

111TH CONGRESS
1ST SESSION

H. R. 2045

To amend the Internal Revenue Code of 1986 to allow a deduction for expenses paid for household and dependent care services necessary for gainful employment and to increase, and make refundable, the credit for such expenses.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2009

Mrs. MALONEY (for herself, Ms. HIRONO, and Ms. CLARKE) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a deduction for expenses paid for household and dependent care services necessary for gainful employment and to increase, and make refundable, the credit for such expenses.

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 “Child Care Afford-
5 ability Act of 2009”.

1 **SEC. 2. ALLOWANCE OF DEDUCTION FOR EXPENSES FOR**
2 **HOUSEHOLD AND DEPENDENT CARE SERV-**
3 **ICES NECESSARY FOR GAINFUL EMPLOY-**
4 **MENT.**

5 (a) IN GENERAL.—Part VII of subchapter B of chap-
6 ter 1 of the Internal Revenue Code of 1986 (relating to
7 additional itemized deductions for individuals) is amended
8 by redesignating section 224 as section 225 and inserting
9 after section 223 the following new section:

10 **“SEC. 224. EXPENSES FOR HOUSEHOLD AND DEPENDENT**
11 **CARE SERVICES NECESSARY FOR GAINFUL**
12 **EMPLOYMENT.**

13 “(a) ALLOWANCE OF DEDUCTION.—In the case of an
14 individual for whom there are 1 or more qualifying individ-
15 uals with respect to such individual, there shall be allowed
16 as a deduction an amount equal to so much of the employ-
17 ment-related expenses paid by such individual during the
18 taxable year as do not exceed—

19 “(1) \$13,000 if there is 1 qualifying individual
20 with respect to the taxpayer for such taxable year,
21 or

22 “(2) 200 percent of the dollar amount in effect
23 under paragraph (1) for the taxable year if there are
24 2 or more qualifying individuals with respect to the
25 taxpayer for such taxable year.

1 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—

3 “(1) QUALIFYING INDIVIDUAL; EMPLOYMENT-
4 RELATED EXPENSES.—The terms ‘qualifying indi-
5 vidual’ and ‘employment-related expenses’ shall have
6 the respective meanings given such terms by section
7 21(b).

8 “(2) DENIAL OF DOUBLE BENEFIT.—

9 “(A) COORDINATION WITH DEPENDENT
10 CARE ASSISTANCE PROGRAM.—The amount of
11 employment-related expenses otherwise taken
12 into account under subsection (a) shall be re-
13 duced by the aggregate amount excludable from
14 gross income under section 129 for the taxable
15 year.

16 “(B) COORDINATION WITH CREDIT FOR
17 EMPLOYMENT-RELATED EXPENSES.—No deduc-
18 tion shall be allowed under subsection (a) for a
19 taxable year with respect to the employment-re-
20 lated expenses of the taxpayer if the taxpayer
21 elects to have section 21 apply for such taxable
22 year.

23 “(3) SPECIAL RULE FOR SPOUSE WHO IS A
24 STUDENT OR INCAPABLE OF CARING FOR HIM-
25 SELF.—In the case of a spouse who is a student or

1 a qualified individual described in section
2 21(b)(1)(C), for purposes of paragraph (4), such
3 spouse shall be deemed for each month during which
4 such spouse is a full-time student at an educational
5 institution, or is such a qualifying individual, to be
6 gainfully employed and to have earned income of not
7 less than—

8 “(A) $\frac{1}{12}$ of the amount in effect under
9 subsection (a)(1) if such subsection applies for
10 the taxable year, or

11 “(B) $\frac{1}{12}$ of the amount in effect under
12 subsection (a)(2) if such subsection applies for
13 the taxable year.

14 In the case of any husband and wife, this paragraph
15 shall apply with respect to only one spouse for any
16 one month.

17 “(4) OTHER SPECIAL RULES.—Rules similar to
18 the rules of subsections (d)(1) and (e) of section 21
19 shall apply for purposes of this section.

20 “(c) INFLATION ADJUSTMENT.—

21 “(1) IN GENERAL.—In the case of a taxable
22 year beginning after 2010, the dollar amount under
23 subsection (a)(1) shall be increased by an amount
24 equal to—

25 “(A) such dollar amount, multiplied by

1 “(B) the cost-of-living adjustment deter-
2 mined under section 1(f)(3) for the calendar
3 year in which the taxable year begins, deter-
4 mined by substituting ‘calendar year 2009’ for
5 ‘calendar year 1992’ in subparagraph (B)
6 thereof.

7 “(2) ROUNDING.—If any amount as adjusted
8 under subparagraph (A) is not a multiple of \$100,
9 such amount shall be rounded to the next lowest
10 multiple of \$100.

11 “(d) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary to carry out the pur-
13 poses of this section.”.

14 (b) DEDUCTIBLE WHETHER OR NOT TAXPAYER
15 ITEMIZES.—Subsection (a) of section 62 of such Code (de-
16 fining adjusted gross income) is amended by inserting
17 after paragraph (21) the following new paragraph:

18 “(22) EXPENSES FOR HOUSEHOLD AND DE-
19 PENDENT CARE SERVICES NECESSARY FOR GAINFUL
20 EMPLOYMENT.—The deduction allowed by section
21 224.”.

22 (c) CONFORMING AMENDMENTS.—

23 (1) Subsection (e) of section 213 is amended by
24 inserting “or deduction under section 224” after
25 “section 21”.

