

115TH CONGRESS
1ST SESSION

S. 1849

To amend the Internal Revenue Code of 1986 to modify the earned income tax credit to account for the amount by which economic growth has outpaced income growth, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2017

Mr. BROWN 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 modify the earned income tax credit to account for the amount by which economic growth has outpaced income growth, and for other purposes.

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 “Grow American In-
5 comes Now Act of 2017” or the “GAIN Act of 2017”.

6 **SEC. 2. MODIFICATION OF EARNED INCOME TAX CREDIT.**

7 (a) IN GENERAL.—

(1) INCREASE IN CREDIT PERCENTAGE.—The table in section 32(b)(1) of the Internal Revenue Code of 1986 is amended—

(A) by striking “7.65” in the second column (relating to credit percentage) and inserting “30”;

(B) by striking “7.65” in the third column (relating to phaseout percentage) and inserting “15.98”;

(C) by striking “34” and inserting “65.28”;

(D) by striking “40” and inserting “76.80”; and

(E) by striking “45” and inserting “86.40”.

(2) EARNED INCOME AMOUNT AND PHASEOUT AMOUNT.—

(A) IN GENERAL.—Subparagraph (A) of section 32(b)(2) of such Code is amended by striking “Subject to subparagraph (B), the earned income amount and the phaseout amount” and inserting “Subject to subparagraph (B)—

“(i) PHASEOUT AMOUNT.—The phaseout amount is \$18,340.

1 “(ii) EARNED INCOME AMOUNT.—The
2 earned income amount”.

3 (B) CREDIT PHASE-IN ENDS.—Section
4 32(b)(2)(A)(ii) of such Code, as amended by
5 subparagraph (A), is further amended by strik-
6 ing the table and inserting the following:

“In the case of an eligible individual with:	The earned income amount is:
1 qualifying child	\$10,000
2 or more qualifying children	\$14,040
No qualifying children	\$10,000.”.

7 (b) ELIGIBILITY AGE.—Subclause (II) of section
8 32(c)(1)(A)(ii) of the Internal Revenue Code of 1986 is
9 amended by striking “25” and inserting “21”.

10 (c) CONFORMING AND TECHNICAL AMENDMENT.—
11 Paragraph (1) of section 32(j) of the Internal Revenue
12 Code of 1986 is amended to read as follows:

13 “(1) IN GENERAL.—In the case of any taxable
14 year beginning after 2016, each of the dollar
15 amounts in subsections (b)(2) and (i)(1) shall be in-
16 creased by an amount equal to—

17 “(A) such dollar amount, multiplied by

18 “(B) the cost-of-living adjustment deter-
19 mined under section 1(f)(3) for the calendar
20 year in which the taxable year begins, deter-
21 mined—

22 “(i) in the case of amounts in sub-
23 section (b)(2)(A), by substituting ‘calendar

1 year 2016’ for ‘calendar year 1992’ in sub-
 2 paragraph (B) thereof, and

3 “(ii) in the case of amounts in sub-
 4 section (i)(1), by substituting ‘calendar
 5 year 1995’ for ‘calendar year 1992’ in sub-
 6 paragraph (B) thereof.”.

7 (d) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to taxable years beginning after
 9 December 31, 2016.

10 **SEC. 3. ADVANCE PAYMENT OF EARNED INCOME CREDIT.**

11 (a) IN GENERAL.—Chapter 25 of subtitle C of the
 12 Internal Revenue Code of 1986 is amended by inserting
 13 after section 3506 the following new section:

14 **“SEC. 3507. ADVANCE PAYMENT OF EARNED INCOME CRED-
 15 IT.**

16 “(a) ADVANCE PAYMENT.—

17 “(1) IN GENERAL.—An employer making pay-
 18 ment of wages to an employee with respect to whom
 19 an eligibility certificate is in effect shall, at the time
 20 of paying such wages for the payroll period elected
 21 by the employee under paragraph (2), make an addi-
 22 tional lump sum payment to such employee equal to
 23 the earned income advance amount (except as pro-
 24 vided in subsection (b)(1)(C)(ii)) of such employee.

1 “(2) PAYMENTS AVAILABLE AFTER 6 MONTHS
2 OF EMPLOYMENT DURING CALENDAR YEAR.—For
3 purposes of paragraph (1), an employee with respect
4 to whom an eligibility certificate is in effect for the
5 calendar year may elect to receive the earned income
6 advance amount at the same time as wages for any
7 payroll period which begins after the employee has
8 been paid wages by the employer for a period of not
9 less than 6 months during such calendar year.

