

116TH CONGRESS  
1ST SESSION

# H. R. 323

To amend the Internal Revenue Code of 1986 to provide a tax credit for expenses for household and elder care services necessary for gainful employment.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2019

Ms. LEE of California (for herself, Ms. WASSERMAN SCHULTZ, and Ms. WILSON of Florida) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a tax credit for expenses for household and elder care services necessary for gainful employment.

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. EXPENSES FOR HOUSEHOLD AND ELDER CARE**  
4 **SERVICES NECESSARY FOR GAINFUL EM-**  
5 **PLOYMENT.**

6 (a) IN GENERAL.—Subpart A of part IV of sub-  
7 chapter A of chapter 1 of the Internal Revenue Code of  
8 1986 is amended by adding at the end the following new  
9 section:

1 **“SEC. 25E. EXPENSES FOR HOUSEHOLD AND ELDER CARE**  
2 **SERVICES NECESSARY FOR GAINFUL EM-**  
3 **PLOYMENT.**

4 “(a) ALLOWANCE OF CREDIT.—

5 “(1) IN GENERAL.—In the case of an individual  
6 for which there are one or more qualifying individ-  
7 uals (as defined in subsection (b)(1)) with respect to  
8 such individual, there shall be allowed as a credit  
9 against the tax imposed by this chapter for the tax-  
10 able year an amount equal to the applicable percent-  
11 age of the employment-related expenses (as defined  
12 in subsection (b)(2)) paid by such individual during  
13 the taxable year.

14 “(2) APPLICABLE PERCENTAGE DEFINED.—For  
15 purposes of paragraph (1), the term ‘applicable per-  
16 centage’ means 35 percent reduced (but not below  
17 20 percent) by 1 percentage point for each \$2,000  
18 (or fraction thereof) by which the taxpayer’s ad-  
19 justed gross income for the taxable year exceeds  
20 \$15,000.

21 “(b) DEFINITIONS OF QUALIFYING INDIVIDUAL AND  
22 EMPLOYMENT-RELATED EXPENSES.—For purposes of  
23 this section—

24 “(1) QUALIFYING INDIVIDUAL.—The term  
25 ‘qualifying individual’ means an individual who—

26 “(A) has attained age 50, and

1 “(B) is one of the following:

2 “(i) An individual who bears a rela-  
3 tionship to the taxpayer described in sub-  
4 paragraph (C) or (D) of section 152(d)(2)  
5 (relating to fathers, mothers, and ances-  
6 tors).

7 “(ii) An individual would be a depend-  
8 ent of the taxpayer (as defined in section  
9 152, determined without regard to sub-  
10 sections (b)(1) and (b)(2)) as a qualifying  
11 relative described in section 152(d)(1) if—

12 “(I) in lieu of subparagraphs (B)  
13 and (C) thereof the following applied  
14 with respect to the individual:

15 “(aa) the taxpayer has pro-  
16 vided over one-half of the individ-  
17 ual’s support for the calendar  
18 year in which such taxable year  
19 begins and each of the preceding  
20 4 taxable years, and

21 “(bb) the individual’s modi-  
22 fied adjusted gross income for  
23 the calendar year in which such  
24 taxable year begins is less than

1 the exemption amount (as de-  
2 fined in section 151(d)),

3 “(II) the individual is physically  
4 or mentally incapable of caring for  
5 himself or herself, and

6 “(III) the individual who has the  
7 same principal place of abode as the  
8 taxpayer for more than one-half of  
9 such taxable year.

10 “(iii) The spouse of the taxpayer who  
11 is physically or mentally incapable of car-  
12 ing for himself or herself.

13 “(2) MODIFIED ADJUSTED GROSS INCOME.—  
14 The term ‘modified adjusted gross income’ means  
15 adjusted gross income determined without regard to  
16 section 86.

17 “(3) EMPLOYMENT-RELATED EXPENSES.—

18 “(A) IN GENERAL.—The term ‘employ-  
19 ment-related expenses’ means amounts paid for  
20 the following expenses, but only if such ex-  
21 penses are incurred to enable the taxpayer to be  
22 gainfully employed for any period for which  
23 there are one or more qualifying individuals  
24 with respect to the taxpayer:

1                   “(i) expenses for household services,  
2                   and

3                   “(ii) expenses for the care of a quali-  
4                   fying individual, including expenses for res-  
5                   pite care and hospice care.

6                   “(B)     EXCEPTION.—Employment-related  
7                   expenses described in subparagraph (A) which  
8                   are incurred for services outside the taxpayer’s  
9                   household shall be taken into account only if in-  
10                  curred for the care of—

11                  “(i) a qualifying individual described  
12                  in paragraph (1)(A), or

13                  “(ii) a qualifying individual (not de-  
14                  scribed in paragraph (1)(A)) who regularly  
15                  spends at least 8 hours each day in the  
16                  taxpayer’s household.

17                  “(C)     DEPENDENT CARE CENTERS.—Em-  
18                  ployment-related expenses described in subpara-  
19                  graph (A) which are incurred for services pro-  
20                  vided outside the taxpayer’s household by a de-  
21                  pendent care center (as defined in subpara-  
22                  graph (D)) shall be taken into account only if—

23                  “(i) such center complies with all ap-  
24                  plicable laws and regulations of a State or  
25                  unit of local government, and

1                   “(ii) the requirements of subpara-  
2                   graph (B) are met.

