



Working Families Tax Relief Act of 2004 – HR 1308

Passed Congressional Joint Committee – September 24, 2004
Signed by President Bush – October 4, 2004

Unless otherwise noted, the provisions of this bill are effective for taxable years beginning after December 31, 2004.

I. Extension of Certain Expiring Provisions

Child Tax Credit – Increased the child tax credit to \$1,000 for taxable years 2005-2009.

The conference agreement accelerates to 2004 the increase in refundability of the child tax credit to 15 percent of the taxpayer's earned income in excess of \$10,750 (with indexing). This provision applies to taxable years beginning after December 31, 2003.

All modifications to the child tax credit will sunset under the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). This means that in 2010 the child tax credit falls to \$500.

Combat pay that is otherwise excluded from gross income under §112 is treated as earned income which is taken into account in computing taxable income for purposes of calculating the refundable portion of the child tax credit. Effective for taxable years beginning after December 31, 2003.

Any taxpayer may elect to treat excludable combat pay as earned income for purposes of the earned income tax credit. This provision is effective with respect to any taxable year ending after the date of enactment and before January 1, 2006.

Marriage Penalty Relief – The basic standard deduction for taxpayers filing a joint return is twice that (200 percent) of the basic standard deduction for single filers. The provision is effective for taxable years 2004-2010. The phase-out percentages enacted under EGTRRA for taxable years 2005-2008 have effectively been eliminated.

The size of the 15 percent rate bracket for joint filers is increased to twice that for single filers for taxable years 2005-2010. The phase-out percentages enacted under EGTRRA for taxable years 2005-2007 have been eliminated.

Summary provided by National Association of Tax Professionals (NATP).



Extension of 10 Percent Tax Bracket – The size of the 10 percent tax bracket is extended for 2005-2010. The brackets will be the same as they are for 2004 as follows:

- \$7,000 – single
- \$10,000 – head of household
- \$14,000 – married filing joint

Alternative Minimum Tax Exemption – For 2005, the exemption amounts are as follows:

- \$58,000 – married filing joint, qualifying widow(er)
- \$40,250 – unmarried taxpayers
- \$29,000 – married filing separately
- \$22,500 – estates and trusts

The exemption amount is phased out by an amount equal to 25 percent of the amount by which the individual's alternative minimum taxable income exceeds:

- \$150,000 – married filing joint, qualifying widow(er)
- \$112,000 – unmarried taxpayers
- \$75,000 – married filing separately, and estates and trusts

These amounts are not indexed for inflation.

II. Establish Uniform Definition of Qualifying Child

A uniform definition of qualifying child is established for purposes of the dependency exemption, the child tax credit, the earned income tax credit, the dependent care credit, and head of household filing status. A taxpayer may generally claim an individual who does not meet the uniform definition of qualifying child as a dependent if the present law dependency requirements are satisfied.

A child is a qualifying child under the uniform definition provided each of the following three tests are satisfied:

1. **Residency Test** - The child has the same principal place of abode as the taxpayer for more than one-half the taxable year. Temporary absences due to special circumstances, including illness, education, business, vacations, or military service are not treated as absences.

Summary provided by National Association of Tax Professionals (NATP).



2. **Relationship Test** - The child has a specified relationship to the taxpayer. The child must be the taxpayer's son, daughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, or a descendent of such individual. An individual legally adopted by the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, is treated as a child of such by blood. A foster child who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court is treated as the taxpayer's child.

3. **Age Test** – In general, the child must be under the age of 19, or 24 if a full-time student. Present law age limits remain in place for other provisions. The child must be under the age of 13 for the dependent care credit and under age 17 for the child tax credit.

Children Who Support Themselves – Generally, a child who provides over one-half of his or her own support is not considered a qualifying child of another taxpayer. However, a qualifying child who provides over one-half of his or her own support may constitute a qualifying child of another taxpayer for purposes of the earned income tax credit.

Tie-breaking Rules – If a child would be a qualifying child with respect to more than one individual, and more than one person claims a benefit with respect to that child, then the following tie-breaking rules apply:

1. If only one of those persons is the child's parent, the child is the qualifying child of the parent.

2. If both parents claim the child and the parents do not file a joint return, then the child is deemed the qualifying child first with respect to the parent with whom the child resides for the longest period, and second with respect to the parent with the highest adjusted gross income.

