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Sec. 21. Expenses For Household And Dependent Care Services Necessary For Gainful Employment

I.R.C. § 21(a) Allowance Of Credit

I.R.C. § 21(a)(1) In General —

In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the employment-related expenses (as defined in subsection (b)(2)) paid by such individual during the taxable year.

I.R.C. § 21(a)(2) Applicable Percentage Defined —

For purposes of paragraph (1), the term “applicable percentage” means 35 percent reduced (but not below 20 percent) by 1 percentage point for each \$2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds \$15,000.

I.R.C. § 21(b) Definitions Of Qualifying Individual And Employment-Related Expenses —

For purposes of this section—

I.R.C. § 21(b)(1) Qualifying Individual —

The term “qualifying individual” means—

I.R.C. § 21(b)(1)(A) —

a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

I.R.C. § 21(b)(1)(B) —

a dependent of the taxpayer (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B)) who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

I.R.C. § 21(b)(1)(C) —

the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.

I.R.C. § 21(b)(2) Employment-Related Expenses

I.R.C. § 21(b)(2)(A) In General —

The term “employment-related expenses” means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are 1 or more qualifying individuals with respect to the taxpayer:

I.R.C. § 21(b)(2)(A)(i) —

expenses for household services, and

I.R.C. § 21(b)(2)(A)(ii) —

expenses for the care of a qualifying individual.

Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying individual stays overnight.

I.R.C. § 21(b)(2)(B) Exception —

Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of—

I.R.C. § 21(b)(2)(B)(i) —

a qualifying individual described in paragraph (1)(A), or

I.R.C. § 21(b)(2)(B)(ii) —

a qualifying individual (not described in paragraph (1)(A)) who regularly spends at least 8 hours each day in the taxpayer's household.

I.R.C. § 21(b)(2)(C) Dependent Care Centers —

Employment-related expenses described in subparagraph (A) which are incurred for services provided outside the taxpayer's household by a dependent care center (as defined in subparagraph (D)) shall be taken into account only if—

I.R.C. § 21(b)(2)(C)(i) —

such center complies with all applicable laws and regulations of a State or unit of local government, and

I.R.C. § 21(b)(2)(C)(ii) —

the requirements of subparagraph (B) are met.

I.R.C. § 21(b)(2)(D) Dependent Care Center Defined —

For purposes of this paragraph, the term “dependent care center” means any facility which—

I.R.C. § 21(b)(2)(D)(i) —

provides care for more than six individuals (other than individuals who reside at the facility), and

I.R.C. § 21(b)(2)(D)(ii) —

receives a fee, payment, or grant for providing services for any of the individuals (regardless of whether such facility is operated for profit).

I.R.C. § 21(c) Dollar Limit On Amount Creditable —

The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

I.R.C. § 21(c)(1) —

\$3,000 if there is 1 qualifying individual with respect to the taxpayer for such taxable year, or

I.R.C. § 21(c)(2) —

\$6,000 if there are 2 or more qualifying individuals with respect to the taxpayer for such taxable year.

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

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

I.R.C. § 21(d) Earned Income Limitation

I.R.C. § 21(d)(1) In General —

Except as otherwise provided in this subsection, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

I.R.C. § 21(d)(1)(A) —

in the case of an individual who is not married at the close of such year, such individual's earned income for such year, or

I.R.C. § 21(d)(1)(B) —

in the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income of his spouse for such year.

I.R.C. § 21(d)(2) Special Rule For Spouse Who Is A Student Or Incapable Of Caring For Himself —

In the case of a spouse who is a student or a qualifying individual described in subsection (b)(1)(C), for purposes of paragraph (1), such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned income of not less than—

I.R.C. § 21(d)(2)(A) —

\$250 if subsection (c)(1) applies for the taxable year, or

I.R.C. § 21(d)(2)(B) —

\$500 if subsection (c)(2) applies for the taxable year.

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

I.R.C. § 21(e) Special Rules —

For purposes of this section—

I.R.C. § 21(e)(1) Place Of Abode —

An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.

I.R.C. § 21(e)(2) Married Couples Must File Joint Return —

If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.

I.R.C. § 21(e)(3) Marital Status —

An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

I.R.C. § 21(e)(4) Certain Married Individuals Living Apart —

If—

I.R.C. § 21(e)(4)(A) —

an individual who is married and who files a separate return—

I.R.C. § 21(e)(4)(A)(i) —

maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and

I.R.C. § 21(e)(4)(A)(ii) —

furnishes over half of the cost of maintaining such household during the taxable year, and

I.R.C. § 21(e)(4)(B) —

during the last 6 months of such taxable year such individual's spouse is not a member of such household, such individual shall not be considered as married.