3                   “(D) DEPENDENT CARE CENTER DE-  
4                   FINED.—For purposes of this paragraph, the  
5                   term ‘dependent care center’ means any facility  
6                   which—

7                   “(i) provides care for more than six  
8                   individuals (other than individuals who re-  
9                   side at the facility), and

10                   “(ii) receives a fee, payment, or grant  
11                   for providing services for any of the indi-  
12                   viduals (regardless of whether such facility  
13                   is operated for profit).

14                   “(c) DOLLAR LIMIT ON AMOUNT CREDITABLE.—The  
15                   amount of the employment-related expenses incurred dur-  
16                   ing any taxable year which may be taken into account  
17                   under subsection (a) shall not exceed—

18                   “(1) \$3,000 if there is 1 qualifying individual  
19                   with respect to the taxpayer for such taxable year,  
20                   or

21                   “(2) \$6,000 if there are two or more qualifying  
22                   individuals with respect to the taxpayer for such tax-  
23                   able year.

24                   The amount determined under paragraph (1) or (2)  
25                   (whichever is applicable) shall be reduced by the aggregate

1 amount excludable from gross income under section 129  
2 for the taxable year.

3 “(d) EARNED INCOME LIMITATION.—Except as oth-  
4 erwise provided in this subsection, the amount of the em-  
5 ployment-related expenses incurred during any taxable  
6 year which may be taken into account under subsection  
7 (a) shall not exceed—

8 “(1) in the case of an individual who is not  
9 married at the close of such year, such individual’s  
10 earned income for such year, or

11 “(2) in the case of an individual who is married  
12 at the close of such year, the lesser of such individ-  
13 ual’s earned income or the earned income of his  
14 spouse for such year.

15 “(e) SPECIAL RULES.—For purposes of this sec-  
16 tion—

17 “(1) PLACE OF ABODE.—An individual shall  
18 not be treated as having the same principal place of  
19 abode of the taxpayer if at any time during the tax-  
20 able year of the taxpayer the relationship between  
21 the individual and the taxpayer is in violation of  
22 local law.

23 “(2) MARRIED COUPLES MUST FILE JOINT RE-  
24 TURN.—If the taxpayer is married at the close of  
25 the taxable year, the credit shall be allowed under

1 subsection (a) only if the taxpayer and his spouse  
2 file a joint return for the taxable year.

3 “(3) MARITAL STATUS.—An individual legally  
4 separated from his spouse under a decree of divorce  
5 or of separate maintenance shall not be considered  
6 as married.

7 “(4) CERTAIN MARRIED INDIVIDUALS LIVING  
8 APART.—If—

9 “(A) an individual who is married and who  
10 files a separate return—

11 “(i) maintains as his home a house-  
12 hold which constitutes for more than one-  
13 half of the taxable year the principal place  
14 of abode of a qualifying individual, and

15 “(ii) furnishes over half of the cost of  
16 maintaining such household during the  
17 taxable year, and

18 “(B) during the last 6 months of such tax-  
19 able year such individual’s spouse is not a mem-  
20 ber of such household, such individual shall not  
21 be considered as married.

22 “(5) PAYMENTS TO RELATED INDIVIDUALS.—  
23 No credit shall be allowed under subsection (a) for  
24 any amount paid by the taxpayer to an individual—



1           “(A) with respect to whom, for the taxable  
2           year, a deduction under section 151(c) (relating  
3           to deduction for personal exemptions for de-  
4           pendents) is allowable either to the taxpayer or  
5           his spouse, or

6           “(B) who is a child of the taxpayer (within  
7           the meaning of section 152(f)(1)) who has not  
8           attained the age of 19 at the close of the tax-  
9           able year.

10          For purposes of this paragraph, the term ‘taxable  
11          year’ means the taxable year of the taxpayer in  
12          which the service is performed.

13          “(6) IDENTIFYING INFORMATION REQUIRED  
14          WITH RESPECT TO SERVICE PROVIDER.—No credit  
15          shall be allowed under subsection (a) for any amount  
16          paid to any person unless—

17                 “(A) the name, address, and taxpayer  
18                 identification number of such person are in-  
19                 cluded on the return claiming the credit, or

20                 “(B) if such person is an organization de-  
21                 scribed in section 501(c)(3) and exempt from  
22                 tax under section 501(a), the name and address  
23                 of such person are included on the return  
24                 claiming the credit.

1 In the case of a failure to provide the information  
2 required under the preceding sentence, the preceding  
3 sentence shall not apply if it is shown that the tax-  
4 payer exercised due diligence in attempting to pro-  
5 vide the information so required.

6 “(7) IDENTIFYING INFORMATION REQUIRED  
7 WITH RESPECT TO QUALIFYING INDIVIDUALS.—No  
8 credit shall be allowed under this section with re-  
9 spect to any qualifying individual unless the TIN of  
10 such individual is included on the return claiming  
11 the credit.

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

15 (b) CLERICAL AMENDMENT.—The table of sections  
16 for subpart A of part IV of subchapter A of chapter 1  
17 of the Internal Revenue Code of 1986 is amended by add-  
18 ing at the end the following new item:

“Sec. 25E. Expenses for household and elder care services necessary for gainful  
employment.”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to taxable years beginning after  
21 the date of the enactment of this Act.

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