10 “(b) ELIGIBILITY CERTIFICATE.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, an eligibility certificate is a statement sub-
13 mitted by an employee to the employer which—

14 “(A) certifies that the employee is eligible
15 to receive the credit provided by section 32 for
16 the taxable year,

17 “(B) certifies that the employee does not
18 have an eligibility certificate in effect for the
19 calendar year with respect to the payment of
20 wages by another employer, and

21 “(C) certifies that—

22 “(i) an eligibility certificate has not
23 been in effect for the spouse of the em-
24 ployee on any date during the calendar
25 year, or

1 “(ii) such a certificate is in effect for
 2 the spouse of the employee, and the em-
 3 ployee is eligible to receive only $\frac{1}{2}$ the
 4 earned income advance amount otherwise
 5 determined with respect to the employee.

6 “(2) EMPLOYER NOT RESPONSIBLE FOR
 7 VERIFICATION.—For purposes of this section, an
 8 employer shall not—

9 “(A) be required to verify any certification
 10 made by an employee in the statement de-
 11 scribed in paragraph (1), or

12 “(B) be held liable for any false claims or
 13 statements made by an employee in regards to
 14 such statement.

15 “(c) EARNED INCOME ADVANCE AMOUNT.—

16 “(1) DETERMINATION OF AMOUNT.—

17 “(A) IN GENERAL.—Subject to subpara-
 18 graph (B), the term ‘earned income advance
 19 amount’ means, with respect to any payroll pe-
 20 riod, the amount determined—

21 “(i) on the basis of the wages of the
 22 employee from the employer during such
 23 calendar year through such payroll period,
 24 and

1 “(ii) in accordance with tables issued
2 by the Secretary.

3 “(B) LIMITATION.—For each calendar
4 year, except as provided in subparagraph (C),
5 the earned income advance amount shall not ex-
6 ceed \$500.

7 “(C) ADJUSTMENT FOR INFLATION.—

8 “(i) IN GENERAL.—In the case of any
9 taxable year beginning after 2019, the
10 \$500 amount in subparagraph (B) shall be
11 increased by an amount equal to—

12 “(I) such dollar amount, multi-
13 plied by

14 “(II) the cost-of-living adjust-
15 ment determined under section 1(f)(3)
16 for the calendar year in which the tax-
17 able year begins determined by sub-
18 stituting ‘calendar year 2018’ for ‘cal-
19 endar year 1992’ in subparagraph (B)
20 thereof.

21 “(ii) ROUNDING.—If any increase de-
22 termined under paragraph (1) is not a
23 multiple of \$10, such increase shall be
24 rounded to the nearest multiple of \$10.

1 “(2) ARMED FORCES.—In the case of an em-
 2 ployee who is a member of the Armed Forces of the
 3 United States, the earned income advance amount
 4 shall be determined by taking into account the total
 5 wages of such employee, as determined for purposes
 6 of section 32.

7 “(3) ADVANCE AMOUNT TABLES.—For pur-
 8 poses of paragraph (1)(A)(ii), the tables issued by
 9 the Secretary shall be similar in form to the tables
 10 issued under section 3402 and, to the extent fea-
 11 sible, coordinated with such tables.

12 “(d) PAYMENTS TO BE TREATED AS PAYMENTS OF
 13 WITHHOLDING AND FICA TAXES.—

14 “(1) IN GENERAL.—Payments made by an em-
 15 ployer under subsection (a) to an employee—

16 “(A) shall not be treated as payment of
 17 compensation, and

18 “(B) shall be treated as made out of—

19 “(i) amounts required to be deducted
 20 and withheld for the payroll period under
 21 section 3401,

22 “(ii) amounts required to be deducted
 23 for the payroll period under section 3102,
 24 and

1 “(iii) amounts of the taxes imposed
 2 for the payroll period under section 3111,
 3 as if the employer had paid to the Secretary, on
 4 the day on which the wages are paid to the em-
 5 ployee, an amount equal to such payments.

6 “(2) ADVANCE PAYMENTS EXCEED TAXES
 7 DUE.—In the case of any employer, if for any pay-
 8 roll period the aggregate amount of earned income
 9 advance payments exceeds the sum of the amounts
 10 referred to in paragraph (1)(B), the employer shall
 11 pay only so much of such earned income advance
 12 payment as does not exceed such sum, and shall not
 13 make any further advance payments to the employee
 14 for the calendar year.