I.R.C. § 21(e)(5) Special Dependency Test In Case Of Divorced Parents, Etc. —

If—

I.R.C. § 21(e)(5)(A) —

section 152(e) applies to any child with respect to any calendar year, and

I.R.C. § 21(e)(5)(B) —

such child is under the age of 13 or is physically or mentally incapable of caring for himself, in the case of any taxable year beginning in such calendar year,

such child shall be treated as a qualifying individual described in subparagraph (A) or (B) of subsection (b) (1) (whichever is appropriate) with respect to the custodial parent (as defined in section 152(e)(4)(A)), and shall not be treated as a qualifying individual with respect to the noncustodial parent.

I.R.C. § 21(e)(6) Payments To Related Individuals —

No credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual—

I.R.C. § 21(e)(6)(A) —

with respect to whom, for the taxable year, a deduction under section 151(c) (relating to deduction for personal exemptions for dependents) is allowable either to the taxpayer or his spouse, or

I.R.C. § 21(e)(6)(B) —

who is a child of the taxpayer (within the meaning of section 152(f)(1)) who has not attained the age of 19 at the close of the taxable year.

For purposes of this paragraph, the term “taxable year” means the taxable year of the taxpayer in which the service is performed.

I.R.C. § 21(e)(7) Student —

The term “student” means an individual who during each of 5 calendar months during the taxable year is a full-time student at an educational organization.

I.R.C. § 21(e)(8) Educational Organization —

The term “educational organization” means an educational organization described in section 170(b)(1)(A) (ii).

I.R.C. § 21(e)(9) Identifying Information Required With Respect To Service Provider —

No credit shall be allowed under subsection (a) for any amount paid to any person unless—

I.R.C. § 21(e)(9)(A) —

the name, address, and taxpayer identification number of such person are included on the return claiming the credit, or

I.R.C. § 21(e)(9)(B) —

if such person is an organization described in section 501(c)(3) and exempt from tax under section 501(a), the name and address of such person are included on the return claiming the credit.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required.

I.R.C. § 21(e)(10) Identifying Information Required With Respect To Qualifying Individuals —

No credit shall be allowed under this section with respect to any qualifying individual unless the TIN of such individual is included on the return claiming the credit.

I.R.C. § 21(f) Regulations —

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

I.R.C. § 21(g) Special Rules For 2021 —

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

I.R.C. § 21(g)(1) Credit Made Refundable —

If the taxpayer (in the case of a joint return, either spouse) has a principal place of abode in the United States (determined as provided in section 32) for more than one-half of the taxable year, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C (and not allowed under this subpart).

I.R.C. § 21(g)(2) Increase In Dollar Limit On Amount Creditable —

Subsection (c) shall be applied—

I.R.C. § 21(g)(2)(A) —

by substituting “\$8,000” for “\$3,000” in paragraph (1) thereof, and

I.R.C. § 21(g)(2)(B) —

by substituting “\$16,000” for “\$6,000” in paragraph (2) thereof.

I.R.C. § 21(g)(3) Increase In Applicable Percentage —

Subsection (a)(2) shall be applied—

I.R.C. § 21(g)(3)(A) —

by substituting “50 percent” for “35 percent”, and

I.R.C. § 21(g)(3)(B) —

by substituting “\$125,000” for “\$15,000”.

I.R.C. § 21(g)(4) Application Of Phaseout To High Income Individuals

I.R.C. § 21(g)(4)(A) In General —

Subsection (a)(2) shall be applied by substituting “the phaseout percentage” for “20 percent”.

I.R.C. § 21(g)(4)(B) Phaseout Percentage —

The term “phaseout percentage” means 20 percent reduced (but not below zero) by 1 percentage point for each \$2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds \$400,000.

I.R.C. § 21(h) Application Of Credit In Possessions

I.R.C. § 21(h)(1) Payment To Possessions With Mirror Code Tax Systems —

The Secretary shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of this section (determined without regard to this subsection) with respect to taxable years beginning in or with 2021. Such amounts shall be determined by the Secretary based on information provided by the government of the respective possession.

I.R.C. § 21(h)(2) Payments To Other Possessions —

The Secretary shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of this section with respect to taxable years beginning in or with 2021 if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan, which has been approved by the Secretary, under which such possession will promptly distribute such payments to its residents.

I.R.C. § 21(h)(3) Coordination With Credit Allowed Against United States Income Taxes —

In the case of any taxable year beginning in or with 2021, no credit shall be allowed under this section to any individual—

I.R.C. § 21(h)(3)(A) —

to whom a credit is allowable against taxes imposed by a possession with a mirror code tax system by reason of this section, or

I.R.C. § 21(h)(3)(B) —

who is eligible for a payment under a plan described in paragraph (2).

