

116TH CONGRESS
1ST SESSION

S. 2976

To amend the Internal Revenue Code of 1986 to provide an election to advance future child tax credits in the year of birth or adoption.

IN THE SENATE OF THE UNITED STATES

DECEMBER 4, 2019

Mr. CASSIDY (for himself, Ms. SINEMA, Mr. DAINES, Mrs. CAPITO, and Mr. MANCHIN) 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 provide an election to advance future child tax credits in the year of birth or adoption.

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 “Advancing Support
5 for Working Families Act”.

6 **SEC. 2. ELECTION TO ADVANCE CHILD TAX CREDIT.**

7 (a) IN GENERAL.—Section 24 of the Internal Rev-
8 enue Code of 1986 is amended by adding at the end the
9 following new subsection:

1 “(i) ELECTION FOR ADVANCED CREDIT IN YEAR OF
2 BIRTH OR ADOPTION.—

3 “(1) IN GENERAL.—In the case of a taxpayer
4 who makes an election under this subsection with re-
5 spect to any applicable qualifying child—

6 “(A) the amount of the credit allowed
7 under subsection (a) with respect to such appli-
8 cable qualifying child for the taxable year in
9 which such applicable qualifying child is born or
10 adopted shall be increased by the applicable
11 amount, and

12 “(B) the amount determined under sub-
13 section (d) shall be increased by the amount of
14 credit allowed to the taxpayer under this section
15 by reason of subparagraph (A).

16 No election may be made under this subsection with
17 respect to an applicable qualifying child unless the
18 applicable qualifying child is alive at the time the
19 election is made.

20 “(2) OFFSETTING REDUCTION.—

21 “(A) IN GENERAL.—Except as otherwise
22 provided in this paragraph, if the amount of the
23 credit allowed to the taxpayer under subsection
24 (a) is increased under paragraph (1), the tax
25 imposed by this chapter shall be increased by

1 the applicable fraction of such increase for each
 2 taxable year in the offset period.

3 “(B) APPLICABLE FRACTION.—For pur-
 4 poses of this paragraph, the term ‘applicable
 5 fraction’ means a fraction—

6 “(i) the numerator of which is one,
 7 and

8 “(ii) the denominator of which is the
 9 total number of years in the offset period.

10 “(C) EXCEPTIONS.—

11 “(i) DEATH.—Subparagraph (A) shall
 12 not apply to any taxable year ending after
 13 the date of the death of—

14 “(I) the taxpayer, or

15 “(II) the applicable qualifying
 16 child with respect to the increase.

17 “(ii) DEFERMENT.—

18 “(I) IN GENERAL.—In the case
 19 of any taxpayer described in subclause
 20 (II) for the taxable year, no tax shall
 21 be imposed under subparagraph (A)
 22 for such taxable year and the number
 23 of taxable years in the offset period
 24 shall be increased (other than for pur-

poses of subparagraph (B)(ii)) by 1 year.

“(II) TAXPAYER DESCRIBED.—A taxpayer is described in this subclause for any taxable year if the earned income amount of the taxpayer for such taxable year is more than 20 percent less than the earned income amount of the taxpayer for the preceding taxable year and the taxpayer makes an election under this clause. The Secretary shall promulgate rules for calculating differences in the earned income amount of any taxpayer whose filing status is not the same as such taxpayer’s filing status in the preceding taxable year.

“(III) ELECTION.—An election made under this clause shall apply to all applicable qualifying children of the taxpayer with respect to whom an increase is allowed under this subsection and may not be made with respect to more than 3 taxable years in any offset period.

“(D) JOINT RETURNS.—In the case of an increase in credit allowed under paragraph (1) with respect to a joint return, half of such increase shall be treated as having been allowed to each individual filing such return for purposes of this paragraph.

“(E) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this paragraph, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

“(F) OFFSET PERIOD.—

“(i) IN GENERAL.—Except as provided in subparagraph (C)(ii), the term ‘offset period’ means, with respect to any increase under this paragraph, the 10 taxable years beginning with the taxable year in which the applicable qualifying child is born or adopted.

“(ii) SPECIAL RULE.—In the case of a qualifying child who is adopted by the taxpayer and who is over the age of 5 on the date the adoption becomes final, the number of taxable years in the offset period

shall be reduced by 1 year for each year by which the age attained by the qualifying child on the date the adoption becomes final is over the age of 5.

“(3) ELECTION TO CLAIM CREDIT ON PRIOR YEAR RETURN.—In the case of an applicable qualifying child born or adopted after the date that is 120 days after the date of the enactment of this subsection, a taxpayer may elect to treat such child as born or adopted on December 31 of the calendar year preceding such birth or adoption for purposes of this section.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) APPLICABLE QUALIFYING CHILD.—The term ‘applicable qualifying child’ means any qualifying child other than an eligible foster child (as defined in section 152(f)(1)(C)).

“(B) APPLICABLE AMOUNT.—

“(i) IN GENERAL.—The applicable amount is the amount, not to exceed the maximum credit amount, elected by the taxpayer.

