



SPONSOR: Sen. Mantzavinos & Rep. Griffith & Rep. Baumbach
Sens. Ennis, Hansen, Lockman, Pinkney, Walsh; Reps.
Brady, K. Johnson, Lambert, Mitchell, Ramone,
Michael Smith

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 143

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO INCOME TAX CREDITS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 11, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§1118. Family Care Giver Tax Credit.

(a) Definitions.

(1) “Claimant” means a resident individual who files a claim under this subsection for amounts paid for qualified expenses to benefit a qualified family member.

(2) “Physician” has the meaning given in § 1702(12) of Title 24.

(3) “Qualified expenses” means amounts paid by a claimant in the year to which the claim relates for items that relate directly to the care or support of a qualified family member, including the following:

a. The improvement or alteration of the claimant's primary residence to enable or assist the qualified family member to be mobile, safe, or independent.

b. The purchase or lease of equipment to enable or assist the qualified family member to carry out one or more activities of daily living.

c. The acquisition of goods or services, or support, to assist the claimant in caring for the qualified family member, including employing a home care aide or personal care attendant, adult day care, specialized transportation, legal or financial services, or assistive care technology.

(4) “Qualified family member” means an individual to whom all of the following apply:

a. The individual is at least 18 years of age during the taxable year to which the claim relates.

b. The individual requires assistance with one or more daily living activities, as certified in writing by a physician.

c. The individual is the claimant's immediate family member, as defined in § 9403A(6) of Title 16, or by marriage, blood, or adoption, the claimant’s great-grandparent, stepgrandparent, great uncle or

great aunt, half brother or half sister, stepbrother or stepsister, stepparent, stepuncle or stepaunt, or first cousin, to the extent not already included in the definition of "immediate family member."

(b) Filing claims. For taxable years beginning after December 31, 2020, and subject to the limitations provided in this subsection, a claimant is entitled to a credit against the claimant's tax due under this chapter in the amount of 50% of the claimant's qualified expenses. In no event shall the credit allowable under this section exceed the tax otherwise due under this chapter.

(c) Limitations.

(1) If the claimant is a single individual, head of household, or married and filing separately, no claim may be filed under this subsection if the claimant's taxable income exceeds \$75,000 in the taxable year to which the claim relates.

(2) If the claimant is married and filing jointly, no claim may be filed under this subsection if the claimant's taxable income exceeds \$150,000 in the taxable year to which the claim relates.

(3) The maximum credit that may be claimed under this subsection each taxable year with regard to a particular qualified family member is \$2,000 or, if a claimant is married and filing a separate return, \$1,000. If more than one individual may file a claim under this subsection for a particular qualified family member, the maximum credit specified in this subsection shall be apportioned among all eligible claimants based on the ratio of their qualified expenses to the total amount of all qualified expenses incurred on behalf of that particular qualified family member.

(4) Qualified expenses may not include any of the following:

a. General food, clothing, or transportation expenses.

b. Ordinary household maintenance or repair expenses that are not directly related or necessary for the care of the qualified family member.

c. Any amount that is paid or reimbursed under an insurance policy, by the federal government, by this state, or by a political subdivision of this state.

SYNOPSIS

This bill creates a nonrefundable individual income tax credit for qualified expenses incurred by a family caregiver (claimant) to assist a qualified family member. To be qualified, a family member must be at least 18 years of age, must require assistance with one or more daily living activities as certified by a physician, and must be an immediate family member of the claimant or by marriage, blood, or adoption the claimant's great-grandparent, stepgrandparent, great uncle or great aunt, half brother or half sister, stepbrother or stepsister, stepparent, stepuncle or stepaunt, or first cousin. Subject to a number of limitations, a claimant may claim 50% of the costs of qualified expenses the claimant paid for in the year to which the claim relates. These expenses include amounts spent to improve the claimant's primary residence to assist the family member, equipment to help the family member with daily living activities, and obtaining other goods or services to help the claimant care for the family member.

The maximum amount of credit that may be claimed each year for a particular family member is \$2,000 or \$1,000 if married spouses file separately. If more than one claimant may file a claim related to that family member, the amount of credit each may claim is based on the percentage of the family member's qualified expenses for which each claimant paid during the year. No credit may be claimed by a claimant whose taxable income in the year to which the claim relates exceeds \$75,000 if the claimant is single or is married and files separately or \$150,000 if the claimant is married and files jointly. Generally under the bill, qualified expenses may not include general food, clothing, transportation, or household repair costs, or amounts that are paid or reimbursed by an insurance company or the government.

The credit first applies to taxable years beginning after December 31, 2020. Because the credit is nonrefundable, it may be claimed only up to the amount of the claimant's tax liability.

Author: Senator Mantzavinos