

116TH CONGRESS
1ST SESSION

S. 2437

To amend the Internal Revenue Code of 1986 to establish a refundable tax credit for parents who take leave from employment following the birth or adoption of a child.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2019

Mr. YOUNG 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 establish a refundable tax credit for parents who take leave from employment following the birth or adoption of a child.

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 “Support Working
5 Families Act”.

6 **SEC. 2. PARENTAL LEAVE TAX CREDIT.**

7 (a) IN GENERAL.—Subpart C of part IV of sub-
8 chapter A of chapter 1 of subtitle A of the Internal Rev-

1 enue Code of 1986 is amended by inserting after section
2 36B the following new section:

3 **“SEC. 36C. PARENTAL LEAVE CREDIT.**

4 “(a) ALLOWANCE OF CREDIT.—

5 “(1) IN GENERAL.—There shall be allowed as a
6 credit against the tax imposed by this subtitle for
7 the taxable year an amount equal to the sum of—

8 “(A) the current year parental leave credit,
9 plus

10 “(B) the parental leave credit carryback
11 carried to such taxable year.

12 “(2) CURRENT YEAR PARENTAL LEAVE CRED-
13 IT.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graphs (B) and (C), the amount of the current
16 year parental leave credit for the taxable year
17 shall be equal to the product of—

18 “(i) the total number of weeks of pa-
19 rental leave taken during the benefit period
20 by an individual described in subsection
21 (c)(1)(A) which are completed within such
22 taxable year, multiplied by

23 “(ii) an amount equal to the replace-
24 ment percentage (as determined for each
25 week of parental leave pursuant to sub-

1 section (b)(1)) of the average weekly wage
 2 rate for such individual.

3 “(B) LIMITATION.—The current year pa-
 4 rental leave credit for any taxable year shall not
 5 exceed the lesser of—

6 “(i) an amount equal to—

7 “(I) the amount determined
 8 under subparagraph (A) (determined
 9 as if the replacement percentage were
 10 100 percent), minus

11 “(II) an amount equal to the
 12 sum of any paid parental or medical
 13 leave benefits which are provided to
 14 the individual for any weeks included
 15 under clause (i) of such subpara-
 16 graph—

17 “(aa) pursuant to any law
 18 or plan of a State or a political
 19 subdivision thereof, or

20 “(bb) by the employer of
 21 such individual, or

22 “(ii) \$6,000.

23 “(C) REDUCTION IN BENEFIT AMOUNT ON
 24 ACCOUNT OF RECEIPT OF CERTAIN BENE-
 25 FITS.—The current year parental leave credit

1 for any taxable year (after application of sub-
 2 paragraph (B)) shall be reduced by the amount,
 3 if any, in certain benefits as may be otherwise
 4 received by an individual for any weeks included
 5 under subparagraph (A)(i). For purposes of the
 6 preceding sentence, certain benefits include—

7 “(i) periodic benefits on account of
 8 such individual’s total or partial disability
 9 under a workmen’s compensation law or
 10 plan of the United States or a State,

11 “(ii) periodic benefits on account of
 12 an individual’s employment status under
 13 an unemployment law or plan of the
 14 United States or a State, and

15 “(iii) such other benefits as deter-
 16 mined under regulations issued by the Sec-
 17 retary.

18 “(3) PARENTAL LEAVE CREDIT CARRYBACK.—

19 In the case of an individual who elects not to apply
 20 the current year parental leave credit to the taxable
 21 year which includes the weeks of parental leave de-
 22 scribed in subparagraph (A)(i), the amount of such
 23 credit—

24 “(A) shall be reduced to zero for such tax-
 25 able year, and

1 “(B) shall be a parental leave credit
2 carryback to the preceding taxable year.

3 “(b) DETERMINATION OF CREDIT AMOUNT.—

4 “(1) REPLACEMENT PERCENTAGE.—The re-
5 placement percentage shall be the amount, expressed
6 as a percentage, which has been elected by the indi-
7 vidual (in such manner and at such time as is pre-
8 scribed by the Secretary) for each week of parental
9 leave described in paragraph (2)(A)(i) of subsection
10 (a) for purposes of determining the credit allowed
11 under such subsection, provided that—

12 “(A) such amount is not less than 40 per-
13 cent and not greater than 90 percent, and

14 “(B) for each week of parental leave de-
15 scribed in paragraph (2)(A)(i) of subsection (a),
16 such amount does not result in a credit allowed
17 under such subsection that exceeds—

18 “(i) the average weekly wage rate for
19 such individual, minus

20 “(ii) any amounts described in para-
21 graph (2)(B)(i)(II) of such subsection
22 which are provided to the individual for
23 such week.