I.R.C. § 21(h)(4) Mirror Code Tax System —

For purposes of this subsection, the term “mirror code tax system” means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

I.R.C. § 21(h)(5) Treatment Of Payments —

For purposes of section 1324 of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(Added by Pub. L. 94-455, title V, Sec. 504(a)(1), Oct. 4, 1976, 90 Stat. 1563, Sec. 44A, and amended Pub. L. 95-600, title I, Sec. 121(a), Nov. 6, 1978, 92 Stat. 2779; Pub. L. 97-34, title I Sec. 124 (a)-(d), Aug. 13,

1981, 95 Stat. 197, 198; Pub. L. 98-21, title I, Sec. 122(c)(1), Apr. 20, 1983, 97 Stat. 87; renumbered Sec. 21 and amended Pub. L. 98-369, div. A, title IV, Sec. 423(c)(4), 471(c), 474(c), July 18, 1984, 98 Stat. 801, 826, 830; Pub. L. 99-514, title I, Sec. 104(b)(1), Oct. 22, 1986, 100 Stat. 2104; Pub. L. 100-203, title X, Sec. 10101(a), Dec. 22, 1987, 101 Stat. 1330-384; Pub. L. 100-485, title VII, Sec. 703(a)-(c)(1), Oct. 13, 1988, 102 Stat. 2426, 2427; Pub. L. 104-188, title 1, Sec. 1615, Aug. 20, 1996, 110 Stat. 1755; Pub. L. 107-16, title II, Sec. 202, 204, June 7, 2001, 115 Stat. 38; Pub. L. 107-147, title IV, Sec. 418(b), Mar. 9, 2002, 116 Stat. 21; Pub. L. 108-311, title II, Sec. 203, 207, Oct. 4, 2004, 118 Stat. 1166; Pub. L. 109-135, title IV, Sec. 404(b), Dec. 21, 2005, 119 Stat. 2577; Pub. L. 110-172, Sec. 11(a)(1), Dec. 29, 2007, 121 Stat. 2473; Pub. L. 117-2, title IX, Sec. 9631(a)-(b), Mar. 11, 2021, 135 Stat. 4.)

BACKGROUND NOTES

AMENDMENTS TO PART IV

1984--Pub. L. 98-369, div. A, title IV, Sec. 471(a), 474(n)(3), July 18, 1984, 98 Stat. 825, 834, substituted "Nonrefundable personal credits" for "Credits allowable" in item for subpart A, "Foreign tax credit, etc" for "Rules for computing credit for investment in certain depreciable property" in item for subpart B, "Refundable credits" for "Rules for computing credit for expense of work incentive programs" in item for subpart C, and "Business-related credits" for "Rules for computing credit for employment of certain new employees" in item for subpart D, and added items for subparts E and F.

1977--Pub. L. 95-30, title II, Sec. 202(d)(1)(B), May 23, 1977, 91 Stat. 147, added subpart D.

1971--Pub. L. 92-178, title VI, Sec. 601(c)(1), Dec. 10, 1971, 85 Stat. 557, added subpart C.

AMENDMENTS TO SUBPART

1986--Pub. L. 99-514, title I, Sec. 112(b)(5), Oct. 22, 1986, 100 Stat. 2109, struck out item 24 "Contributions to candidates for public office".

1984--Pub. L. 98-369, div. A, title IV, Sec. 471(b), 612(f), July 18, 1984, 98 Stat. 826, 913, substituted "Nonrefundable Personal Credits" for "Credits Allowable" as subpart A heading, struck out analysis of sections 31 through 45 formerly comprising subpart A, and inserted a new analysis of sections consisting of items 21 (formerly 44A), 22 (formerly 37), 23 (formerly 44C), 24 (formerly 41), and 25 and 26 (newly enacted).

1983--Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

Pub. L. 98-21, Sec. 122(c)(1), title I, Sec. 122(c)(7), Apr. 20, 1983, 97 Stat. 87, inserted "and the permanently and totally disabled" to item 37.

Pub. L. 97-424, title V, Sec. 515(b)(6)(D), Jan. 6, 1983, 96 Stat. 2181, substituted "and special fuels" for "special fuels, and lubricating oil" after "gasoline" in item 39.

Pub. L. 97-414, Sec. 4(c)(1), Jan. 4, 1983, 96 Stat. 2056, added item 44H.

1982--Pub. L. 97-248, title III, Sec. 307(b)(3), 308(a), Sept. 3, 1982, 96 Stat. 590, 591, provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, item 31 is amended to read "Tax withheld on wages, interest, dividends, and patronage dividends". Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 [now 1986] [this title] shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1981--Pub. L. 97-34, title II, Sec. 221(c)(2), title III, Sec. 331(e)(2), Aug. 13, 1981, 95 Stat. 247, 295, added items 44F and 44G.

