116TH CONGRESS
1ST SESSION

S. 690

To amend the Internal Revenue Code of 1986 to make the child tax credit fully refundable, establish an increased child tax credit for young children, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2019

Mr. BENNET (for himself, Mr. BROWN, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BOOKER, Mr. CARDIN, Mr. CASEY, Mr. COONS, Ms. CORTEZ MASTO, Ms. DUCKWORTH, Mr. DURBIN, Mrs. GILLIBRAND, Ms. HARRIS, Ms. HASSAN, Mr. HEINRICH, Ms. HIRONO, Mr. JONES, Ms. KLOBUCHAR, Mr. LEAHY, Mr. MARKEY, Mr. MENENDEZ, Mr. MERKLEY, Mr. MURPHY, Mrs. MURRAY, Mr. PETERS, Mr. REED, Mr. SANDERS, Mr. SCHATZ, Mr. SCHUMER, Mrs. SHAHEEN, Ms. SMITH, Ms. STABENOW, Mr. TESTER, Mr. VAN HOLLEN, Ms. WARREN, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to make the child tax credit fully refundable, establish an increased child tax credit for young children, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Family Act of 2019''.

SEC. 2. ESTABLISHMENT OF FULLY REFUNDABLE CHILD TAX CREDIT.

(a) ELIMINATION OF EXISTING CHILD TAX CREDIT.—Subpart A of part IV of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1986 is amended by striking section 24.

(b) ESTABLISHMENT OF FULLY REFUNDABLE CHILD TAX CREDIT.—Subpart C of part IV of subchapter A of chapter 1 of subtitle A of such Code is amended by inserting after section 36B the following new section:

''SEC. 36C. CHILD TAX CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) with respect to each qualifying child of the taxpayer who has attained 6 years of age before the close of such taxable year and for which the taxpayer is allowed a deduction under section 151, an amount equal to $3,000, and

''(2) with respect to each qualifying child of the taxpayer who has not attained 6 years of age before the close of such taxable year and for which the taxpayer is allowed a deduction under section 151, an amount equal to 120 percent of the dollar amount in paragraph (1).

"(b) LIMITATION.—

"(1) IN GENERAL.—The amount of the credit allowable under subsection (a) shall be reduced (but not below zero) by the applicable amount for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(2) THRESHOLD AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'threshold amount' means—

"(i) $180,000 in the case of a joint return,

"(ii) $130,000 in the case of an individual who is not married, and

"(iii) $90,000 in the case of a married individual filing a separate return.

"(B) MARITAL STATUS.—For purposes of this paragraph, marital status shall be determined under section 7703.

"(3) APPLICABLE AMOUNT.—For purposes of paragraph (1), the term 'applicable amount' means an amount equal to the quotient of—

"(A) the amount of the credit allowable under subsection (a), as determined without regard to this subsection, divided by

"(B) an amount equal to the product of—

"(i) $20, multiplied by

"(ii) the total number of qualifying children of the taxpayer.

"(c) QUALIFYING CHILD.—

"(1) IN GENERAL.—In this section, the term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained 17 years of age.

"(2) EXCEPTION FOR CERTAIN NON-CITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if subparagraph (A) of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning after 2020, the $3,000 amount in subsection (a)(1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under paragraph (2) for the calendar year in which the taxable year begins.

"(2) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year (as determined pursuant to section 1(f)(4)), exceeds

"(B) the CPI for calendar year 2019.

"(3) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

"(e) PARTIAL NON-REFUNDABLE CREDIT ALLOWED FOR CERTAIN OTHER DEPENDENTS.—

"(1) IN GENERAL.—In the case of a taxable year beginning after December 31, 2019, and before January 1, 2026, the aggregate credits allowed to a taxpayer under subpart A shall be increased by $500 for each dependent of the taxpayer (as defined in section 152) other than a qualifying child described in subsection (c). The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart.

"(2) EXCEPTION FOR CERTAIN NONCITIZENS.—Paragraph (1) shall not apply with respect to any individual who would not be a dependent if subparagraph (A) of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(3) LIMITATION.—

"(A) IN GENERAL.—The amount of the credit allowable under paragraph (1) shall be reduced (but not below zero) by $50 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount.

"(B) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(C) THRESHOLD AMOUNT.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'threshold amount' means—

"(I) $200,000 in the case of a joint return,

"(II) $150,000 in the case of an individual who is not married, and

"(III) $100,000 in the case of a married individual filing a separate return.

"(ii) MARTIAL STATUS.—For purposes of this subparagraph, marital status shall be determined under section 7703.

"(f) IDENTIFICATION REQUIREMENTS.—

"(1) QUALIFYING CHILD AND DEPENDENT IDENTIFICATION REQUIREMENT.—No credit shall be allowed under this section to a taxpayer with respect to any qualifying child or dependent unless the taxpayer includes the name and taxpayer identification number of such qualifying child or dependent on the return of tax for the taxable year and such taxpayer identification number was issued on or before the due date for filing such return.

"(2) TAXPAYER IDENTIFICATION REQUIREMENT.—No credit shall be allowed under this section if the taxpayer identification number of the taxpayer was issued after the due date for filing the return for the taxable year.

"(g) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

"(h) RESTRICTIONS ON TAXPAYERS WHO IMPROPERLY CLAIMED CREDIT IN PRIOR YEAR.—

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

"(A) IN GENERAL.—No credit shall be allowed under this section for any taxable year in the disallowance period.