1 “(2) AVERAGE WEEKLY WAGE RATE.—The av-
2 erage weekly wage rate shall be an amount equal to
3 the greater of—

4 “(A) the annual average amount of the in-
5 dividual’s wages and self-employment income
6 for the period of the 3 calendar years preceding
7 the calendar year in which the parental leave is
8 taken by the individual, prorated on a weekly
9 basis, or

10 “(B) the amount of the individual’s wages
11 and self-employment income for the calendar
12 year preceding the calendar year in which the
13 parental leave is taken by the individual, pro-
14 rated on a weekly basis.

15 “(3) BENEFIT PERIOD.—The benefit period for
16 an individual shall be the period of weeks—

17 “(A) beginning with the latter of—

18 “(i) the first week in which the indi-
19 vidual satisfies the requirements under
20 subsection (c)(1)(A), or

21 “(ii) the first week—

22 “(I) in which the individual satis-
23 fies the requirements under such sub-
24 section, and

1 “(II) which is not less than 1
2 year after the completion of any pre-
3 vious benefit period, and

4 “(B) ending on the date that is 1 year
5 after the date of the birth or adoption of the
6 child.

7 “(c) ELIGIBILITY REQUIREMENTS.—

8 “(1) EMPLOYMENT.—

9 “(A) IN GENERAL.—An individual is de-
10 scribed in this subparagraph if, on the date of
11 the birth or adoption of the child, such indi-
12 vidual—

13 “(i) is a parent of the child,

14 “(ii) is employed and, during the 64-
15 week period preceding such date, has been
16 employed for not less than 52 weeks, and

17 “(iii) has worked not less than a total
18 of 1,000 hours during the 52-week period
19 described in clause (ii).

20 “(B) DETERMINATION OF EMPLOY-
21 MENT.—The Secretary, in consultation with the
22 Secretary of Labor, shall prescribe such regula-
23 tions, rules, and guidance as may be necessary
24 to determine the length of employment and
25 hours of service of an individual, including rules

1 for the application of this paragraph to individ-
2 uals who are not compensated on an hourly
3 basis.

4 “(2) ADDITIONAL INFORMATION.—

5 “(A) IN GENERAL.—No credit shall be al-
6 lowed under subsection (a) for any taxable year
7 unless the individual includes the following in-
8 formation on the return of tax for such taxable
9 year (or through the program established under
10 section 2(b) of the Support Working Families
11 Act):

12 “(i) An attestation from the individual
13 that such individual—

14 “(I) if the individual has an em-
15 ployer, has provided such employer
16 with written notice of the individual’s
17 intention to take parental leave,

18 “(II) has satisfied the require-
19 ments under clauses (ii) and (iii) of
20 paragraph (1)(A),

21 “(III) will be taking leave from
22 employment for each week of parental
23 leave taken during the benefit period,
24 and

1 “(IV) intends to maintain the
2 same principal place of abode as the
3 child for more than ½ of the 12-
4 month period following the date of the
5 birth or adoption of the child.

6 “(ii) Any information, as determined
7 necessary by the Secretary, regarding any
8 paid parental or medical leave benefits de-
9 scribed in subsection (a)(2)(B)(i)(II) which
10 are provided to the individual.

11 “(iii) The name of the child of the in-
12 dividual and the date of the birth or adop-
13 tion of the child.

14 “(iv) Subject to subparagraph (B),
15 the weeks of parental leave taken during
16 the benefit period.

17 “(v) The social security number of the
18 individual.

19 “(vi) Subject to subparagraph (C), the
20 social security number of the child.

21 “(vii) Subject to subparagraph (D), a
22 copy of the birth certificate or other docu-
23 mentation demonstrating that the indi-
24 vidual is the parent or legal guardian of
25 the child.

1 “(B) WEEKS OF PARENTAL LEAVE.—For
2 purposes of the credit allowed under subsection
3 (a)—

4 “(i) any weeks of parental leave taken
5 during the benefit period for which such
6 credit is being claimed shall be a full work-
7 week, and

8 “(ii) the total number of weeks of pa-
9 rental leave taken by an individual during
10 the benefit period shall not be less than 4
11 weeks or greater than 12 weeks.

