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Internal Revenue Code Section 32(n)

Earned income

(a) Allowance of credit.

(1) In general.

In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed the earned income amount.

(2) Limitation.

The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of-

(A) the credit percentage of the earned income amount, over

(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the phaseout amount.

(b) Percentages and amounts.

For purposes of subsection (a)-

(1) Percentages.

The credit percentage and the phaseout percentage shall be determined as follows:

In the case of an eligible individual with: The credit percentage is: The phaseout percentage is:

| | | |
|-------------------------------|------|-------|
| 1 qualifying child | 34 | 15.98 |
| 2 qualifying children | 40 | 21.06 |
| 3 or more qualifying children | 45 | 21.06 |
| No qualifying children | 7.65 | 7.65 |

(2) Amounts.

(A) In general. Subject to subparagraph (B), the earned income amount and the phaseout amount shall be determined as follows:

| In the case of an eligible individual with: | The earned income amount is: | The phaseout amount is: |
|---|------------------------------|-------------------------|
| 1 qualifying child | \$6,330 | \$11,610 |
| 2 or more qualifying children | \$8,890 | \$11,610 |
| No qualifying children | \$4,220 | \$5,280 |

(B) Joint returns. In the case of a joint return filed by an eligible individual and such individual's spouse, the phaseout amount determined under subparagraph

(A) shall be increased by \$5,000.

(ii) Repealed.

(iii) Repealed.

(3) Repealed.

(c) Definitions and special rules.

For purposes of this section-

(1) Eligible individual.

(A) In general. The term "eligible individual" means-

(i) any individual who has a qualifying child for the taxable year, or

(ii) any other individual who does not have a qualifying child for the taxable year, if-

(I) such individual's principal place of abode is in the United States for more than one-half of such taxable year,

(II) such individual (or, if the individual is married, either the individual or the individual's spouse) has attained age 25 but not attained age 65 before the close of the taxable year, and

(III) such individual is not a dependent for whom a deduction is allowable under section 151 to another taxpayer for any taxable year beginning in the same calendar year as such taxable year.

(B) Qualifying child ineligible. If an individual is the qualifying child of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall not be treated as an eligible individual for any taxable year of such individual beginning in such calendar year.

(C) Exception for individual claiming benefits under section 911. The term "eligible individual" does not include any individual who claims the benefits of section 911 (relating to citizens or residents living abroad) for the taxable year.

(D) Limitation on eligibility of nonresident aliens. The term "eligible individual" shall not include any individual who is a nonresident alien individual for any portion of the taxable year unless such individual is treated for such taxable year as a resident of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

(E) Identification number requirement. No credit shall be allowed under this section to an eligible individual who does not include on the return of tax for the taxable year-

(i) such individual's taxpayer identification number, and

(ii) if the individual is married, the taxpayer identification number of such individual's spouse.

(F) Repealed.

(2) Earned income.

(A) The term "earned income" means-

(i) wages, salaries, tips, and other employee compensation, but only if such amounts are includible in gross income for the taxable year, plus

(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)), but such net earnings shall be determined with regard to the deduction allowed to the taxpayer by section 164(f).

(B) For purposes of subparagraph (A)-

(i) the earned income of an individual shall be computed without regard to any community property laws,

(ii) no amount received as a pension or annuity shall be taken into account,

(iii) no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account,

(iv) no amount received for services provided by an individual while the individual is an inmate at a penal institution shall be taken into account,

(v) no amount described in subparagraph (A) received for service performed in work activities as defined in paragraph (4) or (7) of section 407(d) of the Social Security Act to which the taxpayer is assigned under any State program under part A of title IV of such Act shall be taken into account, but only to the extent such amount is subsidized under such State program, and

(vi) a taxpayer may elect to treat amounts excluded from gross income by reason of section 112 as earned income.

(3) Qualifying child.

(A) In general. The term "qualifying child" means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

(B) Married individual. The term "qualifying child" shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

(C) Place of abode. For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

(D) Identification requirements.

