To amend the Internal Revenue Code of 1986 to provide a refundable credit for taxpayers with long-term care needs.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2008

Mr. CARNEY (for himself and Mr. PLATTS) 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 provide a refundable credit for taxpayers with long-term care needs.

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 “Caregiver Tax Relief
5 Act of 2008”.
6 SEC. 2. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE
7 NEEDS.
8 (a) IN GENERAL.—Subpart C of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of
1986 (relating to refundable personal credits) is amended by inserting after section 35 the following new section:

“SEC. 35A. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE NEEDS.

“(a) ALLOWANCE OF CREDIT.—

“(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable credit amount multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year.

“(2) APPLICABLE CREDIT AMOUNT.—For purposes of paragraph (1), the applicable credit amount shall be $2,500.

“(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

“(1) IN GENERAL.—The amount of the credit allowable under subsection (a) shall be reduced (but not below zero) by $100 for each $1,000 (or fraction thereof) by which the taxpayer’s modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term ‘modified adjusted gross income’ means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.
“(2) Threshold amount.—For purposes of paragraph (1), the term ‘threshold amount’ means—

“(A) $150,000 in the case of a joint return, and

“(B) $75,000 in any other case.

“(3) Indexing.—In the case of any taxable year beginning in a calendar year after 2009, each dollar amount contained in paragraph (2) shall be increased by an amount equal to the product of—

“(A) such dollar amount; and

“(B) the medical care cost adjustment determined under section 213(d)(10)(B)(ii) for the calendar year in which the taxable year begins, determined by substituting ‘2008’ for ‘1996’ in subclause (II) thereof. If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50.

“(c) Definitions.—For purposes of this section:

“(1) Applicable individual.—

“(A) In general.—The term ‘applicable individual’ means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a phy-
physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

“(i) which is at least 180 consecutive days, and

“(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39 1/2 month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

“(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

“(i) The individual is at least 18 years of age and—

“(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section
7702B(c)(2)(B)) due to a loss of functional capacity, or

“(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

“(ii) The individual is at least 6 but not 18 years of age and—

“(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity,

“(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is un-
able to perform at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities,

“(III) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

“(IV) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

“(iii) The individual is at least 2 but not 6 years of age and—

“(I) is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least 2 of the following activities: eating, transferring, or mobility,
“(II) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

“(III) has a complex medical condition (as defined by the Secretary) that requires medical management and coordination of care.

“(iv) The individual is under 2 years of age and—

“(I) requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual’s condition to be available if the individual’s parents or guardians are absent,

“(II) has a level of disability similar to the level of disability described in subclause (I) (as determined under regulations promulgated by the Secretary), or

“(III) has a complex medical condition (as defined by the Secretary)
that requires medical management and coordination of care.

“(v) The individual has 5 or more chronic conditions (as defined in subparagraph (C)) and is unable to perform (without substantial assistance from another individual) at least 1 activity of daily living (as so defined) due to a loss of functional capacity.

“(C) CHRONIC CONDITION.—For purposes of this paragraph, the term ‘chronic condition’ means a condition that lasts for at least 6 consecutive months and requires ongoing medical care.

“(2) ELIGIBLE CAREGIVER.—

“(A) In general.—A taxpayer shall be treated as an eligible caregiver for any taxable year with respect to each of the following individuals:

“(i) The taxpayer.

“(ii) The taxpayer’s spouse.

“(iii) An individual who is a qualifying child (as defined in section 152(c)) or a qualifying relative (as defined in section 152(d)) with respect to whom the tax-
payer is allowed a deduction under section 151(c) for the taxable year.

“(iv) An individual who would be a qualifying relative described in clause (iii) for the taxable year if section 152(d)(1)(B) were applied by substituting for the exemption amount an amount equal to the sum of the exemption amount, the standard deduction under section 63(c)(2)(C), and any additional standard deduction under section 63(c)(3) which would be applicable to the individual if clause (iii) applied.

“(v) An individual who would be a qualifying relative described in clause (iii) for the taxable year if—

“(I) the requirements of clause (iv) are met with respect to the individual; and

“(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test of section 152(d)(1)(C).

“(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an indi-
vidual has as his principal place of abode the
home of the taxpayer and—

“(i) in the case of an individual who
is an ancestor or descendant of the tax-
payer or the taxpayer’s spouse, is a mem-
ber of the taxpayer’s household for over
half the taxable year, or

“(ii) in the case of any other indi-
vidual, is a member of the taxpayer’s
household for the entire taxable year.

“(C) SPECIAL RULES WHERE MORE THAN
1 ELIGIBLE CAREGIVER.—

“(i) IN GENERAL.—If more than 1 in-
dividual is an eligible caregiver with re-
spect to the same applicable individual for
taxable years ending with or within the
same calendar year, a taxpayer shall be
treated as the eligible caregiver if each
such individual (other than the taxpayer)
files a written declaration (in such form
and manner as the Secretary may pre-
scribe) that such individual will not claim
such applicable individual for the credit
under this section.
“(ii) NO AGREEMENT.—If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest modified adjusted gross income (as defined in section 32(c)(5) (as in effect on the day before the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001)) shall be treated as the eligible caregiver.

“(iii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of married individuals filing separately, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).

“(d) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of such individual, and the identification number of the physician certifying such individual, on the return of tax for the taxable year.
“(e) Taxable Year Must Be Full Taxable Year.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

“(f) Citizens or Nationals of Other Countries.—

“(1) In General.—The terms ‘applicable individual’ and ‘eligible caregiver’ do not include an individual who is not a citizen or national of the United States unless such individual is a resident alien (as defined in section 7702(b)).

“(2) Exception for Adopted Child.—Paragraph (1) shall not exclude any child of a taxpayer (within the meaning of section 151(f)(1)(B)) if—

“(A) for the taxable year of the taxpayer, the child has the same principal place of abode as the taxpayer and is a member of the taxpayer’s household, and

“(B) the taxpayer is a citizen, national, or resident alien of the United States.”.

(b) Conforming Amendments.—

(1) Section 6213(g)(2) of such Code is amended by striking “and” at the end of subparagraph (L)(ii), by striking the period at the end of subpara-
graph (M) and inserting “, and”, and by inserting
after subparagraph (M) the following new subpara-
graph:

“(N) an omission of a correct TIN or phy-
sician identification required under section
35A(d) (relating to credit for taxpayers with
long-term care needs) to be included on a re-
turn.”.

(2) The table of sections for subpart C of part
IV of subchapter A of chapter 1 of such Code is
amended by inserting after the item relating to sec-
tion 35 the following new item:

“Sec. 35A. Credit for taxpayers with long-term care needs.”.

(e) EFFECTIVE DATE.—The amendments made by
this section shall apply to taxable years beginning after
December 31, 2008.