“(ii) MAXIMUM CREDIT AMOUNT.—

1 “(I) IN GENERAL.—The max-
2 imum credit amount is \$5,000.

3 “(II) SPECIAL RULE FOR CER-
4 TAIN ADOPTED CHILDREN.—In the
5 case of a qualifying child who is
6 adopted by the taxpayer and who is
7 over the age of 5 on the date the
8 adoption becomes final, the maximum
9 credit amount shall be reduced by
10 \$500 for each year by which the age
11 attained by the qualifying child on the
12 date the adoption becomes final is
13 over the age of 5.

14 “(C) EARNED INCOME AMOUNT.—The
15 term ‘earned income amount’ means the
16 amount of earned income (within the meaning
17 of section 32) which is taken into account in
18 computing taxable income for the taxable year.
19 For purposes of the preceding sentence, any
20 amount excluded from gross income by reason
21 of section 112 shall be treated as earned income
22 which is taken into account in computing tax-
23 able income for the taxable year.

24 “(5) SPECIAL RULE FOR CERTAIN LOW-INCOME
25 INDIVIDUALS.—

“(A) IN GENERAL.—In the case of a taxpayer described in subparagraph (B)—

“(i) the applicable amount shall not exceed the lesser of—

“(I) the maximum credit amount,

or

“(II) the applicable percentage of the earned income amount of the taxpayer for the taxable year, and

“(ii) paragraph (2)(F) shall be applied—

“(I) by substituting ‘15 taxable years’ for ‘10 taxable years’ in clause (i) thereof, and

“(II) by substituting ‘age of 0’ for ‘age of 5’ each place it appears in clause (ii).

“(B) TAXPAYER DESCRIBED.—A taxpayer is described in this subparagraph if the increase in credits allowed under subpart C for the taxable year by reason of subsection (d)(1) (determined without regard to paragraph (1)(B)) is less than the amount that would be so determined if subsection (d)(1) were applied without regard to subparagraph (B) thereof.

1 “(C) APPLICABLE PERCENTAGE.—For
2 purposes of subparagraph (A)—

3 “(i) IN GENERAL.—The applicable
4 percentage is 25 percent.

5 “(ii) SPECIAL RULE FOR CERTAIN
6 ADOPTED CHILDREN.—In the case of a
7 qualifying child who is adopted by the tax-
8 payer and who is over the age of 5 on the
9 date the adoption becomes final, the appli-
10 cable percentage shall be reduced by 2.5
11 percentage points for each year by which
12 the age attained by the qualifying child on
13 the date the adoption becomes final is over
14 the age of 5.

15 “(6) SPECIAL RULE FOR YEAR OF BIRTH OR
16 ADOPTION.—

17 “(A) IN GENERAL.—In the case of a quali-
18 fying child who is born or adopted during the
19 taxable year and with respect to whom an elec-
20 tion is made under this subsection—

21 “(i) subsection (h)(7) shall not apply,
22 and

23 “(ii) no credit shall be allowed under
24 this section with respect to such qualifying

1 child unless the taxpayer includes one of
2 the following:

3 “(I) In the case of a qualifying
4 child who is adopted, the adoption
5 taxpayer identification number of such
6 child.

7 “(II) A social security number
8 (within the meaning of subsection
9 (h)(7)) of such child.

10 “(III) Such documentation as de-
11 termined by the Secretary as appro-
12 priate to establish that the qualifying
13 child qualifies for a social security
14 number (within the meaning of sub-
15 section (h)(7)).

16 “(B) ACCELERATION.—

17 “(i) IN GENERAL.—In any case in
18 which a taxpayer does not include a social
19 security number (within the meaning of
20 subsection (h)(7)) of a qualifying child
21 with respect to whom an election is made
22 under this subsection on the return of tax
23 for the taxable year of birth or adoption—

24 “(I) the tax imposed by this
25 chapter for the taxable year suc-

1 ceeding the taxable year in which the
2 birth or adoption of the qualifying
3 child occurs shall be increased by the
4 excess of the amount of the increase
5 in credit under paragraph (1) over the
6 amounts of tax imposed by paragraph
7 (2) for the preceding taxable year,
8 and

9 “(II) paragraph (2) shall not
10 apply with respect to such increase for
11 such taxable year or any subsequent
12 taxable year.

13 For purposes of this title, any increase in
14 tax under this subparagraph shall be treat-
15 ed in the same manner as an increase in
16 tax under paragraph (2).

17 “(ii) EXCEPTION IF SOCIAL SECURITY
18 NUMBER PROVIDED.—Clause (i) shall not
19 apply if the taxpayer includes on the re-
20 turn of tax for the taxable year succeeding
21 the taxable year in which the birth or
22 adoption of the qualifying child occurs the
23 social security number (within the meaning
24 of subsection (h)(7)) of such qualifying
25 child.

