

116TH CONGRESS
1ST SESSION

S. 1138

To amend the Internal Revenue Code of 1986 to expand the earned income and child tax credits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2019

Mr. BROWN (for himself, Mr. BENNET, Mr. DURBIN, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BOOKER, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. COONS, Ms. CORTEZ MASTO, Ms. DUCKWORTH, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Ms. HARRIS, Ms. HASSAN, Mr. HEINRICH, Ms. HIRONO, Mr. JONES, Mr. KAINE, Mr. KING, Ms. KLOBUCHAR, Mr. LEAHY, Mr. MANCHIN, Mr. MARKEY, Mr. MENENDEZ, Mr. MERKLEY, Mr. MURPHY, Mrs. MURRAY, Mr. PETERS, Mr. REED, Ms. ROSEN, Mr. SANDERS, Mr. SCHATZ, Mr. SCHUMER, Mrs. SHAHEEN, Ms. SMITH, Ms. STABENOW, Mr. TESTER, Mr. UDALL, Mr. VAN HOLLEN, Mr. WARNER, Ms. WARREN, Mr. WHITEHOUSE, and Mr. WYDEN) 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 expand the earned income and child tax credits, 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. AMENDMENT OF 1986 CODE.**

4 Except as otherwise expressly provided, whenever in
5 this Act an amendment or repeal is expressed in terms

1 of an amendment to, or repeal of, a section or other provi-
 2 sion, the reference shall be considered to be made to a
 3 section or other provision of the Internal Revenue Code
 4 of 1986.

5 **SEC. 2. EXPANSION OF EARNED INCOME CREDIT.**

6 (a) CREDIT PERCENTAGE; PHASEOUT PERCENT-
 7 AGE.—The table contained in paragraph (1) of section
 8 32(b) is amended to read as follows:

“In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	42.5	15.98
2 qualifying children	50	21.06
3 or more qualifying children	52.5	21.06
No qualifying children	20	15.98.”.

9 (b) EARNED INCOME AMOUNT; PHASEOUT
 10 AMOUNT.—

11 (1) IN GENERAL.—The table contained in sub-
 12 paragraph (A) of section 32(b)(2) is amended to
 13 read as follows:

“In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	\$10,180	\$18,660
2 or more qualifying children	\$14,290	\$18,660
No qualifying children	\$10,180	\$11,380.”.

14 (2) JOINT FILERS.—Subparagraph (B) of sec-
 15 tion 32(b)(2) is amended by striking “\$5,000” and
 16 inserting “\$5,690”.

1 (3) ADJUSTMENT FOR INFLATION.—Paragraph
2 (1) of section 32(j) is amended—

3 (A) by striking “after 2015” and inserting
4 “after 2018”;

5 (B) by striking “subsections (b)(2)(A)
6 and” in subparagraph (B)(i) and inserting
7 “subsection”;

8 (C) by striking “the \$5,000 amount in
9 subsection (b)(2)(B)” in subparagraph (B)(ii)
10 and inserting “amounts in subsection (b)(2)”;
11 and

12 (D) by striking “calendar year 2008” in
13 subparagraph (B)(ii) and inserting “calendar
14 year 2017”.

15 (c) AGE OF ELIGIBLE INDIVIDUAL.—Clause (ii) of
16 section 32(c)(1)(A) is amended—

17 (1) by striking “age 25” in subclause (II) and
18 inserting “age 19”;

19 (2) by striking “age 65” in subclause (II) and
20 inserting “age 68”;

21 (3) by striking “and” at the end of subclause
22 (II);

23 (4) by striking the period at the end of sub-
24 clause (III) and inserting “, and”; and

1 (5) by adding at the end the following new sub-
 2 clause:

3 “(IV) in the case of an individual
 4 who has not attained age 25 before
 5 the close of the taxable year, such in-
 6 dividual is not a student (as defined
 7 in section 152(f)(2)).”.