1980--Pub. L. 96-223, title II, Sec. 231(b)(1), Sec. 232(b)(3)(B), Apr. 2, 1980, 94 Stat. 272, 276, added items 44D and 44E.

1978--Pub. L. 95-618, title I, Sec. 101(b)(1), Nov. 9, 1978, 92 Stat. 3179, added item 44C.

1977--Pub. L. 95-30, title I, Sec. 101(e)(1), title II, Sec. 202(d)(1)(A), May 23, 1977, 91 Stat. 134, 147, added item 44B and struck out item 36 "Credit not allowed to individuals taking standard deduction".

1976--Pub. L. 94-455, title IV, Sec. 401(a)(2)(D), title V, Sec. 501(c)(2), 503(b)(5), 504(a)(2), title XIX, 1901(b)(1)(Z), Oct. 4, 1976, 90 Stat. 1555, 1559, 1562, 1565, 1792, substituted in item 42 "General tax credit" for "Taxable income credit", struck out in item 36 "pay optional tax or", inserted in item 33 "possession tax credit", substituted in item 37 "Credit of the elderly" for "Retirement income", added item 44A, and struck out item 35 "Partially tax-exempt interest received by individuals".

1975--Pub. L. 94-164, Sec. 3(a)(2), Dec. 23, 1975, 89 Stat. 973, substituted "Taxable income credit" for "Credit for personal exemptions" in item 42.

Pub. L. 94-12, title II, Sec. 203(b)(1), 204(c), 208(d)(1), Mar. 29, 1975, 89 Stat. 30, 32, 35, renumbered item 42 as 45 and added item 42 applicable to taxable years ending after Dec. 31, 1974, but to cease to apply to taxable years ending after Dec. 31, 1975, item 43 applicable to taxable years beginning after Dec. 31, 1974, but before Jan. 1, 1976, and item 44.

1971--Pub. L. 92-178, title VI, Sec. 601(c)(2), Dec. 10, 1971, 85 Stat. 557, added items 40 and 41, and redesignated former item 40 as 42.

1970--Pub. L. 91-258, title II, Sec. 207(d)(10), May 21, 1970, 84 Stat. 249, inserted “, special fuels,” after “gasoline” in item 39.

1965--Pub. L. 89-44, title VIII, Sec. 809(d)(1), June 21, 1965, 79 Stat. 167, added item 39 and redesignated former item 39 as 40.

1964--Pub. L. 88-272, title II, Sec. 201(d)(1), Feb. 26, 1964, 78 Stat. 32, struck out item 34.

1962--Pub. L. 87-834, Sec. 2(g)(1), (2), Oct. 16, 1962, 76 Stat. 972, 973, added headings of subparts A and B and item 38, and redesignated former item 38 as 39.

PRIOR PROVISIONS

A prior section 21 was renumbered section 15 of this title.

AMENDMENTS

2021 - Subsec. (g). Pub. L. 117-2, Sec. 9631(a), added subsec. (g).

Subsec. (h). Pub. L. 117-2, Sec. 9631(b), added subsec. (h).

2007 - Subsec. (e)(5). Pub. L. 110-172, Sec. 11(a)(1), amended par. (5) by substituting “section 152(e)(4) (A)” for “section 152(e)(3)(A)” in the flush language following subpar. (B).

2005 - Subsec. (b)(1)(B). Pub. L. 109-135, Sec. 404(b), amended subpar. (B) by inserting “(as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B))” after “dependent of the taxpayer”.

2004 - Subsec. (a)(1). Pub. L. 108-311, Sec. 203(a), amended par. (1) by substituting “In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual” for “In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))”.

Subsec. 21(b)(1). Pub. L. 108-311, Sec. 203(b), amended par. (1). Before amendment it read as follows:

“(1) Qualifying individual

The term “qualifying individual” means--

“(A) a dependent of the taxpayer who is under the age of 13 and with respect to whom the taxpayer is entitled to a deduction under section 151(c),

“(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself, or

“(C) the spouse of the taxpayer, if he is physically or mentally incapable of caring for himself.”

Subsec. (e)(1). Pub. L. 108-311, Sec. 203(c), amended par. (1). Before amendment it read as follows:

“(1) Maintaining household

An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and his spouse).”

Subsec. (e)(5). Pub. L. 108-311, Sec. 207(2), amended par. (5) by striking “paragraph (2) or (4) thereof” before “section 152(e)” in subpar. (A) and by substituting “as defined in section 152(e)(3)(A)” for “within the meaning of section 152(e)(1)”.