(i) In general. A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

(ii) Other methods. The Secretary may prescribe other methods for providing the information described in clause (i).

(4) Treatment of military personnel stationed outside the United States.

For purposes of paragraphs (1)(A)(ii)(I) and (3)(C), the principal place of abode of a member of the Armed Forces of the United States shall be treated as in the United States during any period during which such member is stationed outside the United States while serving on extended active duty with the Armed Forces of the United States. For purposes of the preceding sentence, the term "extended active duty" means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

(d) Married individuals.

(1) In general.

In the case of an individual who is married, this section shall apply only if a joint return is filed for the taxable year under section 6013.

(2) Determination of marital status.

For purposes of this section-

(A) In general. Except as provided in subparagraph (B), marital status shall be determined under section 7703(a).

(B) Special rule for separated spouse.

An individual shall not be treated as married if such individual-

(i) is married (as determined under section 7703(a)) and does not file a joint return for the taxable year,

(ii) resides with a qualifying child of the individual for more than one-half of such taxable year, and

(iii)

(I) during the last 6 months of such taxable year, does not have the same principal place of abode as the individual's spouse, or

(II) has a decree, instrument, or agreement (other than a decree of divorce) described in section 121(d)(3)(C) with respect to the individual's spouse and is not a member of the same household with the individual's spouse by the end of the taxable year.

(e) Taxable year must be full taxable year.

Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

(f) Amount of credit to be determined under tables.

(1) In general.

The amount of the credit allowed by this section shall be determined under tables prescribed by the Secretary.

(2) Requirements for tables.

The tables prescribed under paragraph (1) shall reflect the provisions of subsections (a) and (b) and shall have income brackets of not greater than \$50 each-

(A) for earned income between \$0 and the amount of earned income at which the credit is phased out under subsection (b), and

(B) for adjusted gross income between the dollar amount at which the phaseout begins under subsection (b) and the amount of adjusted gross income at which the credit is phased out under subsection (b) .

(g) Repealed.

(h) Repealed.

(i) Denial of credit for individuals having excessive investment income.

(1) In general.

No credit shall be allowed under subsection (a) for the taxable year if the aggregate amount of disqualified income of the taxpayer for the taxable year exceeds \$10,000.

(2) Disqualified income.

For purposes of paragraph (1), the term "disqualified income" means-

(A) interest or dividends to the extent includible in gross income for the taxable year,

(B) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter,

(C) the excess (if any) of-

(i) gross income from rents or royalties not derived in the ordinary course of a trade or business, over

(ii) the sum of-

(I) the deductions (other than interest) which are clearly and directly allocable to such gross income, plus

(II) interest deductions properly allocable to such gross income,

(D) the capital gain net income (as defined in section 1222) of the taxpayer for such taxable year, and

(E) the excess (if any) of-

(i) the aggregate income from all passive activities for the taxable year (determined without regard to any amount included in earned income under subsection (c)(2) or described in a preceding subparagraph), over

(ii) the aggregate losses from all passive activities for the taxable year (as so determined).

For purposes of subparagraph (E), the term "passive activity" has the meaning given such term by section 469.

(j) Inflation adjustments.

(1) In general.

In the case of any taxable year beginning after 2015, (2021 in the case of the dollar amount in subsection (i)(1)) each of the dollar amounts in subsections (b)(2) and (i)(1) shall be increased by an amount equal to-

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting in subparagraph (A)(ii) thereof-

(i) in the case of amounts in subsection (b)(2)(A), "calendar year 1995" for "calendar year 2016",

(ii) in the case of the \$5,000 amount in subsection (b)(2)(B), "calendar year 2008" for "calendar year 2016", and

(iii) in the case of the \$10,000 amount in subsection (i)(1), "calendar year 2020" for "calendar year 2016".

(2) Rounding.

(A) In general. If any dollar amount in subsection (b)(2)(A) (after being increased under subparagraph (B) thereof), after being increased under paragraph (1), is not a multiple of \$10, such dollar amount shall be rounded to the nearest multiple of \$10.