15 “(3) FAILURE TO MAKE ADVANCE PAY-
 16 MENTS.—Failure to make any payment of an earned
 17 income advance amount as required under this sec-
 18 tion shall be treated as the failure at such time to
 19 deduct and withhold under chapter 24 an amount
 20 equal to the earned income advance amount.

21 “(e) SUBMISSION OF CERTIFICATE.—

22 “(1) EFFECTIVE PERIOD.—An eligibility certifi-
 23 cate submitted to an employer at any time during
 24 the calendar year shall continue in effect with re-
 25 spect to the employee during such calendar year

1 until revoked by the employee or until another such
2 certificate takes effect under this section.

3 “(2) REQUIREMENT TO REVOKE CERTIFI-
4 CATE.—In the case of an employee who has sub-
5 mitted an eligibility certificate under this section and
6 subsequently becomes ineligible for the credit pro-
7 vided under section 32 for the taxable year, the em-
8 ployee shall, not later than 10 days after becoming
9 ineligible for such credit, submit to the employer a
10 revocation of such certificate.

11 “(3) FORM AND CONTENTS OF CERTIFICATE.—
12 Eligibility certificates shall be in such form and con-
13 tain such other information as the Secretary may by
14 regulations prescribe.

15 “(f) TAXPAYERS MAKING PRIOR FRAUDULENT OR
16 RECKLESS CLAIMS.—

17 “(1) IN GENERAL.—No earned income advance
18 amount shall be paid under this section for any tax-
19 able year in the disallowance period.

20 “(2) DISALLOWANCE PERIOD.—For purposes of
21 paragraph (1), the disallowance period is—

22 “(A) the period of 10 taxable years after
23 the most recent taxable year for which there
24 was a final determination that the taxpayer’s

1 claim of an earned income advance amount
2 under this section was due to fraud, and

3 “(B) the period of 2 taxable years after
4 the most recent taxable year for which there
5 was a final determination that the taxpayer’s
6 claim of an earned income advance amount
7 under this section was due to reckless or inten-
8 tional disregard of rules and regulations (but
9 not due to fraud).

10 “(g) TAXABLE YEAR.—The term ‘taxable year’
11 means the last taxable year of the employee under subtitle
12 A beginning in the calendar year in which the wages are
13 paid.

14 “(h) IRS NOTIFICATION.—The Internal Revenue
15 Service shall take such steps as may be appropriate to en-
16 sure that taxpayers who receive a refund of the credit
17 under section 32 are aware of the availability of earned
18 income advance amounts under this section.”.

19 (b) COORDINATION WITH ADVANCE PAYMENTS.—
20 Section 32 of the Internal Revenue Code of 1986 is
21 amended by inserting after subsection (f) the following
22 new subsection:

23 “(g) COORDINATION WITH ADVANCE PAYMENTS OF
24 EARNED INCOME CREDIT.—

1 “(1) RECAPTURE OF ADVANCE PAYMENTS.—If
 2 any payment is made to the individual by an em-
 3 ployer under section 3507 during any calendar year,
 4 then the tax imposed by this chapter for the individ-
 5 ual’s last taxable year beginning in such calendar
 6 year shall be increased by the aggregate amount of
 7 such payments.

8 “(2) RECONCILIATION OF PAYMENTS AD-
 9 VANCED AND CREDIT ALLOWED.—Any increase in
 10 tax under paragraph (1) shall not be treated as tax
 11 imposed by this chapter for purposes of determining
 12 the amount of any credit (other than the credit al-
 13 lowed by subsection (a)) allowable under this part.”.

14 (c) FILING REQUIREMENT.—Section 6012(a) of the
 15 Internal Revenue Code of 1986 is amended by inserting
 16 after paragraph (8) the following new paragraph:

17 “(9) Every individual who receives payments
 18 during the calendar year in which the taxable year
 19 begins under section 3507.”.

20 (d) RECEIPTS FOR EMPLOYEES.—Section 6051(a) of
 21 the Internal Revenue Code of 1986 is amended by insert-
 22 ing after paragraph (6) the following new paragraph:

23 “(7) the total amount paid to the employee
 24 under section 3507 (relating to advance payment of
 25 earned income credit),”.

1 (e) CLERICAL AMENDMENT.—The table of sections
2 for chapter 25 of subtitle C of the Internal Revenue Code
3 of 1986 is amended by inserting after the item relating
4 to section 3506 the following new item:

“Sec. 3507. Advance payment of earned income credit.”.

5 (f) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 the date which is 1 year after the date of the enactment
8 of this Act.

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