12 “(C) SOCIAL SECURITY NUMBER.—

13 “(i) ADOPTION.—

14 “(I) IN GENERAL.—In the case
15 of an individual who legally adopts a
16 child, if such child has not received a
17 social security number at the time of
18 the filing of the return of tax de-
19 scribed in subparagraph (A), the par-
20 ent of such child may be allowed the
21 credit under subsection (a), provided
22 that—

23 “(aa) the Adoption Tax-
24 payer Identification Number for
25 such child is included on the re-

1 turn of tax described in subpara-
2 graph (A), and

3 “(bb) the social security
4 number for such child is provided
5 to the Secretary not later than
6 15 months after the date of the
7 adoption of such child.

8 “(II) NOTICE.—In the case of a
9 child described in subclause (I), the
10 Secretary shall provide notice of the
11 requirement under item (bb) of such
12 subclause to the parent of such
13 child—

14 “(aa) at the time that the
15 credit allowed under subsection
16 (a) is refunded or otherwise pro-
17 vided to such parent, and

18 “(bb) on the date that is 12
19 months after the date of the
20 adoption of such child.

21 “(III) RESCISSION.—

22 “(aa) IN GENERAL.—In the
23 case of an individual who is the
24 parent of a child described in
25 subclause (I) and subsequently

1 fails to provide a social security
2 number for such child to the Sec-
3 retary during the period de-
4 scribed in subclause (II)(bb), the
5 tax imposed by this chapter for
6 the applicable taxable year shall
7 be increased by 100 percent of
8 the amount of the credit allowed
9 under subsection (a) to such indi-
10 vidual for any parental leave
11 claimed with respect to such
12 child.

13 “(bb) APPLICABLE TAXABLE
14 YEAR.—The term ‘applicable tax-
15 able year’ means the taxable year
16 which includes the date that is
17 15 months after the date of the
18 adoption of the child.

19 “(ii) RELIGIOUS OBJECTIONS.—The
20 Secretary, in coordination with the Com-
21 missioner of Social Security, shall prescribe
22 such regulations, rules, and guidance as
23 may be necessary to apply the require-
24 ments under this paragraph relating to so-
25 cial security numbers for individuals who

1 have religious objections to obtaining a so-
2 cial security number for themselves or
3 their children.

4 “(D) BIRTH CERTIFICATE OR OTHER DOC-
5 UMENTATION.—

6 “(i) IN GENERAL.—In the case of a
7 parent who has not received the certificate
8 or documentation described in clause (vii)
9 of subparagraph (A) for their child at the
10 time of the filing of the return of tax de-
11 scribed in such subparagraph, the parent
12 may be allowed the credit under subsection
13 (a), provided that such certificate or docu-
14 mentation is provided to the Secretary not
15 later than 15 months after the date of the
16 birth or adoption of such child.

17 “(ii) NOTICE AND RESCISSION.—
18 Rules similar to the rules of subclauses
19 (II) and (III) of subparagraph (C)(i) shall
20 apply for purposes of this subparagraph.

21 “(3) INELIGIBILITY; DISQUALIFICATION.—

22 “(A) INELIGIBILITY FOR BENEFIT.—No
23 credit shall be allowed under subsection (a) for
24 any taxable year during which the individual is
25 entitled to—

1 “(i) disability insurance benefits
 2 under section 223 of the Social Security
 3 Act (42 U.S.C. 423) or a similar perma-
 4 nent disability program under any law or
 5 plan of a State or political subdivision or
 6 instrumentality of a State (as such terms
 7 are used in section 218 of the Social Secu-
 8 rity Act (42 U.S.C. 418)),

9 “(ii) monthly insurance benefits under
 10 section 202 of such Act (42 U.S.C. 402)
 11 based on such individual’s disability (as de-
 12 fined in section 223(d) of such Act (42
 13 U.S.C. 423(d))), or

14 “(iii) benefits under title XVI of such
 15 Act (42 U.S.C. 1381 et seq.) based on
 16 such individual’s status as a disabled indi-
 17 vidual (as determined under section 1614
 18 of such Act (42 U.S.C. 1382c)).

19 “(B) RESTRICTIONS ON INDIVIDUALS WHO
 20 IMPROPERLY CLAIMED CREDIT IN PRIOR
 21 YEAR.—

22 “(i) PRIOR FRAUDULENT OR RECK-
 23 LESS CLAIMS.—

24 “(I) IN GENERAL.—No credit
 25 shall be allowed under subsection (a)

1 for any taxable year in the disallow-
2 ance period.

