

115TH CONGRESS
1ST SESSION

S. 2024

To amend the Internal Revenue Code of 1986 to create a tax credit for foster families.

IN THE SENATE OF THE UNITED STATES

OCTOBER 26, 2017

Ms. HEITKAMP (for herself and Mr. KAINE) 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 create
a tax credit for foster families.

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 “Foster Care Tax Cred-
5 it Act”.

6 **SEC. 2. FOSTER CARE TAX CREDIT.**

7 (a) ALLOWANCE OF CREDIT.—

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

1 of 1986 is amended by inserting after section 25D
 2 the following new section:

3 **“SEC. 25E. FOSTER CARE TAX CREDIT.**

4 “(a) ALLOWANCE OF CREDIT.—With respect to each
 5 qualifying foster child of an eligible taxpayer, for each cal-
 6 endar month occurring during the taxable year that such
 7 child resides in the home of such taxpayer, there shall be
 8 allowed as a credit against the tax imposed by this chapter
 9 for the taxable year an amount equal to $\frac{1}{12}$ of the amount
 10 determined under subsection (b).

11 “(b) AMOUNT DETERMINED.—

12 “(1) IN GENERAL.—The amount determined
 13 under this subsection with respect to an eligible tax-
 14 payer and a taxable year is—

15 “(A) \$1,000, reduced by

16 “(B) \$50 for each \$1,000 (or fraction
 17 thereof) by which the eligible taxpayer’s modi-
 18 fied adjusted gross income exceeds the thresh-
 19 old amount.

20 For purposes of the preceding sentence, the term
 21 ‘modified adjusted gross income’ means adjusted
 22 gross income increased by any amount excluded
 23 from gross income under section 911, 931, or 933.

1 “(2) THRESHOLD AMOUNT.—For purposes of
2 paragraph (1), the term ‘threshold amount’ has the
3 meaning given such term by section 24(b)(2).

4 “(c) QUALIFYING FOSTER CHILD.—For purposes of
5 this section, the term ‘qualifying foster child’ means an
6 eligible foster child (within the meaning of section
7 152(f)(1)(C)) of the eligible taxpayer—

8 “(1) who has not attained age 17,

9 “(2) who is a citizen, national, or resident of
10 the United States,

11 “(3) who resides in the home of the eligible tax-
12 payer for not less than 1 calendar month during the
13 taxable year, and

14 “(4) with respect to whom the credit under sec-
15 tion 24 is not allowable to the eligible taxpayer or
16 any other taxpayer who would be an eligible tax-
17 payer but for paragraph (3) of subsection (d).

18 “(d) ELIGIBLE TAXPAYER.—For purposes of this
19 section, the term ‘eligible taxpayer’ means any taxpayer,
20 except that—

21 “(1) no single household shall include more
22 than 1 eligible taxpayer,

23 “(2) married individuals filing a joint return
24 shall be treated as 1 eligible taxpayer, and

1 “(3) in the case of individuals not described in
2 paragraph (2) who are members of the same house-
3 hold, only the taxpayer with the highest adjusted
4 gross income for the taxable year shall be treated as
5 an eligible taxpayer.

6 “(e) CALENDAR MONTH.—For purposes of this sec-
7 tion, if a foster child resides in the home of the taxpayer
8 for more than 15 consecutive days of a calendar month
9 but fewer than the total number of days in such calendar
10 month, such foster child shall be treated as residing in
11 the home of the taxpayer for the full calendar month.

12 “(f) PORTION OF CREDIT REFUNDABLE.—

13 “(1) IN GENERAL.—The aggregate credits al-
14 lowed to a taxpayer under subpart C shall be in-
15 creased by the lesser of—

16 “(A) the credit which would be allowed
17 under this section without regard to this sub-
18 section and the limitation under section 26(a)
19 (determined after any reduction of the credit
20 under section 24(a) by reason of section 24(d)),
21 or

22 “(B) the amount by which the aggregate
23 amount of credits allowed by this subpart (de-
24 termined without regard to this subsection, and
25 after any reduction of the credit under section

1 24(a) by reason of section 24(d)) would in-
2 crease if the limitation imposed by section 26(a)
3 were increased by the greater of—

4 “(i) 15 percent of so much of the tax-
5 payer’s earned income (within the meaning
6 of section 32) which is taken into account
7 in computing taxable income for the tax-
8 able year as exceeds \$3,000, or

9 “(ii) in the case of a taxpayer with 3
10 or more qualifying foster children residing
11 in the home of the taxpayer for all months
12 in the taxable year (without regard to
13 whether the same 3 children reside in the
14 home of the taxpayer for all such months),
15 the excess (if any) of—

16 “(I) the taxpayer’s social security
17 taxes for the taxable year, over

18 “(II) the credit allowed under
19 section 32 for the taxable year.