3. If the child's parents do not claim the child, then the child is deemed a qualifying child with respect to the claimant with the highest adjusted gross income.

Citizenship and Residency – Children who are U.S. citizens living abroad, or non-U.S. citizens living Canada or Mexico may qualify as a qualifying child, as in the case under present law dependency tests. A legally adopted child who does not satisfy the residency or citizenship requirement may still qualify as a qualifying child provided the other applicable requirements are met *if* the child's principal

Summary provided by National Association of Tax Professionals (NATP).



place of abode is the taxpayer's home, and the taxpayer is a citizen or national of the United States.

Children of Divorced or Legally Separated Parents – The present law rule allowing the custodial parent to release the claim to a dependency exemption (and child tax credit) to the noncustodial parent remains in effect. As under current law, the custody waiver rules do not affect eligibility with respect to children of divorced or legally separated parents for purposes of the earned income tax credit, the dependent care credit, or the head of household filing status.

While the definition of qualifying child is generally uniform, for purposes of the earned income tax credit, the dependent care credit, and the head of household filing status, the definition of qualifying child is made without regard to the waiver provision.

Dependency Exemption – A dependent is a qualifying child or a qualifying relative. A person who is claimed as a dependent by another taxpayer cannot claim dependents of their own in any tax year that begins in the same tax year as the person who is claiming him or her.

- The qualifying child test eliminates the support test and replaces it with the residency requirement.
- The current gross income test does not apply to a qualifying child.
- Multiple support agreements do not apply to a qualifying child because the support test does not apply to them.
- The tie-breaking rules apply if more than one taxpayer claims a qualifying child.
- The tie-breaking rules **do not** apply if a child is a qualifying child with respect to multiple taxpayers and only one eligible taxpayer actually claims the child.

The current dependency tests apply to a qualifying relative who does not satisfy the definition of a qualifying child. In such cases, the gross income test (including the special test for handicapped dependents), the support test (including the support test for students), and the rules regarding multiple support agreements continue to apply. Further, an individual shall not be considered a dependent of any taxpayer if such individual files a joint return with his or her spouse.

Earned Income Tax Credit – The definition of qualifying child applies for purposes of the earned income tax credit. With regard to a foster child, the present law requirement that the foster child be cared for as the taxpayer's own

Summary provided by National Association of Tax Professionals (NATP).



child is eliminated. For purposes of the earned income tax credit, the child must reside with the taxpayer in the United States, as under current law.

Child Tax Credit - With regard to a foster child, the present law requirement that the foster child be cared for as the taxpayer's own child is eliminated.

Dependent Care Credit – The present law requirement that a taxpayer maintain a household in order to claim the dependent care credit is eliminated. If other applicable requirements are satisfied, a taxpayer may claim the credit with respect to a child who lives with the taxpayer for more than half the year, even if the taxpayer does not provide more than half the cost of maintaining the household. The rules for determining eligibility with respect to an individual who is physically or mentally incapable of caring for himself or herself are amended to include a requirement that the taxpayer and dependent have the same principal residence for more than half the year.

Head of Household Filing Status – A taxpayer is eligible for the head of household filing status only with respect to a qualifying child or an individual for whom the taxpayer is entitled to a dependency exemption. The taxpayer must be unmarried and pay more than half the cost of maintaining a home that is the main home of a qualifying child or individual who can be claimed as a dependent. As under present law, a parent of the taxpayer who qualifies as a dependent is not required to live in the taxpayer's home for head of household status.

III. Extension of Other Expiring Provisions

Extension of Research Tax Credit – Taxpayers are allowed a research tax credit equal to 20 percent of the amount by which their qualified research expenses for a taxable year exceed its base amount for that year. The credit is reinstated for expenses paid or incurred after June 30, 2004 and before January 1, 2006.

Extension of Work Opportunity Tax Credit – The credit equals 40 percent (25 percent for employment of 400 hours or less) of qualified first-year wage. Generally, qualified first-year wages are qualified wages not in excess of \$6,000 attributable to services performed by a member of a targeted group during the one-year period beginning with the day the individual began work. The maximum credit equals \$2,400. The credit is extended for two years for wages paid or incurred for individuals beginning work after December 31, 2003 and before January 1, 2006.