8 (d) ADVANCE PAYMENT OF EARNED INCOME CRED-
 9 IT.—

10 (1) IN GENERAL.—Chapter 25 of subtitle C is
 11 amended by inserting after section 3506 the fol-
 12 lowing new section:

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

15 “(a) ADVANCE PAYMENT.—

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

24 “(2) PAYMENTS AVAILABLE AFTER 6 MONTHS
 25 OF EMPLOYMENT DURING CALENDAR YEAR.—For

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

8 “(b) ELIGIBILITY CERTIFICATE.—

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

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

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

19 “(C) certifies that—

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

24 “(ii) such a certificate is in effect for
25 the spouse of the employee, and the em-

1 ployee is eligible to receive only $\frac{1}{2}$ the
 2 earned income advance amount otherwise
 3 determined with respect to the employee.

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

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

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

13 “(c) EARNED INCOME ADVANCE AMOUNT.—

14 “(1) DETERMINATION OF AMOUNT.—

15 “(A) IN GENERAL.—Subject to subpara-
 16 graph (B), the term ‘earned income advance
 17 amount’ means, with respect to any payroll pe-
 18 riod, the amount of the credit provided under
 19 section 32 as determined—

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

24 “(ii) in accordance with tables issued
 25 by the Secretary.

“(B) LIMITATION.—For each calendar year, except as provided in subparagraph (C), the earned income advance amount shall not exceed \$500.

“(C) ADJUSTMENT FOR INFLATION.—

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

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting ‘calendar year 2018’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

“(ii) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of \$10, such increase shall be rounded to the nearest multiple of \$10.

“(2) ARMED FORCES.—In the case of an employee who is a member of the Armed Forces of the United States, the earned income advance amount

1 shall be determined by taking into account the total
 2 wages of such employee, as determined for purposes
 3 of section 32.

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

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

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

13 “(A) shall not be treated as payment of
 14 compensation, and

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

16 “(i) amounts required to be deducted
 17 and withheld for the payroll period under
 18 section 3401,

19 “(ii) amounts required to be deducted
 20 for the payroll period under section 3102,
 21 and

22 “(iii) amounts of the taxes imposed
 23 for the payroll period under section 3111,

1 as if the employer had paid to the Secretary, on
2 the day on which the wages are paid to the em-
3 ployee, an amount equal to such payments.

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

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

19 “(e) SUBMISSION OF CERTIFICATE.—

20 “(1) EFFECTIVE PERIOD.—An eligibility certifi-
21 cate submitted to an employer at any time during
22 the calendar year shall continue in effect with re-
23 spect to the employee during such calendar year
24 until revoked by the employee or until another such
25 certificate takes effect under this section.

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

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

13 “(f) TAXPAYERS MAKING PRIOR FRAUDULENT OR
 14 RECKLESS CLAIMS.—

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

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

20 “(A) the period of 10 taxable years after
 21 the most recent taxable year for which there
 22 was a final determination that the taxpayer’s
 23 claim of an earned income advance amount
 24 under this section was due to fraud, and

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

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

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

17 (2) COORDINATION WITH ADVANCE PAY-
 18 MENTS.—Section 32 is amended by inserting after
 19 subsection (f) the following new subsection:

20 “(g) COORDINATION WITH ADVANCE PAYMENTS OF
 21 EARNED INCOME CREDIT.—

22 “(1) RECAPTURE OF ADVANCE PAYMENTS.—If
 23 any payment is made to the individual by an em-
 24 ployer under section 3507 during any calendar year,
 25 then the tax imposed by this chapter for the individ-

1 ual's last taxable year beginning in such calendar
 2 year shall be increased by the aggregate amount of
 3 such payments.

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

10 (3) FILING REQUIREMENT.—Section 6012(a) is
 11 amended—

12 (A) in paragraph (7), by striking “and” at
 13 the end;

14 (B) in paragraph (8), by adding “and” at
 15 the end; and

16 (C) by inserting after paragraph (8) the
 17 following new paragraph:

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

21 (4) RECEIPTS FOR EMPLOYEES.—Section
 22 6051(a) is amended by inserting after paragraph (6)
 23 the following new paragraph:

1 “(7) the total amount paid to the employee
2 under section 3507 (relating to advance payment of
3 earned income credit),”.

4 (5) CLERICAL AMENDMENT.—The table of sec-
5 tions for chapter 25 of subtitle C is amended by in-
6 serting after the item relating to section 3506 the
7 following new item:

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

8 (e) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2018.

