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Credit for Caring Act of 2021

H.R. 3321 (117th Congress)

By: Dale Loepp, CPA, Tam Nguyen, and MST Students in BUS 223A Tax Research, Spring 2022

On May 18, 2021, Congresswoman Linda Sánchez (D-CA) introduced the Credit for Caring Act of 2021 (H.R. 3321, 117th Congress), to create a nonrefundable credit to eligible caregivers (Section 25E, Working Family Caregivers). This credit is equal to 30 percent of qualified expenses incurred by the eligible caregiver that exceeds $2,000. The credit shall not exceed $5,000 and will be adjusted for inflation for tax years after 2021. Caregiving is a selfless duty people provide for others and this credit is meant to assist especially during a difficult time the COVID-19 pandemic created. Per sponsor Congresswoman Sánchez: "Especially during this pandemic, caregivers have been asked to juggle working from home and caring for a loved one, all while managing the financial responsibility associated with caregiving. The Credit for Caring Act will help alleviate some of that burden by providing a tax credit for services such as home care and adult day care."[1]

In the bill, an eligible caregiver must meet two requirements.

1. Pay or incur qualified expenses during the taxable year to provide care for a qualified care recipient.

2. Have earned income (as defined) in the same taxable year in excess of $7,500.

A qualified care recipient must either be the spouse of the eligible caregiver or a family member as defined by Section 152(d)(2). Prior to claiming this credit, the recipient must be certified by a licensed health care practitioner as someone needing long term care for at least 180 consecutive days in the tax year.

The following section analyzes H.R. 3321, Credit for Caring Act of 2021, using the twelve principles set out in the AICPA's Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposals.[2]

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[1] Congresswomen Linda Sánchez, "Sánchez Leads Bipartisan Effort to Support Caregivers," May 18, 2021; https://lindasanchez.house.gov/media-center/press-releases/s-nchez-leads-bipartisan-effort-support-caregivers.

[2] American Institute of Certified Public Accountants (AICPA) Tax Division. (January 2017). Tax Policy Concept Statement 1 - Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposals; available at: https://www.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/tax-policy-concept-statement-no-1-global.pdf.

Application of the Principles of Good Tax Policy

Criteria	Does the proposal satisfy the criteria? (explain)	Result
Equity and Fairness – Are similarly situated taxpayers taxed similarly? Consider the tax effect as a percentage of the taxpayer's income for different income levels of taxpayers.	Vertical Equity: Vertical equity is satisfied when taxpayers with higher income pay more tax than taxpayers with lower income. H.R. 3321 contains a phase-out provision that prevents high-income taxpayers from claiming the credit (proposed Section 25E(f)). The credit will phase out if modified adjusted gross income (MAGI) on a joint return exceeds $150,000, or $75,000 on non-joint returns. Such a phase-out rule promotes vertical equity. This means that high-income taxpayers are ineligible for this credit, which means high-income taxpayers pay more taxes. This proposal meets the principle of vertical equity. Horizontal equity: Taxpayers with similar abilities to pay should pay the same amount of tax. The horizontal equity principle is met since taxpayers at the same level of income are limited to a credit of $5,000. This limit prevents taxpayers in higher tax brackets from taking larger tax breaks than taxpayers from lower tax brackets, as this is a proportional tax.	+
Certainty – Does the rule clearly specify when the tax is owed and how the amount is determined? Are taxpayers likely to have confidence that they have applied the rule correctly.	H.R. 3321 does not meet the principle of certainty. There is a possibility that certain expenses would qualify for a credit under this bill while simultaneously qualifying for a credit under the Child and Dependent Care Credit in terms of human assistance. At that point the taxpayer must determine which expenses go where which could cause some confusion. Or the taxpayer would accidently claim the expenses on both credits leading to an overstatement of credits they actually qualify for.	-
Convenience of payment – Does the rule result in tax being paid at a time that is convenient for the payor?	The principle of convenience of payment is satisfied. The bill would generate a credit that eligible caregivers would receive when filing their tax return, just like any similar tax credit. Once the credit is claimed on the return, the taxpayer would instantly receive the credit to reduce the amount of taxes due on their return. However, this credit serves to provide financial relief to qualifying taxpayers, but that relief won't be realized until the return is filed rather than monthly when it might provide greater assistance to the taxpayer.	+/-