Subsec. (e)(6)(B). Pub. L. 108-311, Sec. 207(3), amended subpar. (B) by substituting “section 152(f)(1)” for “section 151(c)(3)”.

2002 - Subsec. (d)(2)(A). Pub. L. 107-147, Sec. 418(b)(1), amended subpar. (A) by substituting “\$250” for “\$200”.

Subsec. (d)(2)(B). Pub. L. 107-147, Sec. 418(b)(2), amended subpar. (B) by substituting “\$500” for “\$400”.

2001 - Subsec. (a)(2). Pub. L. 107-16, Sec. 204(b), amended par. (2) by substituting “35 percent” for “30 percent” and “\$15,000” for “\$10,000”.

Subsec. (c)(1). Pub. L. 107-16, Sec. 204(a)(1), amended par. (1) by substituting “\$3,000” for “\$2,400”.

Subsec. (c)(2). Pub. L. 107-16, Sec. 204(a)(2), amended par. (2) by substituting “\$6,000” for “\$4,800”.

1996 - Subsec. (e). Pub. L. 104-188, Sec. 1615(b) added subpar. (10).

1988 - Subsec. (b)(1)(A). Pub. L. 100-485, Sec. 703(a), substituted ‘age of 13’ for ‘age of 15’.

Subsec. (c). Pub. L. 100-485, Sec. 703(b), inserted at end: ‘The amount determined under paragraph (1) or (2) (whichever is applicable) shall be reduced by the aggregate amount excludable from gross income under section 129 for the taxable year.’

Subsec. (e)(5)(B). Pub. L. 100-485, Sec. 703(a), substituted ‘age of 13’ for ‘age of 15’.

Subsec. (e)(9). Pub. L. 100-485, Sec. 703(c)(1), added par. (9).

1987 - Subsec. (b)(2)(A). Pub. L. 100-203 inserted at end ‘Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying individual stays overnight.’

1986 - Subsecs. (b)(1)(A), (e)(6)(A). Pub. L. 99-514, Sec. 104(b)(1)(A), substituted ‘section 151(c)’ for ‘section 151(e)’.

Subsec. (e)(6)(B). Pub. L. 99-514, Sec. 104(b)(1)(B), substituted 'section 151(c)(3)' for 'section 151(e)(3)'. 1984 - Pub. L. 98-369, Sec. 471(c), renumbered section 44A of this title as this section.

Subsec. (a)(1). Pub. L. 98-369, Sec. 474(c)(2), (3), substituted 'subsection (b)(1)' for 'subsection (c)(1)' and 'subsection (b)(2)' for 'subsection (c)(2)'.

Subsec. (b). Pub. L. 98-369, Sec. 474(c)(1), redesignated subsec. (c) as (b). Former subsec. (b), which provided that the credit allowed by subsec. (a) could not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under sections 33, 37, 38, 40, 41, 42, and 44, was struck out.

Subsec. (c). Pub. L. 98-369, Sec. 474(c)(1), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 98-369, Sec. 474(c)(1), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(2). Pub. L. 98-369, Sec. 474(c)(4), substituted 'subsection (b)(1)(C)' for 'subsection (c)(1)(C)' in introductory provisions.

Subsec. (d)(2)(A). Pub. L. 98-369, Sec. 474(c)(5), substituted 'subsection (c)(1)' for 'subsection (d)(1)'.

Subsec. (d)(2)(B). Pub. L. 98-369, Sec. 474(c)(6), substituted 'subsection (c)(2)' for 'subsection (d)(2)'.

Subsec. (e). Pub. L. 98-369, Sec. 474(c)(1), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (e)(5). Pub. L. 98-369, Sec. 474(c)(7), substituted 'subsection (b)(1)' for 'subsection (c)(1)' in provisions following subpar. (B).

Pub. L. 98-369, Sec. 423(c)(4), amended par. (5) generally, substituting subpars. (A) and (B) reading: '(A) paragraph (2) or (4) of section 152(e) applies to any child with respect to any calendar year, and '(B) such child is under the age of 15 or is physically or mentally incapable of caring for himself,' for former provisions:

'(A) a child (as defined in section 151(e)(3)) who is under the age of 15 or who is physically or mentally incapable of caring for himself receives over half of his support during the calendar year from his parents who are divorced or legally separated under a decree of divorce or separate maintenance or who are separated under a written separation agreement, and

'(B) such child is in the custody of one or both of his parents for more than one-half of the calendar year.' and substituted in concluding text '(whichever is appropriate) with respect to the custodial parent (within the meaning of section 152(e)(1)), and shall not be treated as a qualifying individual with respect to the noncustodial parent' for ', as the case may be, with respect to that parent who has custody for a longer period during such calendar year than the other parent, and shall not be treated as being a qualifying individual with respect to such other parent.'