11 **SEC. 3. PERMANENT EXPANSION AND MODIFICATION OF**
12 **CHILD TAX CREDIT.**

13 (a) PERMANENCE OF CERTAIN SPECIAL RULES.—

14 (1) CREDIT AMOUNT.—Subsection (a) of section
15 24 is amended by striking “\$1,000” and inserting
16 “\$2,000”.

17 (2) THRESHOLD AMOUNT.—Paragraph (2) of
18 section 24(b) is amended—

19 (A) by striking “\$110,000” in subpara-
20 graph (A) and inserting “\$200,000”;

21 (B) by striking “\$75,000” in subpara-
22 graph (B) and inserting “\$150,000”; and

23 (C) by striking “\$55,000” in subparagraph
24 (C) and inserting “\$100,000”.

1 (3) PARTIAL CREDIT ALLOWED FOR CERTAIN
 2 OTHER DEPENDENTS; ELIMINATION OF MAXIMUM
 3 AMOUNT OF REFUNDABLE CREDIT.—Subsection (h)
 4 of section 24 is amended—

5 (A) by striking paragraphs (1), (2), (3),
 6 (5), and (6) and by redesignating paragraphs
 7 (4) and (7) as paragraphs (1) and (2), respec-
 8 tively;

9 (B) by striking “(after the application of
 10 paragraph (2))” in subparagraph (A) of para-
 11 graph (1), as so redesignated;

12 (C) by striking “paragraph (7)” in sub-
 13 paragraph (C) of paragraph (1), as so redesign-
 14 ated, and inserting “paragraph (2)”;

15 (D) by inserting “for a taxable year begin-
 16 ning after December 31, 2017, and before Jan-
 17 uary 1, 2026,” after “under this section” in
 18 paragraph (2), as so redesignated; and

19 (E) by striking “FOR TAXABLE YEARS
 20 2018 THROUGH 2025” in the heading.

21 (b) INCREASE IN CREDIT FOR YOUNG CHILDREN.—
 22 Subsection (a) of section 24, as amended by subsection
 23 (a)(1), is amended by striking “\$2,000” and inserting
 24 “\$2,000 (\$3,000 in the case of a qualifying child who has
 25 not attained age 6)”.

1 (c) ADJUSTMENT FOR INFLATION.—Section 24 is
 2 amended by redesignating subsection (h), as amended by
 3 subsection (a)(3) of this section, as subsection (i) and by
 4 inserting after subsection (g) the following new subsection:

5 “(h) ADJUSTMENT FOR INFLATION.—

6 “(1) IN GENERAL.—In the case of any taxable
 7 year beginning after 2019, each of the dollar
 8 amounts in subsection (a) shall be increased by an
 9 amount equal to—

10 “(A) such dollar amount, multiplied by

11 “(B) the cost-of-living adjustment deter-
 12 mined under section 1(f)(3) for the calendar
 13 year in which the taxable year begins, deter-
 14 mined by substituting ‘calendar year 2018’ for
 15 ‘calendar year 2016’ in subparagraph (A)(ii)
 16 thereof.

17 “(2) ROUNDING.—If any amount as adjusted
 18 under paragraph (1) is not a multiple of \$50, such
 19 amount shall be rounded to the next lowest multiple
 20 of \$50.”.

21 (d) MODIFICATION OF QUALIFYING CHILD DEFINI-
 22 TION.—Paragraph (1) of section 24(c) is amended by in-
 23 serting “, determined without regard to paragraph (1)(D)
 24 thereof” after “section 152(c)”.

25 (e) TREATMENT AS FULLY REFUNDABLE.—

1 (1) CREDIT MOVED TO SUBPART RELATING TO
2 REFUNDABLE CREDITS.—

3 (A) IN GENERAL.—The Internal Revenue
4 Code of 1986 is amended—

5 (i) by redesignating section 24, as
6 amended by this section, as section 36C;
7 and

8 (ii) by moving such section, as so re-
9 designated, from subpart A of part IV of
10 subchapter A of chapter 1 to the location
11 immediately after section 36B in subpart
12 C of part IV of subchapter A of chapter 1.

13 (B) TECHNICAL AMENDMENTS.—

14 (i) Subsection (a) of section 36C, as
15 moved and redesignated by subparagraph
16 (A), is amended by striking “this chapter”
17 and inserting “this subtitle”.