"(B) DISALLOWANCE PERIOD.—For purposes of subparagraph (A), the disallowance period is—

"(i) the period of 10 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to fraud, and "(ii) the period of 2 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to reckless or intentional disregard of rules and regulations (but not due to fraud).

"(2) TAXPAYERS MAKING IMPROPER PRIOR CLAIMS.—In the case of a taxpayer who is denied credit under this section for any taxable year as a result of the deficiency procedures under subchapter B of chapter 63, no credit shall be allowed under this section for any subsequent taxable year unless the taxpayer provides such information as the Secretary may require to demonstrate eligibility for such credit.

"(i) RECONCILIATION OF CREDIT AND ADVANCE CREDIT.—

"(1) IN GENERAL.—The amount of the credit allowed under this section for any taxable year shall be reduced (but not below zero) by the aggregate amount of any advance payments of such credit under section 7527A for such taxable year.

"(2) EXCESS ADVANCE PAYMENTS.—If the aggregate amount of advance payments under section

7527A for the taxable year exceed the amount of the credit allowed under this section for such taxable year (determined without regard to paragraph (1)), the tax imposed by this chapter for such taxable year shall be increased by the amount of such excess''.

(c) ADVANCE PAYMENT OF CREDIT.—Chapter 77 of the Internal Revenue Code of 1986 is amended by inserting after section 7527 the following new section:

''SEC. 7527A. ADVANCE PAYMENT OF CHILD TAX CREDIT.

''(a) IN GENERAL.—As soon as practicable and not later than 1 year after the date of the enactment of this section, the Secretary shall establish a program for making advance payments of the credit allowed under subsection (a) of section 36C on a monthly basis (determined without regard to subsection (i)(1) of such section), or as frequently as the Secretary determines to be administratively feasible, to taxpayers allowed such credit.

''(b) LIMITATION.—

''(1) IN GENERAL.—The Secretary may make payments under subsection (a) only to the extent that the total amount of such payments made to any taxpayer during the taxable year does not exceed an amount equal to the excess, if any, of—

"(A) subject to paragraph (2), the amount determined under subsection (a) of section 36C with respect to such taxpayer (determined without regard to subsection (i) of such section) for such taxable year, over

"(B) the estimated tax imposed by subtitle A, as reduced by the credits allowable under subparts A and C (with the exception of section 36C) of such part IV, with respect to such taxpayer for such taxable year, as determined in such manner as the Secretary deems appropriate.

"(2) APPLICATION OF THRESHOLD AMOUNT LIMITATION.—The program described in subsection (a) shall make reasonable efforts to apply the limitation of section 36C(b) with respect to payments made under such program.".

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1986 is amended by striking the item relating to section 24.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of subtitle A of

such Code is amended by inserting after the item relating to section 36B the following:

"Sec. 36C. Child tax credit.".

(3) The table of sections for chapter 77 of such Code is amended by inserting after the item relating to section 7527 the following new item:

"Sec. 7527A. Advance payment of child tax credit.".

(4) Subparagraph (B) of section 45R(f)(3) of such Code is amended to read as follows:

"(B) SPECIAL RULE.—Any amounts paid pursuant to an agreement under section 3121(l) (relating to agreements entered into by American employers with respect to foreign affiliates) which are equivalent to the taxes referred to in subparagraph (A) shall be treated as taxes referred to in such subparagraph.".

(5) Section 152(f)(6)(B)(ii) of such Code is amended by striking "section 24" and inserting "section 36C".

(6) Paragraph (26) of section 501(c) of such Code is amended in the flush matter at the end by striking "section 24(c))" and inserting "section 36C(c))".

(7) Section 6211(b)(4)(A) of such Code is amended—

(A) by striking "24(d),", and

(B) by inserting “36C(a),” after “36B,”.

(8) Section 6213(g)(2) of such Code is amended—

(A) in subparagraph (I), by striking “section 24(e)” and inserting “section 36C(f)”, and

(B) in subparagraph (L), by striking “24, or 32” and inserting “32, or 36C”.

(9) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting “36C(a),” after “36B,”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2019.

SEC. 3. PAYMENTS TO POSSESSIONS.

(a) MIRROR CODE POSSESSION.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the application of section 36C of the Internal Revenue Code of 1986 (as added by section 2) with respect to taxable years beginning after 2019. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

(b) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the application of section 36C of such Code (as so added) for taxable years beginning after 2019 if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments to the residents of such possession.

(c) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No credit shall be allowed against United States income taxes for any taxable year under section 36C of the Internal Revenue Code of 1986 (as so added) to any person—

(1) to whom a credit is allowed against taxes imposed by the possession by reason of the amendments made by this section for such taxable year, or

(2) who is eligible for a payment under a plan described in subsection (b) with respect to such taxable year.

(d) DEFINITIONS AND SPECIAL RULES.—

(1) POSSESSION OF THE UNITED STATES.—For purposes of this section, the term ''possession of the United States'' includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

(2) MIRROR CODE TAX SYSTEM.—For purposes of this section, the term ''mirror code tax system'' means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(3) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this section shall be treated in the same manner as a refund due from the credit allowed under section 36C of the Internal Revenue Code of 1986.

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