Subsecs. (f), (g). Pub. L. 98-369, Sec. 474(c)(1), redesignated subsecs. (f) and (g) as (e) and (f), respectively. 1983 - Subsec. (b)(2). Pub. L. 98-21 substituted 'relating to credit for the elderly and the permanently and totally disabled' for 'relating to credit for the elderly'.

1981 - Subsec. (a). Pub. L. 97-34, Sec. 124(a), designated existing provisions as par. (1), substituted 'the applicable percentage' for '20 percent' in par. (1) as so designated, and added par. (2).

Subsec. (c)(2)(B). Pub. L. 97-34, Sec. 124(c), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (c)(2)(C), (D). Pub. L. 97-34, Sec. 124(d), added subpars. (C) and (D).

Subsec. (d)(1). Pub. L. 97-34, Sec. 124(b)(1)(A), substituted '\$2,400' for '\$2,000'.

Subsec. (d)(2). Pub. L. 97-34, Sec. 124(b)(1)(B), substituted '\$4,800' for '\$4,000'.

Subsec. (e)(2)(A). Pub. L. 97-34, Sec. 124(b)(2)(A), substituted '\$200' for '\$166'.

Subsec. (e)(2)(B). Pub. L. 97-34, Sec. 124(b)(2)(B), substituted '\$400' for '\$333'.

1978 - Subsec. (f)(6). Pub. L. 95-600 substituted provision disallowing a credit for any amount paid by a taxpayer to an individual with respect to whom, for the taxable year, a deduction under section 151(e) is allowable either to the taxpayer or his spouse or who is a child of the taxpayer who has not attained the age of 19 at the close of the taxpayer year and defining 'taxpayer year' for provision disallowing a credit for any amount paid by the taxpayer to an individual bearing a relationship described in section 152(a)(1) through (8), or a dependent described in section 152(a)(9), except that a credit was allowed for an amount paid by a taxpayer to an individual with respect to whom, for the taxable year of the taxpayer in which the service was performed, neither the taxpayer nor his spouse was entitled to a deduction under section 151(e), provided the service constituted employment within the meaning of section 3121(b).

EFFECTIVE DATE OF 2021 AMENDMENTS

Amendments by Section 9631 of Pub. L. 117-2 effective for taxable years beginning after December 31, 2020.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Section 11(a)(1) of Pub. L. 110-172 effective on the date of the enactment of this Act [Enacted: Dec. 29, 2007].

EFFECTIVE DATE OF 2005 AMENDMENT

Section 404(d) of Pub. L. 109-135 provided that: "The amendments made by this section shall take effect as if included in the provisions of the Working Families Tax Relief Act of 2004 [Pub. L. 108-311, Sec. 208] to which they relate."

EFFECTIVE DATE OF 2004 AMENDMENTS

Section 208 of Pub. L. 108-311 provided that: "The amendments made by this title shall apply to taxable years beginning after December 31, 2004."

EFFECTIVE DATE OF 2002 AMENDMENTS

Section 418(c) of Pub. L. 107-147 provided that: "The amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 [Pub. L. 107-16, Sec. 204] to which they relate."

EFFECTIVE DATE OF 2001 AMENDMENTS

Section 204(c) of Pub. L. 107-16 provided that: "The amendments made by this section shall apply to taxable years beginning after December 31, 2002."

Section 901 (Sunset of Provisions of Act) of Pub. L. 107-16, as amended by Pub. L. 107-358 and Pub. L. 111-312, Sec. 101(a), and struck by Pub. L. 112-240, Sec. 101(a)(1) (effective for taxable, plan, or limitation years beginning after Dec. 31, 2012, and estates of decedents dying, gifts made, or generation skipping transfers after Dec. 31, 2012), provided that:

"(a) IN GENERAL.--All provisions of, and amendments made by, this Act shall not apply--

"(1) to taxable, plan, or limitation years beginning after December 31, 2012, or

"(2) in the case of title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2012.

"(b) APPLICATION OF CERTAIN LAWS.--The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsection (a) as if the provisions and amendments described in subsection (a) had never been enacted.

"(c) EXCEPTION.-Subsection (a) shall not apply to section 803 (relating to no federal income tax on restitution received by victims of the Nazi regime or their heirs or estates)."

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1615(d)(1) of Pub. L. 104-188 provided that:

"IN GENERAL: The amendments made by this section shall apply with respect to returns the due date for which (without regard to extensions) is on or after the 30th day after the date of the enactment of this Act [Aug. 20, 1996].

SPECIAL RULE FOR 1995 AND 1996: In the case of returns for taxable years beginning in 1995 or 1996, a taxpayer shall not be required by the amendments made by this section to provide a taxpayer identification number for a child who is born after October 31, 1995, in the case of a taxable year beginning in 1995 or November 30, 1996, in the case of a taxable year beginning in 1996."