18 (ii) Section 36C, as so moved and re-
19 designated, is amended—

20 (I) by striking subsection (d);
21 and

22 (II) by redesignating subsection
23 (i) as subsection (d), and by moving
24 such subsection to the location imme-
25 diately after subsection (c).

(C) PARTIAL CREDIT FOR OTHER DEPENDENTS NONREFUNDABLE.—Paragraph (1) of subsection (d) of section 36C, as moved and redesignated by subparagraph (B)(ii), is amended by adding at the end the following new subparagraph:

“(D) PORTION OF CREDIT NONREFUNDABLE.—The amount of the credit allowed under this paragraph—

“(i) shall not be treated as a credit allowed under this subpart, and

“(ii) shall not be taken into account in determining the amount of the credit under this section for purposes of section 7527A.”.

(D) CLERICAL AMENDMENTS.—

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

(ii) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“Sec. 36C. Child tax credit.”.

(2) ADVANCE PAYMENT OF CREDIT.—

1 (A) IN GENERAL.—Section 36C, as amend-
 2 ed by the preceding provisions of this section,
 3 is amended by adding at the end the following
 4 new subsection:

5 “(i) RECONCILIATION OF CREDIT AND ADVANCE
 6 CREDIT.—

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

12 “(2) EXCESS ADVANCE PAYMENTS.—If the ag-
 13 gregate amount of advance payments under section
 14 7527A for the taxable year exceed the amount of the
 15 credit allowed under this section for such taxable
 16 year (determined without regard to paragraph (1)),
 17 the tax imposed by this chapter for such taxable
 18 year shall be increased by the amount of such ex-
 19 cess.”.

20 (B) ADVANCE PAYMENT.—Chapter 77 is
 21 amended by inserting after section 7527 the fol-
 22 lowing new section:

23 **“SEC. 7527A. ADVANCE PAYMENT OF CHILD TAX CREDIT.**

24 “(a) IN GENERAL.—As soon as practicable and not
 25 later than 1 year after the date of the enactment of this

1 section, the Secretary shall establish a program for mak-
 2 ing advance payments of the credit allowed under section
 3 36C (determined without regard to subsection (i)(1) of
 4 such section) on a monthly basis, or as frequently as the
 5 Secretary determines to be administratively feasible, to
 6 taxpayers allowed such credit.

7 “(b) LIMITATION.—

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

13 “(A) subject to paragraph (2), the amount
 14 determined under section 36C with respect to
 15 such taxpayer (determined without regard to
 16 subsection (i) of such section) for such taxable
 17 year, over

18 “(B) the estimated tax imposed by subtitle
 19 A, as reduced by the credits allowable under
 20 subparts A and C (with the exception of section
 21 36C) of such part IV, with respect to such tax-
 22 payer for such taxable year, as determined in
 23 such manner as the Secretary deems appro-
 24 priate.

1 “(2) APPLICATION OF THRESHOLD AMOUNT
2 LIMITATION.—The program described in subsection
3 (a) shall make reasonable efforts to apply the limita-
4 tion of section 36C(b) with respect to payments
5 made under such program.”.

6 (C) CLERICAL AMENDMENT.—The table of
7 sections for chapter 77 is amended by inserting
8 after the item relating to section 7527 the fol-
9 lowing new item:

“Sec. 7527A. Advance payment of child tax credit.”.

10 (3) CONFORMING AMENDMENTS.—

11 (A) Subparagraph (B) of section 45R(f)(3)
12 is amended to read as follows:

13 “(B) SPECIAL RULE.—Any amounts paid
14 pursuant to an agreement under section 3121(l)
15 (relating to agreements entered into by Amer-
16 ican employers with respect to foreign affiliates)
17 which are equivalent to the taxes referred to in
18 subparagraph (A) shall be treated as taxes re-
19 ferred to in such subparagraph.”.

20 (B) Section 152(f)(6)(B)(ii) is amended by
21 striking “section 24” and inserting “section
22 36C”.

23 (C) Paragraph (26) of section 501(c) is
24 amended in the flush matter at the end by

1 striking “section 24(c))” and inserting “section
2 36C(c))”.