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Effective Tax Administration – Are the costs to administer and comply with this rule at minimum level for both the government and taxpayers?	This act creates more administrative work for both taxpayers and the government and does not meet the principle of effective tax administration. Maintaining records of qualified expenses, obtaining certification from a licensed health care practitioner to certify a qualified care recipient, completing the tax form to claim the credit, and having revenue officers review the tax return are all part of the additional compliance requirements imposed by H.R. 3321 for both the government and taxpayers. If qualified expenses reach $2,000, the proposed Section 25E provides a credit equal to 30% of such expenses; however, as previously stated, the credit is phased out. Calculation and income limitation impose additional administrative costs on the government and taxpayers, which appears to violate the policy of effective tax administration. There will be additional work for the IRS to provide guidance, possibly a new tax form and create and pursue appropriate examination techniques.	-
Information Security – Will taxpayer information be protected from both unintended and improper disclosure?	This bill meets the principle of information security by not requiring personally identifiable information to be submitted. The only requirement that would need to be entered is the total amount of expenses spent on caregiving on the tax return. No information is given out to a third party to where privacy is in danger.	+
Simplicity - Can taxpayers understand the rule and comply with it correctly and in a cost-efficient manner?	H.R. 3321 addresses the principle of simplicity through minimally complex rules for when the tax credit is computed and allowable and when it becomes phased out. The types of qualified expenditures are clearly outlined so that those types of costs are understandable by the average taxpayer. It further provides for simplicity by requiring a minimal amount of recordkeeping by the taxpayer. Eligible taxpayers may have other tax credits and there may be some confusion on the sequencing of them all. Also, because this is not a refundable credit and there is no carryforward for any credit unusable in the year generated, there is some complexity in how to claim it along with other credits.	+/-
Neutrality – Is the rule unlikely to change taxpayer behavior?	H.R. 3321 seems unlikely to either encourage or discourage people from expending necessary effort or funds to care for	+

	a family member. The effect on taxpayer behavior should be minimal. Therefore, this bill meets the principle of neutrality.	
Economic growth and efficiency – Will the rule not unduly impede or reduce the productive capacity of the economy?	H.R.3321 aims to alleviate financial strains on eligible caregivers by providing a 30% credit for qualified expenses incurred. The permitted credit will reduce the government's tax revenue, but the greater tax benefits are unlikely to provide working family caregivers with a competitive edge, given that they are already facing substantial financial challenges because they are sacrificing work hours to provide care to their family members. The credit is likely to increase the buying power of eligible taxpayers and ease the financial strain on family caregivers, which will stimulate economic growth. This nonrefundable credit also incentivizes caregivers to work since they must have more than $7,500 of earned income to qualify. Another possibility is that companies that compete in the assistive care industry could potentially create new equipment or devices that caregivers would purchase knowing they will receive a credit to offset the cost. Considering these factors, this act would meet the principle of economic growth and efficiency.	+
Transparency and Visibility – Will taxpayers know that the tax exists and how and when it is imposed upon them and others?	Visibility to the taxpayer may be hampered by the fact that Child and Dependent Care Credit is somewhat similar in nature (although certainly more expansive in coverage). it may be difficult to clearly publicize the fact that an additional new credit exists with some potential overlap with other credits. Therefore, this bill does not meet the principle of transparency and visibility.	-
Minimum tax gap – Is the likelihood of intentional and unintentional non-compliance likely to be low?	Because expenditure eligibility is defined quite broadly in the bill, possibilities exist for non-compliance. For example, it might be difficult for a taxpayer to determine whether a home modification is truly for the care of the qualified care recipient or whether it was undertaken for other reasons, or even multiple reasons. Similar credits now require additional due diligence on the part of tax preparers. The IRS would need to decide whether the Credit for Caring Act would require the same sort of due diligence (although credits currently covered by Section 6695(g) are refundable credits). Tax preparers may need additional guidance as to appropriate documentation for this credit.	-
Accountability to taxpayers – Will taxpayers know the	H.R. 3321 addresses the principle of accountability by having it clearly be a credit for eligible caregivers providing care to qualified care recipients. Looking after people are unable to	

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purpose of the rule, why needed and whether alternatives were considered? Can lawmakers support a rationale for the rule?	do so themselves is a costly endeavor. This proposal will ease the burden for taxpayers willing to assume this responsibility. For all of the currently eligible caregivers, this will enable them to do continue providing service to their loved ones.	+
Appropriate government revenues – Will the government be able to determine how much tax revenue will likely be collected and when?	This bill meets the principle of appropriate government revenues by setting a limit of up to $5,000 tax credit for 30% of expenses from long-term care expenses that surpass $2,000 in the taxable year. The amounts are clearly stated so that it would make it easier for the government to come up with a reasonable estimate of the amounts to be collected. Also, it is reasonable to assume the tax credit would be reliable for taxpayers since it is realistic to meet the criteria. The qualified expenses for the tax credit are clearly stated and provides excellent categories to distinguish the different types.	+

Based on this analysis, the Credit for Caring Act of 2021 has a positive rating for the principles of equity and fairness, convenience of payment, information security, simplicity, neutrality, economic growth and efficiency, accountability to taxpayers, and appropriate government revenues. Several key principles including certainty, effective tax administration, transparency and visibility, and minimum tax gap.

Suggestions for improvement:

1. Consider expanding the Child and Dependent Care Credit to include these proposed provisions under that credit. This would improve the ability of the proposal to meet the principle of transparency and visibility.

2. Provide more guidance on what is eligible as an expenditure that can be taken for this credit to ensure the correct expenses are considered for the credit. This will improve the ability of the proposal to meet the principle of minimum tax gap.