3 “(II) DISALLOWANCE PERIOD.—

4 For purposes of subclause (I), the dis-
5 allowance period is—

6 “(aa) the period of 10 tax-
7 able years after the most recent
8 taxable year for which there was
9 a final determination that the in-
10 dividual’s claim of credit under
11 this section was due to fraud,
12 and

13 “(bb) the period of 2 taxable
14 years after the most recent tax-
15 able year for which there was a
16 final determination that—

17 “(AA) the individual’s
18 claim of credit under this
19 section was due to reckless
20 or intentional disregard of
21 rules and regulations (but
22 not due to fraud), or

23 “(BB) the individual
24 claimed the credit under this
25 section and subsequently

1 failed to provide the Sec-
2 retary with the social secu-
3 rity number or documenta-
4 tion described in clause (vi)
5 or (vii) of paragraph (3)(A)
6 during the 15-month period
7 following the date of the
8 brith or adoption of their
9 child, as required under sub-
10 paragraphs (C) and (D) of
11 paragraph (3).

12 “(ii) IMPROPER PRIOR CLAIMS.—In
13 the case of an individual who is denied the
14 credit under this section for any taxable
15 year as a result of the deficiency proce-
16 dures under subchapter B of chapter 63,
17 no credit shall be allowed under this sec-
18 tion for any subsequent taxable year unless
19 the individual provides such information as
20 the Secretary may require to demonstrate
21 eligibility for such credit.

22 “(d) RELATIONSHIP WITH STATE LAW; EMPLOYER
23 BENEFITS; PROHIBITED ACTS.—

24 “(1) IN GENERAL.—This section does not pre-
25 empt or supercede any provision of State or local

1 law that authorizes a State or local municipality to
2 provide benefits or payments to any individual for
3 parental leave taken by such individual.

4 “(2) GREATER BENEFITS ALLOWED.—Nothing
5 in this Act shall be construed to diminish the obliga-
6 tion of an employer to comply with any contract, col-
7 lective bargaining agreement, or any employment
8 benefit program or plan that provides greater paid
9 parental leave rights to employees than the credit al-
10 lowed under this section.

11 “(3) PROHIBITED ACTS.—It shall be unlawful
12 for any person to discharge or in any other manner
13 discriminate against an individual because the indi-
14 vidual has claimed, indicated an intent to claim, or
15 received the credit allowed under this section.

16 “(e) INFLATION ADJUSTMENT.—

17 “(1) IN GENERAL.—In the case of any taxable
18 year beginning after 2020, the dollar amount in sub-
19 section (a)(2)(B)(ii) shall be increased by an amount
20 equal to—

21 “(A) such dollar amount, multiplied by

22 “(B) the cost-of-living adjustment deter-
23 mined under section 1(f)(3) for such calendar
24 year by substituting ‘calendar year 2019’ for

1 ‘calendar year 2016’ in subparagraph (A)(ii)
2 thereof.

3 “(2) ROUNDING.—If any increase determined
4 under paragraph (1) is not a multiple of \$50, such
5 increase shall be rounded to the nearest multiple of
6 \$50.

7 “(f) RECAPTURE OF CREDIT.—

8 “(1) IN GENERAL.—If a credit under subsection
9 (a) is allowed to a taxpayer, the tax imposed by this
10 chapter shall be increased by 20 percent of the ap-
11 plicable amount for each taxable year in the recap-
12 ture period.

13 “(2) APPLICABLE AMOUNT.—

14 “(A) IN GENERAL.—For purposes of this
15 subsection, the applicable amount shall be equal
16 to—

17 “(i) the amount of the credit allowed
18 under subsection (a), minus

19 “(ii) the amount of payments made by
20 the taxpayer during the prepayment pe-
21 riod.

22 “(B) PREPAYMENT PERIOD.—

23 “(i) IN GENERAL.—For purposes of
24 this paragraph, the term ‘prepayment pe-
25 riod’ means the period of 3 taxable years

1 subsequent to the taxable year in which
2 the credit under subsection (a) is allowed.

3 “(ii) DEVELOPMENT OF PREPAYMENT
4 MECHANISM.—For purposes of subpara-
5 graph (A)(ii), the Secretary shall establish
6 appropriate procedures and mechanisms to
7 allow taxpayers to reduce the amount of
8 the tax imposed under paragraph (1) by
9 making payments during the prepayment
10 period.

11 “(3) RECAPTURE PERIOD.—For purposes of
12 this subsection, the term ‘recapture period’ means
13 the period of 5 taxable years subsequent to the pre-
14 payment period.

15 “(4) RETURN REQUIREMENT.—If the tax im-
16 posed by this chapter for the taxable year is in-
17 creased under this subsection, the taxpayer shall,
18 notwithstanding section 6012, be required to file a
19 return with respect to the taxes imposed under this
20 subtitle.