EFFECTIVE DATE OF 1988 AMENDMENT

Section 703(d) of Pub. L. 100-485 provided that: "The amendments made by this section (amending this section and sections 129 and 6109 of this title) shall apply to taxable years beginning after December 31, 1988."

EFFECTIVE DATE OF 1987 AMENDMENT

Section 10101(b) of Pub. L. 100-203, as amended by Pub. L. 100-647, title II, Sec. 2004(a), Nov. 10, 1988, 102 Stat. 3598, provided that:

'(1) In general. - The amendment made by subsection (a) (amending this section) shall apply to expenses paid in taxable years beginning after December 31, 1987.

'(2) Special rule for cafeteria plans. - For purposes of section 125 of the Internal Revenue Code of 1986, a plan shall not be treated as failing to be a cafeteria plan solely because under the plan a participant elected before January 1, 1988, to receive reimbursement under the plan for dependent care assistance for periods after December 31, 1987, and such assistance included reimbursement for expenses at a camp where the dependent stays overnight.'

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 423(c)(4) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1984, see section 423(d) of Pub. L. 98-369, set out as a note under section 2 of this title.

Section 475(a) of Pub. L. 98-369 provided that: 'The amendments made by this title (probably means subtitle F (Sec. 471-475) of title IV of Pub. L. 98-369, which enacted sections 25, 38, and 39 of this title, amended this section and sections 12, 15, 22 to 24, 27 to 35, 37, 39 to 41, 44A, 44C to 44H, 45 to 48, 51, 52, 55, 56, 86, 87, 103, 108, 129, 168, 196, 213, 280C, 381, 383, 401, 404, 409, 441, 527, 642, 691, 874, 882, 901, 904, 936, 1016, 1033, 1351, 1366, 1374, 1375, 1441, 1442, 1451, 3507, 6013, 6096, 6201, 6211, 6213, 6362, 6401, 6411, 6420, 6421, 6427, 6501, 6511, 7701, 7871, 9502, and 9503 of this title, repealed sections 38, 40, 44, 44B, 50A, 50B, and 53 of this title, and enacted provisions set out as notes under sections 30, 33, 46, and 48 of this title) shall apply to taxable years beginning after December 31, 1983, and to carrybacks from such years.'

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-21 applicable to taxable years beginning after Dec. 31, 1983, except that if an individual's annuity starting date was deferred under section 105(d)(6) of this title as in effect on the day before Apr. 20, 1983, such deferral shall end on the first day of such individual's first taxable year beginning after Dec. 31, 1983, see section 122(d) of Pub. L. 98-21, set out as a note under section 22 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 124(f) of Pub. L. 97-34 provided that:

'(1) Except as provided in paragraph (2), the amendments made by this section (amending this section and enacting section 129 of this title) shall apply to taxable years beginning after December 31, 1981.

'(2) The amendments made by subsection (e)(2) (amending sections 3121, 3306, and 3401 of this title and section 409 of Title 42, The Public Health and Welfare) shall apply to remuneration paid after December 31, 1981.'

EFFECTIVE DATE OF 1978 AMENDMENT

Section 121(b) of Pub. L. 95-600 provided that: 'The amendment made by subsection (a) (amending this section) shall apply to taxable years beginning after December 31, 1978.'

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1975, see section 508 of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 3 of this title.

TEMPORARY SPECIAL RULES FOR HEALTH AND DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS

Pub. L. 116-260, Div. EE, Sec. 214, provided:

"SEC. 214. TEMPORARY SPECIAL RULES FOR HEALTH AND DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS

"(a) CARRYOVER FROM 2020 PLAN YEAR.—For plan years ending in 2020, a plan that includes a health flexible spending arrangement or dependent care flexible spending arrangement shall not fail to be treated as a cafeteria plan under the Internal Revenue Code of 1986 merely because such plan or arrangement permits participants to carry over (under rules similar to the rules applicable to health flexible spending arrangements) any unused benefits or contributions remaining in any such flexible spending arrangement from such plan year to the plan year ending in 2021.

"(b) CARRYOVER FROM 2021 PLAN YEAR.—For plan years ending in 2021, a plan that includes a health flexible spending arrangement or dependent care flexible spending arrangement shall not fail to be treated as a cafeteria plan under the Internal Revenue Code of 1986 merely because such plan or arrangement permits participants to carry over (under rules similar to the rules applicable to health flexible spending arrangements) any unused benefits or contributions remaining in any such flexible spending arrangement from such plan year to the plan year ending in 2022.