3 (D) Section 6211(b)(4)(A) is amended—

4 (i) by striking “24(d),”; and

5 (ii) by striking “and 36B, 168(k)(4)”

6 and inserting “36B, and 36C”.

7 (E) Section 6213(g)(2) is amended—

8 (i) in subparagraph (I), by striking

9 “section 24(e)” and inserting “section

10 36C(e)”;

11 (ii) in subparagraph (L), by striking

12 “24, or 32” and inserting “32, or 36C”;

13 and

14 (iii) in subparagraph (P)—

15 (I) by striking “24(g)(2)” and in-

16 serting “36C(g)(2)”;

17 (II) by striking “section 24” and

18 inserting “section 36C”.

19 (F) Section 6402(m) is amended by strik-
20 ing “section 24 (by reason of subsection (d)
21 thereof) or 32” and inserting “section 32 or
22 36C”.

23 (G) Section 6695(g)(2) is amended by
24 striking “24, 25A(a)(1), or 32” and inserting
25 “25A(a)(1), 32, or 36C”.

1 (H) Paragraph (2) of section 1324(b) of
 2 title 31, United States Code, is amended by in-
 3 serting “, 36C(a)” after “36B”.

4 (I) Section 1613(a)(11) of the Social Secu-
 5 rity Act (42 U.S.C. 1382b(a)(11)) is amended
 6 by striking “section 24 of the Internal Revenue
 7 Code of 1986 (relating to child tax credit) by
 8 reason of subsection (d) thereof” and inserting
 9 “section 36C of the Internal Revenue Code of
 10 1986 (relating to child tax credit), and any pay-
 11 ment made to such individual (or such spouse)
 12 under section 7527A of such Code (relating to
 13 advance payment of child tax credit)”.

14 (f) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to taxable years beginning after
 16 December 31, 2018.

17 **SEC. 4. EARNED INCOME CREDIT EXPANSION FOR PUERTO**
 18 **RICO.**

19 (a) IN GENERAL.—Subsequent to an amendment of
 20 the Puerto Rico Internal Revenue Code of 2011 expanding
 21 the earned income credit added by Act 257 in a similar
 22 manner as the amendments made by section 2 of this Act,
 23 the Secretary of the Treasury shall make annual payments
 24 to Puerto Rico in the amount determined under subsection
 25 (b). Such payments shall be made within a reasonable pe-

1 riod of time before the due date for the income tax in
 2 Puerto Rico each year, and shall be made only if Puerto
 3 Rico provides to the Secretary of the Treasury—

4 (1) an estimate, certified by the Financial Over-
 5 sight and Management Board for Puerto Rico, of
 6 the cost of such expansion in the first year; and

7 (2) annually thereafter, a report of the actual
 8 cost of such expansion in the preceding year and an
 9 estimate, certified by such Board, of the cost of such
 10 expansion in the year of the report.

11 (b) AMOUNT DETERMINED.—For purposes of sub-
 12 section (a), the amount determined with respect to any
 13 year is so much of the estimated cost (as reported under
 14 subsection (a)) of the expansion of the earned income
 15 credit in Puerto Rico for such year as does not exceed
 16 \$204,000,000, as applicable—

17 (1) reduced by the excess, if any, of—

18 (A) the amount of the payments made to
 19 Puerto Rico under this section for the preceding
 20 year; over

21 (B) the actual cost (as reported under sub-
 22 section (a)) of the expansion of the earned in-
 23 come credit in Puerto Rico for such preceding
 24 year; or

1 (2) increased by the excess, if any, of the
2 amount described in paragraph (1)(B) over the
3 amount described in paragraph (1)(A).

4 (c) COST OF EXPANSION.—For purposes of this sec-
5 tion, the cost of expanding the earned income credit in
6 Puerto Rico as described in subsection (a) shall include
7 only the cost of the amendments made as described in
8 such subsection, and shall not include the cost of laws in
9 effect as of the date of the enactment of this Act.

10 (d) REPORTING REQUIREMENTS.—The Treasury of
11 Puerto Rico shall submit to the Secretary of the Treasury
12 an annual report on the earned income credit of Puerto
13 Rico, including the number of beneficiaries, average bene-
14 fits for different households, participation rates for eligible
15 populations, error rates and other compliance matters,
16 and the effects of the credit on labor force participation
17 and poverty reduction.

