. 2. ALLOWANCE OF DEDUCTION FOR EXPENSES FOR**  
2 **HOUSEHOLD AND DEPENDENT CARE SERV-**  
3 **ICES NECESSARY FOR GAINFUL EMPLOY-**  
4 **MENT.**

5 (a) IN GENERAL.—Part VII of subchapter B of chap-  
6 ter 1 of the Internal Revenue Code of 1986 (relating to  
7 additional itemized deductions for individuals) is amended  
8 by redesignating section 224 as section 225 and inserting  
9 after section 223 the following new section:

10 **“SEC. 224. EXPENSES FOR HOUSEHOLD AND DEPENDENT**  
11 **CARE SERVICES NECESSARY FOR GAINFUL**  
12 **EMPLOYMENT.**

13 “(a) ALLOWANCE OF DEDUCTION.—In the case of an  
14 individual for whom there are 1 or more qualifying individ-  
15 uals with respect to such individual, there shall be allowed  
16 as a deduction an amount equal to so much of the employ-  
17 ment-related expenses paid by such individual during the  
18 taxable year as do not exceed—

19 “(1) \$13,000 if there is 1 qualifying individual  
20 with respect to the taxpayer for such taxable year,  
21 or

22 “(2) 200 percent of the dollar amount in effect  
23 under paragraph (1) for the taxable year if there are  
24 2 or more qualifying individuals with respect to the  
25 taxpayer for such taxable year.

1       “(b) DEFINITIONS AND SPECIAL RULES.—For pur-  
2 poses of this section—

3               “(1) QUALIFYING INDIVIDUAL; EMPLOYMENT-  
4 RELATED EXPENSES.—The terms ‘qualifying indi-  
5 vidual’ and ‘employment-related expenses’ shall have  
6 the respective meanings given such terms by section  
7 21(b).

8               “(2) DENIAL OF DOUBLE BENEFIT.—

9                       “(A) COORDINATION WITH DEPENDENT  
10 CARE ASSISTANCE PROGRAM.—The amount of  
11 employment-related expenses otherwise taken  
12 into account under subsection (a) shall be re-  
13 duced by the aggregate amount excludable from  
14 gross income under section 129 for the taxable  
15 year.

16                      “(B) COORDINATION WITH CREDIT FOR  
17 EMPLOYMENT-RELATED EXPENSES.—No deduc-  
18 tion shall be allowed under subsection (a) for a  
19 taxable year with respect to the employment-re-  
20 lated expenses of the taxpayer if the taxpayer  
21 elects to have section 21 apply for such taxable  
22 year.

23               “(3) SPECIAL RULE FOR SPOUSE WHO IS A  
24 STUDENT OR INCAPABLE OF CARING FOR HIM-  
25 SELF.—In the case of a spouse who is a student or

1 a qualified individual described in section  
2 21(b)(1)(C), for purposes of paragraph (4), such  
3 spouse shall be deemed for each month during which  
4 such spouse is a full-time student at an educational  
5 institution, or is such a qualifying individual, to be  
6 gainfully employed and to have earned income of not  
7 less than—

8 “(A)  $\frac{1}{12}$  of the amount in effect under  
9 subsection (a)(1) if such subsection applies for  
10 the taxable year, or

11 “(B)  $\frac{1}{12}$  of the amount in effect under  
12 subsection (a)(2) if such subsection applies for  
13 the taxable year.

14 In the case of any husband and wife, this paragraph  
15 shall apply with respect to only one spouse for any  
16 one month.

17 “(4) OTHER SPECIAL RULES.—Rules similar to  
18 the rules of subsections (d)(1) and (e) of section 21  
19 shall apply for purposes of this section.

20 “(c) INFLATION ADJUSTMENT.—

21 “(1) IN GENERAL.—In the case of a taxable  
22 year beginning after 2013, the dollar amount under  
23 subsection (a)(1) shall be increased by an amount  
24 equal to—

25 “(A) such dollar amount, multiplied by

1           “(B) the cost-of-living adjustment deter-  
2           mined under section 1(f)(3) for the calendar  
3           year in which the taxable year begins, deter-  
4           mined by substituting ‘calendar year 2012’ for  
5           ‘calendar year 1992’ in subparagraph (B)  
6           thereof.

7           “(2) ROUNDING.—If any amount as adjusted  
8           under subparagraph (A) is not a multiple of \$100,  
9           such amount shall be rounded to the next lowest  
10          multiple of \$100.

11          “(d) REGULATIONS.—The Secretary shall prescribe  
12          such regulations as may be necessary to carry out the pur-  
13          poses of this section.”.

14          (b) DEDUCTIBLE WHETHER OR NOT TAXPAYER  
15          ITEMIZES.—Subsection (a) of section 62 of such Code (de-  
16          fining adjusted gross income) is amended by inserting  
17          after paragraph (21) the following new paragraph:

18                 “(22) EXPENSES FOR HOUSEHOLD AND DE-  
19                 PENDENT CARE SERVICES NECESSARY FOR GAINFUL  
20                 EMPLOYMENT.—The deduction allowed by section  
21                 224.”.

22          (c) CONFORMING AMENDMENTS.—

23                 (1) Subsection (e) of section 213 is amended by  
24                 inserting “or deduction under section 224” after  
25                 “section 21”.

1           (2) Paragraph (2) of section 6213(g) is amend-  
2       ed—

3           (A) by striking “or” in subparagraph (H)  
4       and inserting “, section 224 (relating to ex-  
5       penses for household and dependent care serv-  
6       ices necessary for gainful employment), or”,  
7       and

8           (B) by striking “or 6428” in subparagraph  
9       (L) and inserting “224, or 6428”.

