



# The Child Tax Credit: Current Law and Legislative History

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## Summary

This report provides background information on the child tax credit. Specifically, this report provides an overview of the child tax credit under current law, as well as a legislative history of this tax benefit, which helps explain its purpose and current structure.

When calculating the total amount of federal income taxes owed, eligible taxpayers can reduce their federal income tax liability (the taxes due after the marginal tax rate schedule is applied to their taxable income) by the child tax credit. Currently, eligible families that claim the child tax credit can subtract up to \$1,000 per qualifying child from their federal income tax liability. The maximum amount of credit a family can receive is equal to the number of qualifying children in a family times \$1,000. If a family's tax liability is less than the value of their child tax credit, they may be eligible for a refundable credit calculated using the earned income formula. Under this formula, a family is eligible for a refund equal to 15% of their earnings in excess of \$3,000, up to the maximum amount of the credit. (This \$3,000 amount is referred to as the "refundability threshold".) The credit phases out for single parents with income over \$75,000 and married couples with income over \$110,000.

The child tax credit was created in 1997 by the Taxpayer Relief Act of 1997 (P.L. 105-34) to help ease the financial burden that families incur when they have children. Like other tax credits, the child tax credit reduces tax liability dollar for dollar of the value of the credit. Initially the child tax credit was a nonrefundable credit for most families. A nonrefundable tax credit can only reduce a taxpayer's tax liability to zero, while a refundable tax credit can exceed a taxpayer's tax liability, providing a cash payment to low-income taxpayers who owe little or no tax.

Since it was first enacted, the child tax credit has undergone significant changes, most notably as a result of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA; P.L. 107-16) and the American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5) which increased the availability of the credit to many low-income families. Specifically EGTRRA doubled the value of the credit per child (from \$500 to \$1,000) and made the credit refundable for families with earnings over \$10,000. ARRA lowered this refundability threshold from \$10,000 (adjusted annually for inflation) to \$3,000 (not adjusted for inflation). As a result of these changes, certain low-income taxpayers are currently eligible for the tax credit if their earnings are greater than \$3,000. They receive 15 cents of credit for every dollar of earnings above \$3,000 up to the maximum value of the credit—\$1,000/per child.

The changes made by EGTRRA and ARRA were extended through the end of 2012 by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312). At the end of 2012, the EGTRRA changes to the child tax credit were made permanent, while the ARRA changes were extended for five years (through the end of 2017) as part of the American Taxpayer Relief Act (P.L. 112-240; ATRA). Hence, under current law, beginning in 2018, the child tax credit will still be worth \$1,000 per child credit, but the refundability threshold will increase from \$3,000 (not adjusted for inflation) to \$10,000 (adjusted for inflation occurring after 2001).

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## Introduction

The child tax credit was created in 1997 by the Taxpayer Relief Act of 1997 (P.L. 105-34) to help ease the financial burden that families incur when they have children. Like other tax credits, the child tax credit reduces tax liability dollar for dollar of the value of the credit. Initially the child tax credit was a nonrefundable credit for most families. A nonrefundable tax credit can only reduce a taxpayer's tax liability to zero, while a refundable tax credit can exceed a taxpayer's tax liability, providing a cash payment primarily to low-income taxpayers who owe little or no income tax. Over the past 15 years, legislative changes have significantly changed the credit, transforming it from a nonrefundable credit available only to the middle and upper-middle class, to a partially refundable credit that more low-income families are eligible to claim.

As a result of the American Taxpayer Relief Act (P.L. 112-240; ATRA), the child tax credit is permanently refundable. However, at the end of 2017, the earnings threshold at which low-income taxpayers may begin to claim the credit—the “refundability threshold”—is scheduled to rise from \$3,000 (not adjusted for inflation) to \$10,000 (adjusted for inflation occurring since 2001). Hence beginning in 2018, under current law, taxpayers with earnings over \$10,000 will become eligible for the child tax credit. Currently taxpayers with earnings above \$3,000 are eligible for the credit. When the refundability threshold rises fewer lower income taxpayers will be eligible for the refundable portion of the credit and certain low-income taxpayers will receive a smaller credit.

Prior to the end of 2017, Congress may allow the current policy structure of the credit to expire as scheduled (i.e., allow the refundability threshold to increase), they may extend current policy (i.e., keep the refundability threshold at \$3,000 either temporarily or permanently), or they may modify different parameters of the credit. This report provides an overview of the credit under current law and examines the legislative history of the credit, reviewing how the credit has changed over the past two decades to provide background to any upcoming debate on the future of this tax benefit. For an economic analysis of the child tax credit, see CRS Report R41935, *The Child Tax Credit: Economic Analysis and Policy Options*, by Margot L. Crandall-Hollick.