1 “(7) ADMINISTRATION AND REGULATIONS.—

2 The Secretary shall take such steps as necessary, in-
3 cluding through regulations and other guidance, in
4 order to—

5 “(A) enable and encourage taxpayers to
6 claim an increased credit under this subsection
7 as soon as practical after the birth or adoption
8 of a child, including through a process available
9 on the Internet,

10 “(B) expedite the processing of refunds in
11 connection with an election to claim the in-
12 creased credit on a prior year return under
13 paragraph (3),

14 “(C) prevent fraud and abuse of the in-
15 creased credit, including, if necessary, through
16 the submission of additional third-party infor-
17 mation related to the birth or adoption of a
18 child with respect to whom an increased credit
19 is claimed under this subsection, and

20 “(D) provide annual information to elect-
21 ing taxpayers relating to outstanding liability
22 with respect to offsetting reductions under
23 paragraph (2).”.

24 (b) CREDITS NOT ALLOWED AGAINST OFFSET.—

25 Section 26(b)(2) of the Internal Revenue Code of 1986

1 is amended by striking “and” at the end of subparagraph
 2 (X), by striking the period at the end of subparagraph
 3 (Y) and inserting “, and”, and by adding at the end the
 4 following new subparagraph:

5 “(Z) section 24(i)(2) (relating to offset of
 6 advanced child tax credit in year of birth or
 7 adoption).”.

8 (c) MATH ERROR AUTHORITY.—Section 6213(g)(2)
 9 of the Internal Revenue Code of 1986 is amended by strik-
 10 ing “and” at the end of subparagraph (P), by striking the
 11 period at the end of subparagraph (Q) and inserting “,
 12 and”, and by inserting after subparagraph (Q) the fol-
 13 lowing new subparagraph:

14 “(R) in the case of a taxpayer to whom
 15 section 24(i)(2) applies, an omission of correct
 16 information relating to the amount of any in-
 17 crease allowed under section 24(i), the applica-
 18 ble fraction (as defined in such section) of such
 19 increase, or the determination of whether the
 20 taxpayer is described in section
 21 24(i)(2)(C)(ii)(II).”.

22 (d) EFFECTIVE DATE.—

23 (1) IN GENERAL.—Except as provided in para-
 24 graph (2), the amendments made by this section

1 shall apply to taxable years beginning after Decem-
 2 ber 31, 2019.

3 (2) SPECIAL RULE FOR ELECTION TO CLAIM
 4 CREDIT ON PRIOR YEAR RETURN.—In the case of a
 5 taxpayer who makes an election under section
 6 24(i)(3) (as added by subsection (a)) with respect to
 7 a child born before January 1, 2021 (determined
 8 without regard to such section), the amendments
 9 made by this section shall apply to taxable years be-
 10 ginning after December 31, 2018.

11 (e) GAO STUDY.—

12 (1) IN GENERAL.—Not later than 2 years after
 13 the date of enactment of this Act, the Comptroller
 14 General of the United States shall submit to Con-
 15 gress a report on taxpayers making an election
 16 under section 24(i) of the Internal Revenue Code of
 17 1986, as added by subsection (a).

18 (2) MATTERS INCLUDED.—The report sub-
 19 mitted under paragraph (1) shall include the fol-
 20 lowing:

21 (A) The total number of taxpayers making
 22 such election for each month during 2019, and
 23 the average number of days occurring during
 24 the period beginning on the date on which such
 25 election is made and ending on the date on

1 which the Secretary of the Treasury (or the
2 Secretary's designee) makes a determination
3 that an increase under such section is allowed.

4 (B) The total number of taxpayers receiv-
5 ing an increased credit under such section dur-
6 ing 2019, and the average number of days oc-
7 curring during the period beginning on the date
8 on which such election is made and ending on
9 the date on which any refund related to such
10 increase is paid.

11 (C) An identification of any excessive delay
12 in any of the periods described in subpara-
13 graphs (A) and (B), and a description of the
14 causes for such delay, with recommendations to
15 address those excessive delays.

16 (D) The total number of taxpayers making
17 such election who failed to submit a social secu-
18 rity number of the qualifying child or such
19 other information required pursuant to section
20 24(i)(6)(A) of the Internal Revenue Code of
21 1986 (as added by subsection (a)), and a de-
22 scription of the barriers preventing taxpayers
23 from meeting such requirements, with rec-
24 ommendations on how to increase taxpayer

1 compliance and address delays caused by other
2 state and Federal agencies.

3 (E) The total number of elections for
4 deferment under section 24(i)(2)(C)(ii) of such
5 Code (as added by subsection (a)) and the num-
6 ber of such elections permitted.

7 (F) The total number of taxpayers not re-
8 quired to make offsetting increases in tax under
9 section 24(i)(2)(A) of such Code (as added by
10 subsection (a)) due to the death of the applica-
11 ble qualifying child or the taxpayer and the rev-
12 enue impact of such exceptions.

13 (G) A list of regulatory and legislative op-
14 tions, determined in consultation with family
15 and medical leave experts, on the feasibility of
16 expanding Federal tax benefits, including
17 through interaction with programs administered
18 by States, insurance companies, and employers,
19 to support taxpayers who take different types of
20 leave to which the Family and Medical Leave
21 Act of 1993 (29 U.S.C. 2601 et seq.) applies.

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