Extension of Welfare-to-Work Tax Credit – The welfare-to-work tax credit is available on an elective basis to employers of qualified long-term family



assistance recipients during the first two years of employment. The maximum credit is 35 percent of the first \$10,000 of qualified first-year wages and 50 percent of the first \$10,000 of qualified second-year wages. The maximum credit is \$8,500 per qualified employee. The credit is extended for two years for wages paid or incurred for individuals beginning work after December 31, 2003 and before January 1, 2006.

Qualified Zone Academy Bonds – The authority to issue qualified zone academy bonds is extended and effective for bonds issued after December 31, 2003 and before January 1, 2006.

Charitable Contributions of Computer Technology – Certain corporations are allowed a charitable contribution deduction of computer technology and equipment in excess of basis. The enhanced deduction is available for contributions made in taxable years beginning after December 31, 2003 and before January 1, 2006.

Expenses of School Teachers – The \$250 above-the-line deduction allowed for certain classroom expenses of elementary and secondary school teachers is extended for expenses paid or incurred in taxable years beginning in 2004 and 2005.

Expensing of Environmental Remediation Costs – Taxpayers can elect to deduct certain environmental remediation costs that are otherwise chargeable to a capital account as a current expense in the year paid or incurred. This election is extended for two years through December 31, 2005.

New York Liberty Zone Provisions – The authority to issue Liberty Zone bonds is extended through December 31, 2009.

Tax Incentives for the District of Columbia – The D.C. Zone designation and related tax incentives are extended for two more years. The first-time home-buyer credit of up to \$5,000 is also extended for two more years.

Combined Employment Tax Reporting – Authority is provided through December 31, 2005, for any state to participate in a combined federal and state unemployment tax reporting program. This provision is effective on the date of enactment.

Nonrefundable Credits Allowed Against AMT – For taxable years beginning in 2004 and 2005, certain nonrefundable tax credits are allowed to the extent of the



full amount of the individual's regular tax and alternative minimum tax. The credits are:

- Dependent care credit.
- Credit for the elderly and disabled.
- Adoption credit.
- Child tax credit.
- Home mortgage credit.
- HOPE Scholarship and Lifetime Learning credit.
- Saver's credit.
- D.C. first-time home-buyer's credit.

Credit for Electricity Produced From Certain Renewable Resources – The credit is extended for producing electricity from wind energy, “closed-loop” biomass, and poultry facilities placed in service before January 1, 2006.

Extension of Suspension of Taxable Income Limit With Respect to Marginal Production – The temporary suspension of the taxable income limit on the percentage depletion allowance for oil and gas produced from marginal wells has been extended to include tax years 2004 and 2005. Thus, the limitation on the amount of a percentage depletion deduction to 100 percent of the net income from an oil or gas producing property does not apply to domestic oil and gas produced from marginal properties during tax years beginning after December 31, 1997, and before January 1, 2006.

Extension of Indian Employment Credit – The Indian employment tax credit is extended retroactively through December 31, 2005.

Accelerated Depreciation for Business Property on an Indian Reservation – The special depreciation periods for qualifying property is extended for property placed in service before January 1, 2006.

Disclosure Authority Related to Student Loan Information – The authority to disclose information to the Department of Education for purposes of establishing an appropriate income-contingent repayment amount is extended for one year until December 31, 2005. Only the taxpayer's identity information, filing status, and adjusted gross income may be disclosed.

Qualified Electric Vehicles Credit – The phase-out limitation for qualified electric vehicles placed in service in 2004 and 2005 has been eliminated. Because of this change, a taxpayer who purchases a qualified electric vehicle in 2004 and 2005

Summary provided by National Association of Tax Professionals (NATP).



may claim 100 percent of the otherwise allowable credit. However, for property placed in service in 2006, the deduction remains at 25 percent of the otherwise allowable amount.

Qualified Clean Fuel Property – The phase-out limitation for qualified clean-fuel vehicles placed in service in 2004 and 2005 has been eliminated. Because of this change, a taxpayer who purchases a qualified vehicle in 2004 and 2005 may claim 100 percent of the otherwise allowable deduction. However, for property placed in service in 2006, the deduction remains at 25 percent of the otherwise allowable amount.

Archer Medical Savings Accounts – Taxpayers can establish a new Archer Medical Savings Account (MSA) through December 31, 2005.