## Current Law

Currently, the child tax credit allows a taxpayer to reduce their federal income tax liability (the taxes owed before tax credits are applied) by up to \$1,000 per child. If the value of the credit exceeds the amount of tax a family owes, the family may be eligible to receive a full or partial refund of the difference. The total amount of their refund is calculated as 15% (the refundability rate) of earnings that exceed \$3,000 (the refundability threshold), up to the maximum amount of the credit (\$1,000 per child). The credit phases out for higher-income taxpayers. The child tax credit can offset a taxpayer's Alternative Minimum Tax (AMT) liability. One parameter of the child tax credit is scheduled to expire at the end of 2017, namely the refundability threshold. Currently, the maximum credit per child, refundability threshold, and phase-out thresholds are not indexed for inflation. **Table 1** provides an overview of key provisions of the child tax credit under current law for tax years 2009-2017, and beyond.

**Table I. Overview of Key Aspects of the Child Tax Credit Under Current Law**

Parameter	Through 2017	After 2017
Maximum credit per child	\$1,000	same
Refundability Threshold	\$3,000	\$10,000 (indexed for inflation occurring since 2001)
Refundability Rate	15%	same
Phase-out Threshold	\$55,000 married separate return \$75,000 head of household \$110,000 married joint return	same
Phase-out Rate	5%	same
Offset AMT tax liability	YES	same

Source: Internal Revenue Code, 26 U.S.C. § 24.

## Detailed Overview of Current Credit

For tax years<sup>1</sup> 2009-2017, eligible families can claim a child tax credit and reduce their federal income tax liability by up to \$1,000 per qualifying child.<sup>2</sup> The maximum credit a family can receive is equal to the number of qualifying children in a family times \$1,000. For example, a family with two qualifying children may be eligible for a \$2,000 credit. If the value of the family’s credit is greater than its actual tax liability, the family may be eligible to receive the

difference as a refund. For example, if a family with two eligible children has an income tax liability of \$1,000, (which is less than the \$2,000 value of their child credit), the family may be able to receive up to \$1,000 as a refund, depending on its earnings.

**The Earned Income Formula**  
Effective from 2009-2017

**Earned Income Formula**  
(earnings - refundability threshold) × (refundability rate)

*The total amount of the child tax credit calculated under the earned income formula cannot exceed the maximum allowable credit. The maximum value of the credit is \$1,000 credit per child multiplied by the number of qualifying children*

**Example**  
Two-parent, three-child family with earnings of \$20,000  
 $(\$20,000 - \$3,000) \times 15\% = \$2,550$

*Note that in this example \$2,550 does not exceed the maximum value of the credit which is \$3,000 (3 times \$1,000 per child).*

The refundable portion of the credit, sometimes referred to as the “additional child tax credit” or ACTC, is equal to 15% of the family’s earnings in excess of \$3,000, up to the maximum credit amount. This formula for calculating the refundable portion of the credit is sometimes referred to as the earned income formula. The child

tax credit is often referred to as a “partially refundable” credit (in contrast to a fully refundable credit like the Earned Income Tax Credit (EITC)). A tax credit is partially refundable if, in cases

<sup>1</sup> For personal taxes (for example, individual income and payroll taxes), a tax year is defined as the calendar year for which those taxes are paid. Throughout this report, the terms “tax year” and “year” will be used interchangeably.

<sup>2</sup> The child tax credit can be found in Section 24 of the Internal Revenue Code (26 U.S.C. § 24).

where the credit is larger than the taxpayer's tax liability, the Internal Revenue Service (IRS) only refunds *part* of the difference. Families with three or more children are technically eligible to use another formula to calculate the ACTC—the alternative formula—but in practice, few families elect this option because they receive a larger credit using the earned income formula.<sup>3</sup>

The child tax credit phases out for higher-income families. The \$1,000-per-child value of the credit falls by a certain amount as a family's income rises. Specifically, for every \$1,000 of modified adjusted gross income (MAGI)<sup>4</sup> above a threshold amount, the credit falls by \$50. The threshold amounts depend on a taxpayer's filing status, and equal \$75,000 for single parents filing as heads of household, \$110,000 for married taxpayers filing joint returns, and \$55,000 for married taxpayers filing separate returns. The actual income level at which the credit is entirely phased out depends on the number of qualifying children. Generally, it takes \$20,000 of MAGI above the phase-out threshold to completely phase out \$1,000 of credit. For example, the credit will completely phase out for a married couple with two children if their MAGI exceeds \$150,000. Currently, the maximum credit amount, the earnings refundability threshold, and the phase-out thresholds are not indexed for inflation. The child tax credit can offset a taxpayer's alternative minimum tax (AMT) liability.<sup>5</sup>

## Definition of a Qualifying Child

In order to claim the child tax credit, a taxpayer's child must be considered “a qualifying child” and meet several requirements which may differ from eligibility requirements for other child-related tax benefits.<sup>6</sup>

1. The child must be under 17 years of age during the entire year for which the taxpayer claims the credit (for example, if the child was 16.5 years on December 31, 2010, the taxpayer could claim the credit on their 2010 federal income tax return).
2. The child must be claimed as a dependent on the taxpayer's return.
3. The child must be the taxpayer's son, daughter, grandson, granddaughter, stepson, stepdaughter, niece, nephew, or an eligible foster child of the taxpayer.