1 (2) Paragraph (2) of section 6213(g) is amend-
2 ed—

3 (A) by striking “or” in subparagraph (H)
4 and inserting “, section 224 (relating to ex-
5 penses for household and dependent care serv-
6 ices necessary for gainful employment), or”,
7 and

8 (B) by striking “or 6428” in subparagraph
9 (L) and inserting “224, or 6428”.

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to expenses paid in taxable years
12 beginning after the date of the enactment of this Act.

13 **SEC. 3. MODIFICATION OF CREDIT FOR EXPENSES FOR**
14 **HOUSEHOLD AND DEPENDENT CARE SERV-**
15 **ICES NECESSARY FOR GAINFUL EMPLOY-**
16 **MENT.**

17 (a) IN GENERAL.—

18 (1) INCREASE IN CREDIT LIMITATION.—Sub-
19 section (c) of section 21 of the Internal Revenue
20 Code of 1986 (relating to dollar limit on amount
21 creditable) is amended—

22 (A) by striking “\$3,000” in paragraph (1)
23 and inserting “13,000”, and

24 (B) by striking “\$6,000” in paragraph (2)
25 and inserting “200 percent of the dollar

1 amount in effect under paragraph (1) for the
2 taxable year”.

3 (2) INFLATION ADJUSTMENT.—Section 21 of
4 such Code is amended by redesignating subsection
5 (f) as subsection (g) and inserting after subsection
6 (e) the following new subsection:

7 “(f) INFLATION ADJUSTMENT.—

8 “(1) IN GENERAL.—In the case of a taxable
9 year beginning after 2010, the dollar amount under
10 subsection (a)(1) shall be increased by an amount
11 equal to—

12 “(A) such dollar amount, multiplied by

13 “(B) the cost-of-living adjustment deter-
14 mined under section 1(f)(3) for the calendar
15 year in which the taxable year begins, deter-
16 mined by substituting ‘calendar year 2009’ for
17 ‘calendar year 1992’ in subparagraph (B)
18 thereof.

19 “(2) ROUNDING.—If any amount as adjusted
20 under subparagraph (A) is not a multiple of \$100,
21 such amount shall be rounded to the next lowest
22 multiple of \$100.”.

23 (3) INCREASE IN DEEMED EARNED INCOME
24 AMOUNTS.—Paragraph (2) of section 21(d) of such
25 Code (relating to special rules for spouse who is a

1 student or incapable of caring for himself) is amend-
2 ed—

3 (A) by striking “\$250 if subsection (c)(1)”
4 in subparagraph (A) and inserting “ $\frac{1}{12}$ of the
5 amount in effect under subsection (c)(1) if such
6 subsection”, and

7 (B) by striking “\$500 if subsection (c)(2)”
8 in subparagraph (B) and inserting “ $\frac{1}{12}$ of the
9 amount in effect under subsection (c)(2) if such
10 subsection”.

11 (b) COORDINATION WITH DEDUCTION FOR EMPLOY-
12 MENT-RELATED EXPENSES.—Subsection (e) of section 21
13 of such Code (relating to special rules) is amended by add-
14 ing at the end the following new paragraph:

15 “(11) ELECTION TO HAVE SECTION APPLY.—
16 This section shall apply to any taxpayer for any tax-
17 able year only if such taxpayer elects (at such time
18 and in such manner as the Secretary may by regula-
19 tions prescribe) to have this section apply for such
20 taxable year.”.

21 (c) CREDIT MADE REFUNDABLE.—

22 (1) CREDIT MOVED TO SUBPART RELATING TO
23 REFUNDABLE CREDITS.—Such Code is amended—

24 (A) by redesignating section 21, as amend-
25 ed by this section, as section 36B, and

1 (B) by moving section 36B (as so redesignated)
2 nated) from subpart A of part IV of subchapter
3 A of chapter 1 to the location immediately before
4 section 37 in subpart C of part IV of subchapter
5 A of chapter 1.

6 (d) CONFORMING AMENDMENTS.—

7 (1) Section 224(b) of such Code, as added by
8 this Act, is amended—

9 (A) by striking “section 21(b)” in paragraph
10 (1) and inserting “section 36B(b)”,

11 (B) by striking “section 21” in paragraph
12 (2)(B) and inserting “section 36B”,

13 (C) by striking “section 21(b)(1)(C)” in
14 paragraph (3) and inserting “section
15 36B(b)(1)(C)”, and

16 (D) by striking “section 21” in paragraph
17 (4) and inserting “section 36B”.

18 (2) Subsection (e) of section 213 of such Code
19 is amended by striking “section 21” and inserting
20 “section 36B”.

21 (3) Paragraph (2) of section 6213(g) of such
22 Code is amended by striking “section 21” each place
23 it appears and inserting “section 36B”.

1 (4) Paragraph (2) of section 1324(b) of title
2 31, United States Code, is amended by inserting “,
3 36B,” after “36A,”.

4 (5) The table of sections for subpart A of part
5 IV of subchapter A of chapter 1 of such Code is
6 amended by striking the item relating to section 21.

7 (6) The table of sections for subpart C of part
8 IV of subchapter A of chapter 1 of such Code is
9 amended by inserting after the item relating to sec-
10 tion 36A the following new item:

 “Sec. 36B. Expenses for household and dependent care services necessary for
 gainful employment.”.

11 (e) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to expenses paid in taxable years
13 beginning after the date of the enactment of this Act.

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