"(c) EXTENSION OF GRACE PERIODS, ETC.—

"(1) IN GENERAL.—A plan that includes a health flexible spending arrangement or dependent care flexible spending arrangement shall not fail to be treated as a cafeteria plan under the Internal Revenue Code of 1986 merely because such plan or arrangement extends the grace period for a plan year ending in 2020 or 2021 to 12 months after the end of such plan year, with respect to unused benefits or contributions remaining in a health flexible spending arrangement or a dependent care flexible spending arrangement.

"(2) POST-TERMINATION REIMBURSEMENTS FROM HEALTH FSAs.—A plan that includes a health flexible spending arrangement shall not fail to be treated as a cafeteria plan under the Internal Revenue Code of 1986 merely because such plan or arrangement allows (under rules similar to the rules applicable to dependent care flexible spending arrangements) an employee who ceases participation in the plan during calendar year 2020 or 2021 to continue to receive reimbursements from unused benefits or contributions

through the end of the plan year in which such participation ceased (including any grace period, taking into account any modification of a grace period permitted under paragraph (1)).

“(d) SPECIAL CARRY FORWARD RULE FOR DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENTS WHERE DEPENDENT AGED OUT DURING PANDEMIC.—

“(1) IN GENERAL.—In the case of any eligible employee, section 21(b)(1)(A) of the Internal Revenue Code of 1986 shall be applied by substituting ‘age 14’ for ‘age 13’ for purposes of determining the dependent care assistance which may be paid or reimbursed with respect to such employee under the dependent care flexible spending arrangement referred to in paragraph (3)(A) with respect to such employee during—

“(A) the plan year described in paragraph (3)(A), and

“(B) in the case of an employee described in paragraph (3)(B)(ii), the subsequent plan year.

“(2) APPLICATION TO SUBSEQUENT PLAN YEAR LIMITED TO UNUSED BALANCE FROM PRECEDING PLAN YEAR.—Paragraph (1)(B) shall only apply to so much of the amounts paid for dependent care assistance with respect to the dependents referred to in paragraph (3)(B) as does not exceed the unused balance described in paragraph (3)(B)(ii).

“(3) ELIGIBLE EMPLOYEE.—For purposes of this section, the term ‘eligible employee’ means any employee who—

“(A) is enrolled in a dependent care flexible spending arrangement for the last plan year with respect to which the end of the regular enrollment period for such plan year was on or before January 31, 2020, and

“(B) has one or more dependents (as defined in section 152(a)(1) of the Internal Revenue Code of 1986) who attain the age of 13—

“(i) during such plan year, or

“(ii) in the case of an employee who (after the application of this section) has an unused balance in the employee's account under such arrangement for such plan year (determined as of the close of the last day on which, under the terms of the plan, claims for reimbursement may be made with respect to such plan year), the subsequent plan year.

“(e) CHANGE IN ELECTION AMOUNT.—For plan years ending in 2021, a plan that includes a health flexible spending arrangement or dependent care flexible spending arrangement shall not fail to be treated as a cafeteria plan under the Internal Revenue Code of 1986 merely because such plan or arrangement allows an employee to make an election to modify prospectively the amount (but not in excess of any applicable dollar limitation) of such employee's contributions to any such flexible spending arrangement (without regard to any change in status).

“(f) DEFINITIONS.—Any term used in this section which is also used in section 106, 125, or 129 of the Internal Revenue Code of 1986, or the regulations or guidance thereunder, shall have the same meaning as when used in such section, regulations, or guidance.

“(g) PLAN AMENDMENTS.—A plan that includes a health flexible spending arrangement or dependent care flexible spending arrangement shall not fail to be treated as a cafeteria plan under the Internal Revenue Code of 1986 merely because such plan or arrangement is amended pursuant to a provision under this section and such amendment is retroactive, if—

“(1) such amendment is adopted not later than the last day of the first calendar year beginning after the end of the plan year in which the amendment is effective, and

“(2) the plan or arrangement is operated consistent with the terms of such amendment during the period beginning on the effective date of the amendment and ending on the date the amendment is adopted.”

PROGRAM TO INCREASE PUBLIC AWARENESS

Pub. L. 101-508, title XI, Sec. 11114, Nov. 5, 1990, 104 Stat. 1388-414, provided that: ‘Not later than the first calendar year following the date of the enactment of this subtitle (Nov. 5, 1990), the Secretary of the Treasury, or the Secretary's delegate, shall establish a taxpayer awareness program to inform the taxpaying public of the availability of the credit for dependent care allowed under section 21 of the Internal Revenue Code of 1986 and the earned income credit and child health insurance under section 32 of such Code. Such public awareness program shall be designed to assure that individuals who may be eligible are informed of the availability of such credit and filing procedures.

The Secretary shall use appropriate means of communication to carry out the provisions of this section.’

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