18 (e) OUTREACH GRANT.—In addition to the payments
19 under subsection (a), the Secretary of the Treasury shall
20 make a one-time grant in the amount of \$5,000,000 to
21 Puerto Rico for the purpose of taxpayer education efforts
22 relating to the earned income credit, including education
23 of paid preparers.

24 (f) APPROPRIATIONS.—Such sums as are necessary,
25 not to exceed—

1 (1) \$209,000,000 in the first year after enact-
 2 ment of the amendment described in subsection (a);
 3 and

4 (2) except as provided in subsection (g),
 5 \$204,000,000 in each year thereafter (as long as
 6 Puerto Rico maintains an earned income credit as
 7 described in subsection (a)),

8 are hereby appropriated to the Secretary of the Treasury
 9 to carry out the purposes of this section.

10 (g) ADJUSTMENT FOR INFLATION.—

11 (1) IN GENERAL.—For each calendar year be-
 12 ginning after the year described in subsection (f)(1),
 13 the \$204,000,000 amount under subsections (b) and
 14 (f)(2) shall be increased by an amount equal to—

15 (A) such dollar amount; multiplied by

16 (B) the cost-of-living adjustment deter-
 17 mined under section 1(f)(3) of the Internal
 18 Revenue Code of 1986, determined by sub-
 19 stituting the calendar year preceding the year
 20 described in subsection (f)(1) for calendar year
 21 2016 in subparagraph (A)(ii) thereof.

22 (2) ROUNDING.—If any amount adjusted under
 23 paragraph (1) is not a multiple of \$500, such
 24 amount shall be rounded to the next lowest multiple
 25 of \$500.

1 **SEC. 5. REGULATION OF TAX RETURN PREPARERS.**

2 (a) IN GENERAL.—Subsection (a) of section 330 of
3 title 31, United States Code, is amended—

4 (1) by striking paragraph (1) and inserting the
5 following:

6 “(1) regulate—

7 “(A) the practice of representatives of per-
8 sons before the Department of the Treasury;
9 and

10 “(B) the practice of tax return preparers;
11 and”; and

12 (2) in paragraph (2)—

13 (A) by inserting “or a tax return preparer
14 to prepare tax returns” after “practice”;

15 (B) by inserting “or tax return preparer”
16 before “demonstrate”; and

17 (C) by inserting “or in preparing their tax
18 returns, claims for refund, or documents in con-
19 nection with tax returns or claims for refund”
20 after “cases” in subparagraph (D).

21 (b) AUTHORITY TO SANCTION REGULATED TAX RE-
22 TURN PREPARERS.—Subsection (c) of section 330 of title
23 31, United States Code, is amended—

24 (1) by striking “before the Department”;

25 (2) by inserting “or tax return preparer” after
26 “representative” each place it appears; and

1 (3) in paragraph (4), by striking “misleads or
2 threatens” and all that follows and inserting “mis-
3 leads or threatens—

4 “(A) any person being represented or any
5 prospective person being represented; or

6 “(B) any person or prospective person
7 whose tax return, claim for refund, or document
8 in connection with a tax return or claim for re-
9 fund, is being or may be prepared.”.

10 (c) MINIMUM COMPETENCY STANDARDS FOR TAX
11 RETURN PREPARERS.—Section 330 of title 31, United
12 States Code, is amended by adding at the end the fol-
13 lowing new subsection:

14 “(f) TAX RETURN PREPARERS.—

15 “(1) IN GENERAL.—Any tax return preparer
16 shall demonstrate minimum competency standards
17 under this subsection by—

18 “(A) obtaining an identifying number for
19 securing proper identification of such preparer
20 as described in section 6109(a)(4) of the Inter-
21 nal Revenue Code of 1986;

22 “(B) satisfying any examination and an-
23 nual continuing education requirements as pre-
24 scribed by the Secretary; and

1 “(C) completing a background check ad-
 2 ministered by the Secretary.