(B) Disqualified income threshold amount. If the dollar amount in subsection (i)(1), after being increased under paragraph (1), is not a multiple of \$50, such amount shall be rounded to the next lowest multiple of \$50.

(k) Restrictions on taxpayers who improperly claimed credit in prior year.

(1) Taxpayers making prior fraudulent or reckless claims.

(A) In general. No credit shall be allowed under this section for any taxable year in the disallowance period.

(B) Disallowance period. For purposes of paragraph (1), the disallowance period is-

(i) the period of 10 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit under this section was due to fraud, and

(ii) the period of 2 taxable years after the most recent taxable year for which there was a final determination that the taxpayer's claim of credit

under this section was due to reckless or intentional disregard of rules and regulations (but not due to fraud).

(2) Taxpayers making improper prior claims.

In the case of a taxpayer who is denied credit under this section for any taxable year as a result of the deficiency procedures under subchapter B of chapter 63, no credit shall be allowed under this section for any subsequent taxable year unless the taxpayer provides such information as the Secretary may require to demonstrate eligibility for such credit.

(l) Coordination with certain means-tested programs.

For purposes of-

(1) the United States Housing Act of 1937,

(2) title V of the Housing Act of 1949,

(3) section 101 of the Housing and Urban Development Act of 1965,


(4) sections 221(d)(3), 235, and 236 of the National Housing Act, and

(5) the Food and Nutrition Act of 2008,

any refund made to an individual (or the spouse of an individual) by reason of this section shall not be treated as income (and shall not be taken into account in determining resources for the month of its receipt and the following month).

(m) Identification numbers.

Solely for purposes of subsections (c)(1)(E) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act) on or before the due date for filing the return for the taxable year

 (n) Special rules for individuals without qualifying children.

In the case of any taxable year beginning after December 31, 2020, and before January 1, 2022-

(1) Decrease in minimum age for credit.

(A) In general. Subsection (c)(1)(A)(ii)(II) shall be applied by substituting "the applicable minimum age" for "age 25".

(B) Applicable minimum age. For purposes of this paragraph, the term "applicable minimum age" means-

(i) except as otherwise provided in this subparagraph, age 19,

(ii) in the case of a specified student (other than a qualified former foster youth or a qualified homeless youth), age 24, and

(iii) in the case of a qualified former foster youth or a qualified homeless youth, age 18.

(C) Specified student. For purposes of this paragraph, the term "specified student" means, with respect to any taxable year, an individual who is an eligible student (as defined in section 25A(b)(3)) during at least 5 calendar months during the taxable year.

(D) Qualified former foster youth. For purposes of this paragraph, the term "qualified former foster youth" means an individual who-

(i) on or after the date that such individual attained age 14, was in foster care provided under the supervision or administration of an entity administering (or eligible to administer) a plan under part B or part E of title IV of the Social Security Act (without regard to whether Federal assistance was provided with respect to such child under such part E), and

(ii) provides (in such manner as the Secretary may provide) consent for entities which administer a plan under part B or part E of title IV of the Social Security Act to disclose to the Secretary information related to the status of such individual as a qualified former foster youth.

(E) Qualified homeless youth. For purposes of this paragraph, the term "qualified homeless youth" means, with respect to any taxable year, an individual who certifies, in a manner as provided by the Secretary, that such individual is either an unaccompanied youth who is a homeless child or youth, or is unaccompanied, at risk of homelessness, and self-supporting.

(2) Elimination of maximum age for credit.

Subsection (c)(1)(A)(ii)(II) shall be applied without regard to the phrase "but not attained age 65".

(3) Increase in credit and phaseout percentages.

The table contained in subsection (b)(1) shall be applied by substituting "15.3" for "7.65" each place it appears therein.

(4) Increase in earned income and phaseout amounts.

(A) In general. The table contained in subsection (b)(2)(A) shall be applied-

(i) by substituting "\$9,820" for "\$4,220", and

(ii) by substituting "\$11,610" for "\$5,280".

(B) Coordination with inflation adjustment. Subsection (j) shall not apply to any dollar amount specified in this paragraph.