

106TH CONGRESS
1ST SESSION

H. R. 2458

To amend the Internal Revenue Code of 1986 and to provide a refundable caregivers tax credit.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 1999

Mr. STARK (for himself and Mr. MARKEY) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 and to provide a refundable caregivers tax credit.

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 (a) SHORT TITLE.—This Act may be cited as the
5 “Caregivers Assistance Act of 1999”.

6 **SEC. 2. REFUNDABLE CREDIT FOR LONG-TERM CARE.**

7 (a) GENERAL RULE.—Subpart C of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 (relating to refundable credits) is amended by redess-

1 ignating section 35 as section 36 and by inserting after
2 section 34 the following new section:

3 **“SEC. 35. FAMILY CARE CREDIT.**

4 “(a) ALLOWANCE OF CREDIT.—There shall be al-
5 lowed as a credit against the tax imposed by this chapter
6 for the taxable year an amount equal to the sum of \$1,000
7 multiplied by the number of applicable individuals with re-
8 spect to whom the taxpayer is an eligible caregiver for the
9 taxable year.

10 “(b) LIMITATION BASED ON ADJUSTED GROSS IN-
11 COME.—

12 “(1) IN GENERAL.—The amount of the credit
13 allowable under subsection (a) shall be reduced (but
14 not below zero) by \$50 for each \$1,000 (or fraction
15 thereof) by which the taxpayer’s modified adjusted
16 gross income exceeds the threshold amount. For
17 purposes of the preceding sentence, the term ‘modi-
18 fied adjusted gross income’ means adjusted gross in-
19 come increased by any amount excluded from gross
20 income under section 911, 931, or 933.

21 “(2) THRESHOLD AMOUNT.—For purposes of
22 paragraph (1), the term ‘threshold amount’ means—

23 “(A) \$110,000 in the case of a joint re-
24 turn,

1 “(B) \$75,000 in the case of an individual
2 who is not married, and

3 “(C) \$55,000 in the case of a married in-
4 dividual filing a separate return.

5 For purposes of this paragraph, marital status shall
6 be determined under section 7703.

7 “(c) DEFINITIONS.—For purposes of this section—

8 “(1) APPLICABLE INDIVIDUAL.—

9 “(A) IN GENERAL.—The term ‘applicable
10 individual’ means, with respect to any taxable
11 year, any individual who has been certified, be-
12 fore the due date for filing the return of tax for
13 the taxable year (without extensions), by a phy-
14 sician (as defined in section 1861(r)(1) of the
15 Social Security Act) as being an individual with
16 long-term care needs described in subparagraph
17 (B) for a period—

18 “(i) which is at least 180 consecutive
19 days, and

20 “(ii) a portion of which occurs within
21 the taxable year.

22 Such term shall not include any individual oth-
23 erwise meeting the requirements of the pre-
24 ceding sentence unless within the 39½ month
25 period ending on such due date (or such other

1 period as the Secretary prescribes) a physician
2 (as so defined) has certified that such indi-
3 vidual meets such requirements.

4 “(B) INDIVIDUALS WITH LONG-TERM CARE
5 NEEDS.—An individual is described in this sub-
6 paragraph if the individual meets any of the fol-
7 lowing requirements:

8 “(i) The individual is at least 6 years
9 of age and—

10 “(I) is unable to perform (with-
11 out substantial assistance from an-
12 other individual) at least 3 activities
13 of daily living (as defined in section
14 7702B(c)(2)(B)) due to a loss of
15 functional capacity, or

16 “(II) requires substantial super-
17 vision to protect such individual from
18 threats to health and safety due to se-
19 vere cognitive impairment and is un-
20 able to perform at least 1 activity of
21 daily living (as so defined) or to the
22 extent provided in regulations pre-
23 scribed by the Secretary (in consulta-
24 tion with the Secretary of Health and

1 Human Services), is unable to engage
2 in age appropriate activities, or

3 “(III) requires substantial super-
4 vision to protect such individual from
5 threats to health and safety due to a
6 severe psychological disability, mental
7 retardation, or related developmental
8 disabilities and would otherwise re-
9 quire residence in a psychiatric hos-
10 pital, an intermediate care facility for
11 the mentally retarded, or similar resi-
12 dential facility approved by the Sec-
13 retary of Health and Human Services.

14 “(ii) The individual is at least 2 but
15 not 6 years of age and is unable due to a
16 loss of functional capacity to perform
17 (without substantial assistance from an-
18 other individual) at least 2 of the following
19 activities: eating, transferring, or mobility.

20 “(iii) The individual is under 2 years
21 of age and requires specific durable med-
22 ical equipment by reason of a severe health
23 condition or requires a skilled practitioner
24 trained to address the individual’s condi-

1 tion to be available if the individual’s par-
2 ents or guardians are absent.

3 “(C) PSYCHOLOGICAL DISABILITY DE-
4 FINED.—In this section, the term ‘psychological
5 disability’ shall refer to diagnosable clinical con-
6 ditions on Axis I or Axis II of the current edi-
7 tion of the American Psychiatric Association’s
8 Diagnostic and Statistical Manual of Mental
9 Disorders and is of a severity that requires sub-
10 stantial supervision or residence in a psychiatric
11 hospital or similar residential facility approved
12 by the Secretary.