3 “(2) EXEMPTION.—The Secretary shall exempt
 4 tax return preparers who have been subject to com-
 5 parable examination, continuing education require-
 6 ments, and background checks administered by the
 7 Secretary or any comparable State licensing pro-
 8 gram. Such exemption shall extend directly to indi-
 9 viduals who are supervised by such preparers and
 10 are not required to secure an identification number
 11 under section 6109(a)(4).”.

12 (d) TAX RETURN PREPARER DEFINED.—Section
 13 330 of title 31, United States Code, as amended by sub-
 14 section (c), is amended by adding at the end the following
 15 new subsection:

16 “(g) TAX RETURN PREPARER.—For purposes of this
 17 section—

18 “(1) IN GENERAL.—The term ‘tax return pre-
 19 parer’ has the meaning given such term under sec-
 20 tion 7701(a)(36) of the Internal Revenue Code of
 21 1986.

22 “(2) TAX RETURN.—The term ‘tax return’ has
 23 the meaning given to the term ‘return’ under section
 24 6696(e)(1) of the Internal Revenue Code of 1986.

1 “(3) CLAIM FOR REFUND.—The term ‘claim for
2 refund’ has the meaning given such term under sec-
3 tion 6696(e)(2) of such Code.”.

4 (e) AMENDMENTS WITH RESPECT TO IDENTIFYING
5 NUMBER.—

6 (1) IN GENERAL.—Section 6109(a) is amended
7 by striking paragraph (4) and inserting the fol-
8 lowing:

9 “(4) FURNISHING IDENTIFYING NUMBER OF
10 TAX RETURN PREPARER.—

11 “(A) IN GENERAL.—Any return or claim
12 for refund prepared by a tax return preparer
13 shall bear such identifying number for securing
14 proper identification of such preparer, his em-
15 ployer, or both, as may be prescribed. For pur-
16 poses of this paragraph, the terms ‘return’ and
17 ‘claim for refund’ have the respective meanings
18 given to such terms by section 6696(e).

19 “(B) EXCEPTION.—Subparagraph (A)
20 shall not apply to any tax return preparer who
21 prepares a return or claim for refund under the
22 supervision and direction of a tax return pre-
23 parer who signs the return or claim for refund
24 and is a certified public accountant, an attorney
25 or enrolled agent.”.

1 (2) CLARIFICATION OF RESCISSION AUTHOR-
 2 ITY.—Section 6109 is amended by inserting after
 3 subsection (d) the following new subsection:

4 “(e) AUTHORITY TO RESCIND IDENTIFYING NUM-
 5 BER OF TAX RETURN PREPARER.—

6 “(1) IN GENERAL.—The Secretary may rescind
 7 an identifying number issued under subsection
 8 (a)(4) if—

9 “(A) after notice and opportunity for a
 10 hearing, the preparer is shown to be incom-
 11 petent or disreputable (as such terms are used
 12 in subsection (c) of section 330 of title 31,
 13 United States Code), and

14 “(B) rescinding the identifying number
 15 would promote compliance with the require-
 16 ments of this title and effective tax administra-
 17 tion.

18 “(2) RECORDS.—If an identifying number is re-
 19 scinded under paragraph (1), the Secretary shall
 20 place in the file in the Office of the Director of Pro-
 21 fessional Responsibility the opinion of the Secretary
 22 with respect to the determination, including—

23 “(A) a statement of the facts and cir-
 24 cumstances relating to the determination, and

25 “(B) the reasons for the rescission.”.

1 (f) GAO STUDY AND REPORT ON THE EXCHANGE
2 OF INFORMATION BETWEEN THE IRS AND STATE TAX-
3 ATION AUTHORITIES.—

4 (1) IN GENERAL.—Not later than 18 months
5 after the date of the enactment of this Act, the
6 Comptroller General shall conduct a study and sub-
7 mit to Congress a report on the sharing of informa-
8 tion between the Secretary of the Treasury and
9 State authorities, as authorized under section
10 6103(d) of the Internal Revenue Code of 1986, re-
11 garding identification numbers issued to paid tax re-
12 turn preparers and return preparer minimum stand-
13 ards.

14 (2) INCREASED INFORMATION SHARING.—The
15 study and report described in paragraph (1) shall in-
16 clude an analysis of the impact that increased infor-
17 mation sharing between Federal and State authori-
18 ties would have on efforts to enforce minimum
19 standards on paid tax return preparers.

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