

118TH CONGRESS
1ST SESSION

H. R. 478

To amend the Internal Revenue Code of 1986 to allow for the inclusion of additional expenses in dependent care FSAs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2023

Mrs. MILLER of West Virginia introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow for the inclusion of additional expenses in dependent care FSAs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Working Families
5 Childcare Access Act of 2023” or the “WFCA Act of
6 2023”.

7 **SEC. 2. ADDITIONAL EXPENSES INCLUDED IN DEPENDENT**
8 **CARE ASSISTANCE PROGRAMS.**

9 (a) IN GENERAL.—Section 129(e) of the Internal
10 Revenue Code of 1986 is amended—

1 (1) in paragraph (1), by striking “or provision
2 of, those” and inserting “or provision of, qualified
3 adoption expenses (within the meaning of section
4 137(d)), qualified sports expenses, qualified tutoring
5 expenses, qualifying art expenses, or those”, and

6 (2) by adding at the end the following new
7 paragraphs:

8 “(10) QUALIFIED SPORTS EXPENSES.—The
9 term ‘qualified sports expenses’ means expenses paid
10 or incurred for the participation or instruction of a
11 dependent in a program of physical exercise or phys-
12 ical activity.

13 “(11) QUALIFIED TUTORING EXPENSES.—The
14 term ‘qualified tutoring expenses’ means expenses
15 paid or incurred for the participation or instruction
16 of a dependent in virtual or in-person—

17 “(A) individual academic tutoring, or

18 “(B) small-group academic tutoring in a
19 group of four students or fewer.

20 “(12) QUALIFIED ART EXPENSES.—The term
21 ‘qualified art expenses’ means expenses paid or in-
22 curred for the participation or instruction of a de-
23 pendent in a program of music or art.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2022.

4 **SEC. 3. DEPENDENT CARE EXPENSES ALLOWED FOR CHIL-**
5 **DREN AND DEPENDENTS UP TO AGE 15.**

6 (a) IN GENERAL.—Section 129(e)(1) of the Internal
7 Revenue Code of 1986, as amended by section 1, is
8 amended—

9 (1) by striking “or provision of, qualified adop-
10 tion expenses” and inserting “or provision of, with
11 respect to a qualifying individual, qualified adoption
12 expenses”,

13 (2) by striking “The term” and inserting the
14 following:

15 “(A) IN GENERAL.—The term”, and

16 (3) by adding at the end the following:

17 “(B) SPECIAL RULE.—For purposes of
18 subparagraph (A), the term ‘qualifying indi-
19 vidual’ has the meaning given in paragraph (1)
20 of section 21(b), except such paragraph shall be
21 applied by substituting ‘age 15’ for ‘age 13’.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2022.

1 **SEC. 4. CARRY FORWARD OF UNUSED BENEFITS.**

2 (a) IN GENERAL.—Section 129(d) of the Internal
3 Revenue Code of 1986 is amended by adding at the end
4 the following new paragraph:

5 “(10) BENEFIT CARRY FORWARD RULES.—

6 “(A) IN GENERAL.—A plan meets the re-
7 quirements of this paragraph if it provides for
8 the automatic carry forward from the close of
9 a plan year to the succeeding plan year of any
10 aggregate unused contributions totaling \$20 or
11 greater.

12 “(B) SMALL BALANCES.—For purposes of
13 subparagraph (A), if an eligible employee car-
14 ries a balance of less than \$20 at the end of a
15 plan year, such employee may elect to carry for-
16 ward such balance to the next plan year or, if
17 such employee makes no election, such balance
18 may be forfeited.

19 “(C) EXCLUSION FROM GROSS INCOME.—
20 No amount shall be included in gross income
21 under this chapter by reason of any carry for-
22 ward under this paragraph.

23 “(D) COORDINATION LIMITS.—The max-
24 imum amount which may be contributed to a
25 dependent care assistance flexible spending ar-
26 rangement for any year to which an unused

1 amount is carried under this paragraph shall
2 not be reduced by such unused amount.”.

3 (b) CONFORMING AMENDMENT.—Section 125(d)(2)
4 of such Code is amended by adding at the end the fol-
5 lowing new subparagraph:

6 “(E) EXCEPTION FOR DEPENDENT CARE
7 ASSISTANCE FLEXIBLE SPENDING ARRANGE-
8 MENTS.—Subparagraph (A) shall not apply to a
9 dependent care assistance flexible spending ar-
10 rangement which conforms to the benefit carry
11 forward rules of section 129(d)(10).”.

12 (c) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to taxable years beginning after
14 December 31, 2022.

15 **SEC. 5. INCREASE OF BENEFITS FOR DEPENDENT CARE AS-**
16 **SISTANCE PROGRAMS.**

17 (a) IN GENERAL.—Section 129(a)(2)(A) of the Inter-
18 nal Revenue Code of 1986 is amended by striking “\$5,000
19 (\$2,500” and inserting “\$15,000 (\$7,500”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to taxable years beginning after
22 December 31, 2022.

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