SENATE
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NINETY-SECOND SESSION

S.F. No. 4205

(SENATE AUTHORS: PRATT, Rest, Housley, Nelson and Weber)

DATE	D-PG	OFFICIAL STATUS
03/23/2022	5566	Introduction and first reading Referred to Taxes

A bill for an act

relating to taxation; individual income; expanding the dependent care credit; establishing the great start child care credit; amending Minnesota Statutes 2020, sections 290.0131, by adding a subdivision; 290.067.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2020, section 290.0131, is amended by adding a subdivision to read:

Subd. 19. **Dependent flexible spending accounts.** For a taxpayer who claims the credit under section 290.067, the amount of dependent care assistance that is excluded from gross income under section 129 of the Internal Revenue Code is an addition.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2021.

Sec. 2. Minnesota Statutes 2020, section 290.067, is amended to read:

290.067 ~~DEPENDENT~~ GREAT START CHILD CARE AND DEPENDENT CARE CREDIT.

Subdivision 1. **Amount of credit.** (a) A taxpayer may take as a credit against the tax due from the taxpayer and a spouse, if any, under this chapter an amount equal to ~~the dependent care credit for which the taxpayer is eligible pursuant to the provisions of section 21 of the Internal Revenue Code except that in determining whether the child qualified as a dependent, income received as a Minnesota family investment program grant or allowance to or on behalf of the child must not be taken into account in determining whether the child received more than half of the child's support from the taxpayer~~ the taxpayer's eligible dependant care expenses, as determined under subdivision 1a, multiplied by the taxpayer's credit percentage, as determined under subdivision 1b.

~~(b) If a child who has not attained the age of six years at the close of the taxable year is cared for at a licensed family day care home operated by the child's parent, the taxpayer is deemed to have paid employment-related expenses. If the child is 16 months old or younger at the close of the taxable year, the amount of expenses deemed to have been paid equals the maximum limit for one qualified individual under section 21(c) and (d) of the Internal Revenue Code. If the child is older than 16 months of age but has not attained the age of six years at the close of the taxable year, the amount of expenses deemed to have been paid equals the amount the licensee would charge for the care of a child of the same age for the same number of hours of care.~~

~~(c) If a married couple:~~

~~(1) has a child who has not attained the age of one year at the close of the taxable year;~~

~~(2) files a joint tax return for the taxable year; and~~

~~(3) does not participate in a dependent care assistance program as defined in section 129 of the Internal Revenue Code, in lieu of the actual employment related expenses paid for that child under paragraph (a) or the deemed amount under paragraph (b), the lesser of (i) the combined earned income of the couple or (ii) the amount of the maximum limit for one qualified individual under section 21(c) and (d) of the Internal Revenue Code will be deemed to be the employment related expense paid for that child. The earned income limitation of section 21(d) of the Internal Revenue Code shall not apply to this deemed amount. These deemed amounts apply regardless of whether any employment-related expenses have been paid.~~

~~(d) If the taxpayer is not required and does not file a federal individual income tax return for the tax year, no credit is allowed for any amount paid to any person unless:~~

~~(1) the name, address, and taxpayer identification number of the person are included on the return claiming the credit; or~~

~~(2) if the person is an organization described in section 501(c)(3) of the Internal Revenue Code and exempt from tax under section 501(a) of the Internal Revenue Code, the name and address of the person are included on the return claiming the credit.~~

~~In the case of a failure to provide the information required under the preceding sentence, the preceding sentence does not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information required.~~

~~(e)~~ (b) In the case of a nonresident, part-year resident, or a person who has earned income not subject to tax under this chapter ~~including earned income excluded pursuant to section 290.0132, subdivision 10,~~ the credit determined under ~~section 21 of the Internal Revenue Code~~ this section must be allocated ~~based on the ratio by which the earned income of the claimant and the claimant's spouse from Minnesota sources bears to the total earned income of the claimant and the claimant's spouse~~ using the percentage calculated in section 290.06, subdivision 2c, paragraph (e).

(c) For the purposes of this section, the following terms have the meanings given;

(1) "Employment-related expenses" has the meaning given in section 21(b)(2) of the Internal Revenue Code;

(2) "Qualifying individual" has the meaning given in section 21(b)(1) of the Internal Revenue Code, except that in determining whether the child qualified as a dependent, income received as a Minnesota family investment program grant or allowance to or on behalf of the child must not be taken into account in determining whether the child received more than half of the child's support from the taxpayer;

(3) "Young child" means a qualifying individual who had not attained the age of five by December 31 of the taxable year.