10       (d) EFFECTIVE DATE.—The amendments made by  
11       this section shall apply to expenses paid in taxable years  
12       beginning after the date of the enactment of this Act.

13       **SEC. 3. MODIFICATION OF CREDIT FOR EXPENSES FOR**  
14               **HOUSEHOLD AND DEPENDENT CARE SERV-**  
15               **ICES NECESSARY FOR GAINFUL EMPLOY-**  
16               **MENT.**

17       (a) IN GENERAL.—

18           (1) INCREASE IN CREDIT LIMITATION.—Sub-  
19       section (c) of section 21 of the Internal Revenue  
20       Code of 1986 (relating to dollar limit on amount  
21       creditable) is amended—

22           (A) by striking “\$3,000” in paragraph (1)  
23       and inserting “\$13,000”, and

24           (B) by striking “\$6,000” in paragraph (2)  
25       and inserting “200 percent of the dollar

1 amount in effect under paragraph (1) for the  
2 taxable year”.

3 (2) INFLATION ADJUSTMENT.—Section 21 of  
4 such Code is amended by redesignating subsection  
5 (f) as subsection (g) and inserting after subsection  
6 (e) the following new subsection:

7 “(f) INFLATION ADJUSTMENT.—

8 “(1) IN GENERAL.—In the case of a taxable  
9 year beginning after 2013, the dollar amount under  
10 subsection (a)(1) shall be increased by an amount  
11 equal to—

12 “(A) such dollar amount, multiplied by

13 “(B) the cost-of-living adjustment deter-  
14 mined under section 1(f)(3) for the calendar  
15 year in which the taxable year begins, deter-  
16 mined by substituting ‘calendar year 2012’ for  
17 ‘calendar year 1992’ in subparagraph (B)  
18 thereof.

19 “(2) ROUNDING.—If any amount as adjusted  
20 under subparagraph (A) is not a multiple of \$100,  
21 such amount shall be rounded to the next lowest  
22 multiple of \$100.”.

23 (3) INCREASE IN DEEMED EARNED INCOME  
24 AMOUNTS.—Paragraph (2) of section 21(d) of such  
25 Code (relating to special rules for spouse who is a

1 student or incapable of caring for himself) is amend-  
 2 ed—

3 (A) by striking “\$250 if subsection (c)(1)”  
 4 in subparagraph (A) and inserting “ $\frac{1}{12}$  of the  
 5 amount in effect under subsection (c)(1) if such  
 6 subsection”, and

7 (B) by striking “\$500 if subsection (c)(2)”  
 8 in subparagraph (B) and inserting “ $\frac{1}{12}$  of the  
 9 amount in effect under subsection (c)(2) if such  
 10 subsection”.

11 (4) INCREASES IN CREDIT NOT SUBJECT TO  
 12 EGTRRA SUNSET.—Section 901 of the Economic  
 13 Growth and Tax Relief Reconciliation Act of 2001  
 14 shall not apply to the amendments made by section  
 15 204 of such Act.

16 (b) COORDINATION WITH DEDUCTION FOR EMPLOY-  
 17 MENT-RELATED EXPENSES.—Subsection (e) of section 21  
 18 of such Code (relating to special rules) is amended by add-  
 19 ing at the end the following new paragraph:

20 “(11) ELECTION TO HAVE SECTION APPLY.—  
 21 This section shall apply to any taxpayer for any tax-  
 22 able year only if such taxpayer elects (at such time  
 23 and in such manner as the Secretary may by regula-  
 24 tions prescribe) to have this section apply for such  
 25 taxable year.”.



1 (c) CREDIT MADE REFUNDABLE.—

2 (1) CREDIT MOVED TO SUBPART RELATING TO  
3 REFUNDABLE CREDITS.—Such Code is amended—

4 (A) by redesignating section 21, as amend-  
5 ed by this section, as section 36B, and

6 (B) by moving section 36B (as so redesign-  
7 nated) from subpart A of part IV of subchapter  
8 A of chapter 1 to the location immediately be-  
9 fore section 37 in subpart C of part IV of sub-  
10 chapter A of chapter 1.

11 (d) CONFORMING AMENDMENTS.—

12 (1) Section 224(b) of such Code, as added by  
13 this Act, is amended—

14 (A) by striking “section 21(b)” in para-  
15 graph (1) and inserting “section 36B(b)”,

16 (B) by striking “section 21” in paragraph  
17 (2)(B) and inserting “section 36B”,

18 (C) by striking “section 21(b)(1)(C)” in  
19 paragraph (3) and inserting “section  
20 36B(b)(1)(C)”, and

21 (D) by striking “section 21” in paragraph  
22 (4) and inserting “section 36B”.

23 (2) Subsection (e) of section 213 of such Code  
24 is amended by striking “section 21” and inserting  
25 “section 36B”.

1           (3) Paragraph (2) of section 6213(g) of such  
2       Code is amended by striking “section 21” each place  
3       it appears and inserting “section 36B”.

4           (4) Paragraph (2) of section 1324(b) of title  
5       31, United States Code, is amended by inserting “,  
6       36B,” after “36A,”.

7           (5) The table of sections for subpart A of part  
8       IV of subchapter A of chapter 1 of the Internal Rev-  
9       enue Code of 1986 is amended by striking the item  
10      relating to section 21.

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

“Sec. 36B. Expenses for household and dependent care services necessary for  
    gainful employment.”.

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

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