II

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.

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 ''Advancing Support for Working Families Act''.

SEC. 2. ELECTION TO ADVANCE CHILD TAX CREDIT.

(a) IN GENERAL.—Section 24 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(i) ELECTION FOR ADVANCED CREDIT IN YEAR OF BIRTH OR ADOPTION.—

"(1) IN GENERAL.—In the case of a taxpayer who makes an election under this subsection with respect to any applicable qualifying child—

"(A) the amount of the credit allowed under subsection (a) with respect to such applicable qualifying child for the taxable year in which such applicable qualifying child is born or adopted shall be increased by the applicable amount, and

"(B) the amount determined under subsection (d) shall be increased by the amount of credit allowed to the taxpayer under this section by reason of subparagraph (A).

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

"(2) OFFSETTING REDUCTION.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, if the amount of the credit allowed to the taxpayer under subsection (a) is increased under paragraph (1), the tax imposed by this chapter shall be increased by the applicable fraction of such increase for each taxable year in the offset period.

"(B) APPLICABLE FRACTION.—For purposes of this paragraph, the term 'applicable fraction' means a fraction—

"(i) the numerator of which is one, and

"(ii) the denominator of which is the total number of years in the offset period.

"(C) EXCEPTIONS.—

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

"(I) the taxpayer, or

"(II) the applicable qualifying child with respect to the increase.

"(ii) DEFERMENT.—

"(I) IN GENERAL.—In the case of any taxpayer described in subclause (II) for the taxable year, no tax shall be imposed under subparagraph (A) for such taxable year and the number of taxable years in the offset period shall be increased (other than for purposes 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.—

"(I) IN GENERAL.—The maximum credit amount is $5,000.

"(II) SPECIAL RULE FOR CERTAIN ADOPTED CHILDREN.—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 maximum credit amount shall be reduced by $500 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.

"(C) EARNED INCOME AMOUNT.—The term 'earned income amount' means the amount of earned income (within the meaning of section 32) which is taken into account in computing taxable income for the taxable year. For purposes of the preceding sentence, any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.

"(5) SPECIAL RULE FOR CERTAIN LOW-INCOME 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.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The applicable percentage is 25 percent.

"(ii) SPECIAL RULE FOR CERTAIN ADOPTED CHILDREN.—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 applicable percentage shall be reduced by 2.5 percentage points 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.

"(6) SPECIAL RULE FOR YEAR OF BIRTH OR ADOPTION.—

"(A) IN GENERAL.—In the case of a qualifying child who is born or adopted during the taxable year and with respect to whom an election is made under this subsection—

"(i) subsection (h)(7) shall not apply, and

"(ii) no credit shall be allowed under this section with respect to such qualifying child unless the taxpayer includes one of the following:

"(I) In the case of a qualifying child who is adopted, the adoption taxpayer identification number of such child.

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

"(III) Such documentation as determined by the Secretary as appropriate to establish that the qualifying child qualifies for a social security number (within the meaning of subsection (h)(7)).

"(B) ACCELERATION.—

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

"(I) the tax imposed by this chapter for the taxable year succeeding the taxable year in which the birth or adoption of the qualifying child occurs shall be increased by the excess of the amount of the increase in credit under paragraph (1) over the amounts of tax imposed by paragraph (2) for the preceding taxable year, and

"(II) paragraph (2) shall not apply with respect to such increase for such taxable year or any subsequent taxable year.

For purposes of this title, any increase in tax under this subparagraph shall be treated in the same manner as an increase in tax under paragraph (2).

"(ii) EXCEPTION IF SOCIAL SECURITY NUMBER PROVIDED.—Clause (i) shall not apply if the taxpayer includes on the return of tax for the taxable year succeeding the taxable year in which the birth or adoption of the qualifying child occurs the social security number (within the meaning of subsection (h)(7)) of such qualifying child.

"(7) ADMINISTRATION AND REGULATIONS.—The Secretary shall take such steps as necessary, including through regulations and other guidance, in order to—

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

"(B) expedite the processing of refunds in connection with an election to claim the increased credit on a prior year return under paragraph (3),

"(C) prevent fraud and abuse of the increased credit, including, if necessary, through the submission of additional third-party information related to the birth or adoption of a child with respect to whom an increased credit is claimed under this subsection, and

"(D) provide annual information to electing taxpayers relating to outstanding liability with respect to offsetting reductions under paragraph (2).".

(b) CREDITS NOT ALLOWED AGAINST OFFSET.—Section 26(b)(2) of the Internal Revenue Code of 1986 is amended by striking ‘‘and’’ at the end of subparagraph (X), by striking the period at the end of subparagraph (Y) and inserting ‘‘, and’’, and by adding at the end the following new subparagraph:

‘‘(Z) section 24(i)(2) (relating to offset of advanced child tax credit in year of birth or adoption).’’.

(c) MATH ERROR AUTHORITY.—Section 6213(g)(2) of the Internal Revenue Code of 1986 is amended by striking ‘‘and’’ at the end of subparagraph (P), by striking the period at the end of subparagraph (Q) and inserting ‘‘, and’’, and by inserting after subparagraph (Q) the following new subparagraph:

‘‘(R) in the case of a taxpayer to whom section 24(i)(2) applies, an omission of correct information relating to the amount of any increase allowed under section 24(i), the applicable fraction (as defined in such section) of such increase, or the determination of whether the taxpayer is described in section 24(i)(2)(C)(ii)(II).’’.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section

shall apply to taxable years beginning after December 31, 2019.

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

(e) GAO STUDY.—

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

(2) MATTERS INCLUDED.—The report submitted under paragraph (1) shall include the following:

(A) The total number of taxpayers making such election for each month during 2019, and the average number of days occurring during the period beginning on the date on which such election is made and ending on the date on which the Secretary of the Treasury (or the Secretary's designee) makes a determination that an increase under such section is allowed.

(B) The total number of taxpayers receiving an increased credit under such section during 2019, and the average number of days occurring during the period beginning on the date on which such election is made and ending on the date on which any refund related to such increase is paid.

(C) An identification of any excessive delay in any of the periods described in subparagraphs (A) and (B), and a description of the causes for such delay, with recommendations to address those excessive delays.

(D) The total number of taxpayers making such election who failed to submit a social security number of the qualifying child or such other information required pursuant to section 24(i)(6)(A) of the Internal Revenue Code of 1986 (as added by subsection (a)), and a description of the barriers preventing taxpayers from meeting such requirements, with recommendations on how to increase taxpayer compliance and address delays caused by other state and Federal agencies.

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

(F) The total number of taxpayers not required to make offsetting increases in tax under section 24(i)(2)(A) of such Code (as added by subsection (a)) due to the death of the applicable qualifying child or the taxpayer and the revenue impact of such exceptions.

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

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