~~(f) For residents of Minnesota, the subtractions for military pay under section 290.0132, subdivisions 11 and 12, are not considered "earned income not subject to tax under this chapter."~~

~~(g) For residents of Minnesota, the exclusion of combat pay under section 112 of the Internal Revenue Code is not considered "earned income not subject to tax under this chapter."~~

~~(h) For taxpayers with federal adjusted gross income in excess of $52,230, the credit is equal to the lesser of the credit otherwise calculated under this subdivision, or the amount equal to $600 minus five percent of federal adjusted gross income in excess of $52,230 for taxpayers with one qualified individual, or $1,200 minus five percent of federal adjusted gross income in excess of $52,230 for taxpayers with two or more qualified individuals, but in no case is the credit less than zero.~~

Subd. 1a. **Eligible dependent care expenses.** (a) A taxpayer's eligible dependent care expenses equals the amount of employment-related expenses incurred by the taxable year, subject to the limitations in paragraphs (b) and (c).

(b) Except as provided in paragraph (c), a taxpayer's eligible dependent care expenses are limited to:

(1) $3,000 if there was one qualifying individual with respect to the taxpayer; or

(2) $6,000 if there were two or more qualifying individuals with respect to the taxpayer.

(c) For a taxpayer with a young child, the limit in paragraph (b) is increased as follows:

(1) for a taxpayer with one young child with respect to the taxpayer, the limit is increased by $7,000;

(2) for a taxpayer with two young children with respect to the taxpayer, the limit is increased by $14,000; or

(3) for a taxpayer with three or more young children with respect to the taxpayer, the limit is increased by $19,000.

Subd. 1b. **Credit percentage.** (a) The credit percentage equals 50 percent, subject to the reductions in paragraphs (b) and (c).

(b) A taxpayer's credit percentage is reduced by one percentage point for each $2,000, or fraction thereof, by which the taxpayer's adjusted gross income exceeds $125,000, until the credit percentage equals 20 percent.

(c) For a taxpayer with adjusted gross income in excess of $400,000, the credit percentage equals 20 percent, reduced by one percentage point for each $2,000, or fraction thereof, by which the taxpayer's adjusted gross income exceeds $400,000.

Subd. 2b. **Inflation adjustment.** The commissioner shall annually adjust the dollar amount of the income threshold at which the ~~maximum~~ credit percentage begins to be reduced under subdivision ~~1~~ 1b as provided in section 270C.22. The statutory year is taxable year 2019.

Subd. 2c. **Deemed expenses.** (a) If a child who has not attained the age of six years at the close of the taxable year is cared for at a licensed family day care home operated by the child's parent, the taxpayer is deemed to have paid employment-related expenses. The amount of expenses deemed to have been paid equals the amount the licensee would charge for the care of a child of the same age for the same number of hours of care.

(b) If a married couple:

(1) has a child who has not attained the age of one year at the close of the taxable year;

(2) does not participate in a dependent care assistance program as defined in section 129 of the Internal Revenue Code, in lieu of the actual employment-related expenses paid for that child under or the deemed amount under paragraph (a), the amount deemed to be the employment-related expense paid for that child equals the lesser of:

(i) the combined earned income of the couple; or

(ii) the amount of the maximum limit for one qualified individual under subdivision 1a, paragraph (b), as increased by paragraph (c).

The earned income limitation of section 21(d) of the Internal Revenue Code shall not apply to this deemed amount. These deemed amounts apply regardless of whether any employment-related expenses have been paid.

Subd. 2d. **Taxpayers not filing a federal return.** If the taxpayer is not required and does not file a federal individual income tax return for the tax year, no credit is allowed for any amount paid to any person unless:

(1) the name, address, and taxpayer identification number of the person are included on the return claiming the credit; or

(2) if the person is an organization described in section 501(c)(3) of the Internal Revenue Code and exempt from tax under section 501(a) of the Internal Revenue Code, the name and address of the person are included on the return claiming the credit.

Subd. 3. **Credit to be refundable.** If the amount of credit which a claimant would be eligible to receive pursuant to this subdivision exceeds the claimant's tax liability under chapter 290, the excess amount of the credit shall be refunded to the claimant by the commissioner of revenue. An amount sufficient to pay the refunds required by this section is appropriated to the commissioner from the general fund.

Subd. 4. **Right to file claim.** The right to file a claim under this section shall be personal to the claimant and shall not survive death, but such right may be exercised on behalf of a claimant by the claimant's legal guardian or attorney-in-fact. When a claimant dies after having filed a timely claim the amount thereof shall be disbursed to another member of the household as determined by the commissioner of revenue. If the claimant was the only member of a household, the claim may be paid to the claimant's personal representative, but if neither is appointed and qualified within two years of the filing of the claim, the amount of the claim shall escheat to the state.

Subd. 5. **Employment related expenses.** For the purposes of determining employment related expenses, the provisions of the Internal Revenue Code, section 21(d) apply.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2020.