



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

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
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:

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

3 § 1118. Family Care Giver Tax Credit.

4 (a) Definitions.

5 (1) "Claimant" means an individual who is a resident of this state and who files a claim under this
6 subsection for amounts paid for qualified expenses to benefit a qualified family member.

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

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

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

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

16 d. Expenses associated with health maintenance tasks.

17 e. Expenses relating to counseling, support groups, or training relating to caring for a qualified family
18 member.

19 f. Any other item that relates directly to the health or safety of a qualified family member, as determined
20 by the Secretary after consultation with the Secretary of Health and Human Services.

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

a. The individual is at least 62 years of age during the taxable year to which the claim relates.

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

c. The individual is the claimant’s immediate family member, as defined in Chapter 94A of Title 16, or by marriage, blood, or adoption, the claimant’s great-grandparent, stepgrandparent, great uncle or great aunt, half sibling, stepsibling, stepparent, stepuncle or stepaunt, or first cousin, to the extent not already included in the definition of “immediate family member.”

d. The individual resides in a private home or residence.

(4) “Qualified physician” means a physician, as defined in Chapter 17 of Title 24, to whom all of the following apply:

a. The physician is not related by blood or marriage to the claimant or qualified family member.

b. The physician has no conflict of interest, as determined under regulations provided by the Secretary, with respect to the claimant or qualified family member.

(b) Filing claims. For taxable years beginning after December 31, 2022, 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) Except as provided in subparagraph (c)(4) of this section, the maximum credit that may be claimed under this section each taxable year with regard to a particular family member is \$2,000 or, if a claimant is married and filing a separate return, \$1,000.

(4) Only one claimant may file a claim under this section for a particular qualified family member.

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

a. General food, clothing, or transportation expenses.

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

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

55 Section 2. The Department of Finance shall develop an annual report on the tax credit's usage.

56 Section 3. This Act expires 3 years after its enactment into law, unless otherwise provided by a subsequent act of
57 the General Assembly.

SYNOPSIS

Section 1 of this Act 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 62 years of age, reside in a private home or residence, require assistance with two or more daily living activities as certified by a qualified physician, and be an immediate family member of the claimant or related by marriage, blood, or adoption to a near degree.

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. Qualified expenses include amounts spent to improve the claimant's primary residence to assist the family member, on equipment to help the family member with daily living activities, on counseling, support groups, or training relating to caring for a family member, and on obtaining other goods or services to help the claimant care for the family member. In addition, qualified expenses include any other item that relates directly to the health or safety of the family member, as determined by the Secretary of Finance after consultation with the Secretary of Health and Human Services.

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. Only one claimant may make a claim under this section for a particular qualified family member.

In addition, 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, 2022. Because the credit is nonrefundable, it may be claimed only up to the amount of the claimant's tax liability.

Section 2 of this Act provides that the Department of Finance shall develop an annual report on the tax credit's usage.

Section 3 of the Act provides that the tax credit will sunset after three years after its enactment into law, unless otherwise provided by an act of the General Assembly.

Author: Senator Mantzavinos