13 “(D) MENTAL RETARDATION DEFINED.—
14 In this section, the term ‘mental retardation’
15 shall have the same meaning as ‘developmental
16 disabilities’ as defined in section 102 of the De-
17 velopmental Disabilities Assistance and Bill of
18 Rights Act (42 U.S.C. 6000) consistent with
19 the requirements of section 305(a)(2)(E) and is
20 of a severity that requires substantial super-
21 vision or residence in an intermediate care facil-
22 ity for the mentally retarded, or similar residen-
23 tial facility approved by the Secretary of Health
24 and Human Services.

25 “(2) ELIGIBLE CAREGIVER.—

1 “(A) IN GENERAL.—A taxpayer shall be
2 treated as an eligible caregiver for any taxable
3 year with respect to the following individuals:

4 “(i) The taxpayer.

5 “(ii) The taxpayer’s spouse.

6 “(iii) An individual with respect to
7 whom the taxpayer is allowed a deduction
8 under section 151 for the taxable year.

9 “(iv) An individual who would be de-
10 scribed in clause (iii) for the taxable year
11 if section 151(c)(1)(A) were applied by
12 substituting for the exemption amount an
13 amount equal to the sum of the exemption
14 amount, the standard deduction under sec-
15 tion 63(c)(2)(C), and any additional stand-
16 ard deduction under section 63(c)(3) which
17 would be applicable to the individual if
18 clause (iii) applied.

19 “(v) An individual who would be de-
20 scribed in clause (iii) for the taxable year
21 if—

22 “(I) the requirements of clause
23 (iv) are met with respect to the indi-
24 vidual, and

1 “(II) the requirements of sub-
2 paragraph (B) are met with respect to
3 the individual in lieu of the support
4 test of section 152(a).

5 “(B) RESIDENCY TEST.—The require-
6 ments of this subparagraph are met if an indi-
7 vidual has as his principal place of abode the
8 home of the taxpayer and—

9 “(i) in the case of an individual who
10 is an ancestor or descendant of the tax-
11 payer or the taxpayer’s spouse, is a mem-
12 ber of the taxpayer’s household for over
13 half the taxable year, or

14 “(ii) in the case of any other indi-
15 vidual, is a member of the taxpayer’s
16 household for the entire taxable year.

17 “(C) SPECIAL RULES WHERE MORE THAN
18 1 ELIGIBLE CAREGIVER.—

19 “(i) IN GENERAL.—If more than 1 in-
20 dividual is an eligible caregiver with re-
21 spect to the same applicable individual for
22 taxable years ending with or within the
23 same calendar year, a taxpayer shall be
24 treated as the eligible caregiver if each
25 such individual (other than the taxpayer)

1 files a written declaration (in such form
2 and manner as the Secretary may pre-
3 scribe) that such individual will not claim
4 such applicable individual for the credit
5 under this section.

6 “(ii) NO AGREEMENT.—If each indi-
7 vidual required under clause (i) to file a
8 written declaration under clause (i) does
9 not do so, the individual with the highest
10 modified adjusted gross income (as defined
11 in section 32(c)(5)) shall be treated as the
12 eligible caregiver.

13 “(iii) MARRIED INDIVIDUALS FILING
14 SEPARATELY.—In the case of married indi-
15 viduals filing separately, the determination
16 under this subparagraph as to whether the
17 husband or wife is the eligible caregiver
18 shall be made under the rules of clause (ii)
19 (whether or not one of them has filed a
20 written declaration under clause (i)).

21 “(d) IDENTIFICATION REQUIREMENT.—No credit
22 shall be allowed under this section to a taxpayer with re-
23 spect to any applicable individual unless the taxpayer in-
24 cludes the name and taxpayer identification number of
25 such individual, and the identification number of the phy-

1 sician or licensed independent practitioner licensed by the
2 State to render relevant diagnosis certifying such indi-
3 vidual, on the return of tax for the taxable year.

4 “(e) TAXABLE YEAR MUST BE FULL TAXABLE
5 YEAR.—Except in the case of a taxable year closed by rea-
6 son of the death of the taxpayer, no credit shall be allow-
7 able under this section in the case of a taxable year cov-
8 ering a period of less than 12 months.”.

9 (b) CONFORMING AND CLERICAL AMENDMENTS.—

10 (1) Paragraph (2) of section 6213(g) of such
11 Code (relating to mathematical or clerical error) is
12 amended—

13 (A) by striking “and” at the end of sub-
14 paragraph (K), by striking the period at the
15 end of subparagraph (L) and inserting “, and”,
16 and by inserting after subparagraph (L) the fol-
17 lowing new subparagraph:

18 “(M) an omission of a correct TIN or phy-
19 sician identification required under section
20 24(e) (relating to family care credit) to be in-
21 cluded on a return.”, and

22 (B) in the matter preceding clause (i) of
23 subparagraph (L), by striking “or 32” and in-
24 serting “32, or 35”.

1 (2) The table of sections for subpart C of part
2 IV of subchapter A of chapter 1 of such Code is
3 amended by striking the item relating to section 35
4 and inserting the following:

 “Sec. 35. Family care credit.
 “Sec. 36. Overpayments of tax.”

5 (c) APPROPRIATIONS FOR REFUND.—Section
6 1324(b)(2) of title 31, United States Code, is amended
7 by inserting before the period “, or of section 35 of such
8 Code”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2000.

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