20 The amount of the credit allowed under
21 this subsection shall not be treated as a
22 credit allowed under this subpart and shall
23 reduce the amount of credit otherwise al-
24 lowable under subsection (a) without re-
25 gard to section 26(a). For purposes of sub-

1 paragraph (B), any amount excluded from
2 gross income by reason of section 112 shall
3 be treated as earned income which is taken
4 into account in computing taxable income
5 for the taxable year.

6 “(2) SOCIAL SECURITY TAXES.—For purposes
7 of paragraph (1), the term ‘social security taxes’ has
8 the same meaning as when used in section 24(d)(1).

9 “(g) IDENTIFICATION REQUIREMENTS.—

10 “(1) QUALIFYING CHILD IDENTIFICATION RE-
11 QUIREMENT.—No credit shall be allowed under this
12 section to an eligible taxpayer with respect to any
13 qualifying foster child unless the taxpayer includes
14 the name and taxpayer identification number of such
15 qualifying foster child on the return of tax for the
16 taxable year and such taxpayer identification num-
17 ber was issued on or before the due date for filing
18 such return.

19 “(2) TAXPAYER IDENTIFICATION REQUIRE-
20 MENT.—No credit shall be allowed under this section
21 if the identifying number of the eligible taxpayer was
22 issued after the due date for filing the return for the
23 taxable year.

24 “(h) RESTRICTIONS ON TAXPAYERS WHO IMPROP-
25 ERLY CLAIMED CREDIT IN PRIOR YEAR.—

1 “(1) TAXPAYERS MAKING PRIOR FRAUDULENT
2 OR RECKLESS CLAIMS.—

3 “(A) IN GENERAL.—No credit shall be al-
4 lowed under this section for any taxable year in
5 the disallowance period.

6 “(B) DISALLOWANCE PERIOD.—For pur-
7 poses of subparagraph (A), the disallowance pe-
8 riod is—

9 “(i) the period of 10 taxable years
10 after the most recent taxable year for
11 which there was a final determination that
12 the taxpayer’s claim of credit under this
13 section was due to fraud, and

14 “(ii) the period of 2 taxable years
15 after the most recent taxable year for
16 which there was a final determination that
17 the taxpayer’s claim of credit under this
18 section was due to reckless or intentional
19 disregard of rules and regulations (but not
20 due to fraud).

21 “(2) TAXPAYERS MAKING IMPROPER PRIOR
22 CLAIMS.—In the case of a taxpayer who is denied
23 credit under this section for any taxable year as a
24 result of the deficiency procedures under subchapter
25 B of chapter 63, no credit shall be allowed under

1 this section for any subsequent taxable year unless
 2 the taxpayer provides such information as the Sec-
 3 retary may require to demonstrate eligibility for
 4 such credit.”.

5 (2) CONFORMING AMENDMENTS.—

6 (A) Section 6211(b)(4) of the Internal
 7 Revenue Code of 1986 is amended by “inserting
 8 25E(f),” before “32,”.

9 (B) Section 1324(b)(2) of title 31, United
 10 States Code, is amended by inserting “25E,”
 11 after “25A,”.

12 (C) The table of sections for subpart A of
 13 part IV of subchapter A of chapter 1 of the In-
 14 ternal Revenue Code of 1986 is amended by in-
 15 serting after the item relating to section 25D
 16 the following new item:

“Sec. 25E. Foster care tax credit.”.

17 (b) APPLICATION OF TAX RETURN PREPARER DUE
 18 DILIGENCE PENALTY.—Section 6695(g) of the Internal
 19 Revenue Code of 1986 is amended by inserting “25E,”
 20 after “25A(a)(1),”.

21 (c) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to calendar months beginning after
 23 December 31, 2017, in taxable years beginning after such
 24 date.

1 (d) EDUCATION.—The Secretary of Health and
2 Human Services (or the Secretary’s delegate), in coordina-
3 tion with the Secretary of the Treasury or such Sec-
4 retary’s delegate, shall identify provisions in the Internal
5 Revenue Code of 1986 that can be used by or can benefit
6 foster families, and shall increase outreach efforts to pro-
7 vide information and educational materials regarding such
8 provisions to State and Indian tribal foster care agencies
9 and to foster families.

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