21 “(5) JOINT RETURNS.—In the case of a credit
22 allowed under subsection (a) with respect to a joint
23 return, half of such credit shall be treated as having
24 been allowed to each individual filing such return for
25 purposes of this subsection.

1 “(6) EXCEPTION.—This subsection shall not
2 apply to any taxable year ending after the date of
3 the death of the individual allowed the credit under
4 subsection (a).

5 “(g) DEFINITIONS.—In this section:

6 “(1) CHILD.—The term ‘child’ means a biologi-
7 cal or legally adopted child who has not attained 18
8 years of age.

9 “(2) PARENT.—The term ‘parent’ means—

10 “(A) the biological mother or father of a
11 child, or

12 “(B) an individual who legally adopts a
13 child,

14 who is the legal guardian of the child and who in-
15 tends to maintain the same principal place of abode
16 as the child for more than ½ of the 12-month pe-
17 riod following the date of the birth or adoption of
18 the child.

19 “(3) PARENTAL LEAVE.—The term ‘parental
20 leave’ means any period of leave from employment
21 which is taken by a parent to provide care for a
22 child.”.

23 (b) PRE-CALCULATION OF PARENTAL LEAVE CRED-
24 IT.—Not later than January 1, 2020, the Secretary of the
25 Treasury or the Secretary’s delegate (referred to in this

1 subsection and subsection (c) as the “Secretary”) shall es-
2 tablish a program, to be made available online and
3 through such other methods as is determined appropriate
4 by the Secretary, to allow individuals who intend to take
5 parental leave to—

6 (1) determine their average weekly wage rate
7 (as defined in subsection (b)(2) of section 36C of the
8 Internal Revenue Code of 1986);

9 (2) determine whether they satisfy the require-
10 ments under clauses (ii) and (iii) of section
11 36C(e)(1)(A) of such Code and, if such requirements
12 are not satisfied, determine the number of hours or
13 weeks needed to satisfy such requirements prior to
14 the expected date of the birth or adoption of a child;

15 (3) calculate—

16 (A) the amount of the parental leave credit
17 under section 36C of such Code based on dif-
18 ferent replacement percentages (as described in
19 subsection (b)(1) of such section); and

20 (B) the amount of any increase in taxes
21 pursuant to subsection (f) of such section based
22 on different amounts of payments made by the
23 individual during the prepayment period (as de-
24 fined in paragraph (2)(B) of such subsection);
25 and

1 (4) provide the Secretary with any information
2 required under subsection (c)(2)(A) of section 36C
3 of the Internal Revenue Code of 1986 which is avail-
4 able to such individual at that time.

5 (c) EXPEDITED AMENDED RETURN PROCESS.—For
6 any individual who has—

7 (1) taken parental leave during a taxable year;

8 (2) elected to receive a parental leave credit
9 carryback (as described in subsection (a)(3) of sec-
10 tion 36C of the Internal Revenue Code of 1986) for
11 such parental leave; and

12 (3) has timely filed an amendment to the in-
13 come tax return for such individual for the preceding
14 taxable year for the sole purpose of claiming the
15 credit allowed under subsection (a) of such section,
16 the Secretary shall establish a separate and expedited
17 process for reviewing and processing such amended re-
18 turns.

19 (d) CONFORMING AMENDMENTS.—

20 (1) The table of sections for subpart C of part
21 IV of subchapter A of chapter 1 of subtitle A of the
22 Internal Revenue Code of 1986 is amended by in-
23 serting after the item relating to section 36B the fol-
24 lowing:

“Sec. 36C. Parental leave credit.”.

1 (2) Section 6211(b)(4)(A) of such Code is
2 amended by striking “and 36B, 168(k)(4)” and in-
3 sserting “36B, and 36C”.

4 (3) Section 6213(g)(2) of such Code is amend-
5 ed—

6 (A) in subparagraph (P), by striking
7 “and” at the end;

8 (B) in subparagraph (Q), by striking the
9 period at the end and inserting “, and”; and

10 (C) by inserting after subparagraph (Q)
11 the following:

12 “(R) an omission of information required
13 by subsection (c) of section 36C or an entry on
14 the return claiming the credit under such sec-
15 tion for a taxable year for which such credit is
16 disallowed pursuant to section 36C(c)(4).”.

17 (4) Paragraph (2) of section 1324(b) of title
18 31, United States Code, is amended by inserting
19 “36C,” after “36B,”.

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

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