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<sup>3</sup> Families with three or more children may choose to calculate the refundable portion of the child tax credit using an alternative formula. If the amount calculated under the alternative formula is larger than the refundable credit calculated under the earned income formula, the larger credit can be claimed. The alternative formula is calculated as the excess of a taxpayer's payroll taxes (including one-half of any self-employment taxes) over their earned income tax credit (EITC), not to exceed the maximum credit amount. However, lower-income taxpayers, will often pay less in payroll taxes than they will receive in the EITC. This is because payroll taxes are equal to 7.65% of earnings, while the EITC equals up to 45% of earnings.

<sup>4</sup> With respect to the child tax credit, modified adjusted gross income (MAGI) is equal to Adjusted Gross Income (AGI) increased by foreign earned income of U.S. Citizens abroad, including income earned in Guam, American Samoa, the Northern Mariana Islands, and Puerto Rico. For more information on AGI see CRS Report RL30110, *Federal Individual Income Tax Terms: An Explanation*, by Mark P. Keightley and CRS Report RL32808, *Overview of the Federal Tax System*, by Molly F. Sherlock and Donald J. Marples.

<sup>5</sup> For more information on the alternative minimum tax (AMT), see CRS Report RL30149, *The Alternative Minimum Tax for Individuals*, by Steven Maguire.

<sup>6</sup> For more information on what a qualifying child is for the child tax credit in comparison to other child-related tax benefits, see CRS Report RS22016, *Tax Benefits for Families: Changes in the Definition of a Child*, by Christine Scott.

4. The child must live at the same principal residence as the taxpayer for more than half the year for which the taxpayer wishes to claim in the credit.
5. The child cannot provide more than half of their own support during the tax year.
6. The child must be a U.S. citizen. If they are not a U.S. citizen, they must be a resident of the United States. The statute requires that taxpayers who intend to claim the child tax credit provide a valid Taxpayer Identification Number (TIN) for each qualifying child on their federal income tax return. In most cases, this TIN will be the child's Social Security number.

The age and citizenship requirements for a qualifying child for the child tax credit differs from the definition of qualifying child used for other tax benefits and can cause confusion among taxpayers. For example, a taxpayer's 18-year-old child may meet all the requirements for a qualifying child for the EITC, but will be too old to be eligible for the child tax credit.

## Recent Legislative History

The child tax credit was initially structured in the Taxpayer Relief Act of 1997 (P.L. 105-34) as a \$500-per-child nonrefundable credit to provide tax relief to middle- and upper-middle-income families. Since 1997, various laws have modified key parameters of the credit, expanding the availability of the benefit to more low-income families while also increasing the value of the tax credit. The first significant change to the child tax credit occurred with the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA; P.L. 107-16). EGTRRA increased the amount of the credit over time to \$1,000 per child and made it partially refundable under the earned income formula. For more information on the exact parameter changes see **Table 2**. Subsequent legislation enacted in 2003 and 2004 accelerated the implementation of the changes made under EGTRRA. In 2008 and 2009, Congress enacted legislation, the Emergency Economic Stabilization Act of 2009 (EESA; P.L. 110-343) and the American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5) which further expanded the availability and amount of the credit to taxpayers whose income was too low to either qualify for the credit or be eligible for the full credit. EESA lowered the refundability threshold to \$8,500 in 2008, while ARRA lowered the refundability threshold to \$3,000 for 2009 through 2010. The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) extended both the EGTRRA provisions of the child tax credit and the expansion of refundability under ARRA for two years through the end of 2012.

ATRA made all of the EGTRRA modifications to the child tax credit permanent and extended the ARRA modifications for five years, through the end of 2017. Hence, the child tax credit is (absent legislative changes) permanently \$1,000 per child. The credit is also permanently partially refundable using the earned income formula whereby the refundable portion of the credit equals 15% of earnings in excess of the refundability threshold. Under ATRA, the refundability threshold is equal to \$3,000 from 2013-2017 (not indexed for inflation), and is scheduled to rise to \$10,000 (indexed for inflation occurring since 2001) in 2018.

**Table 2. Changes to the Child Tax Credit Made by Legislation 1997-2013**

Parameter	1997	1999	2001	2003	2004	2008	2009	2010	2013
	P.L. 105-34	P.L. 106-170	P.L. 107-16 (EGTRRA)	P.L. 108-27 (JGTRRA)	P.L. 108-311 (WFTRA)	P.L. 110-343 (EESA)	P.L. 111-5 (ARRA)	P.L. 111-312	P.L. 112-240 (ATRA)
Maximum Credit per Child	\$400 (1998) \$500 (after)	*	\$600 (2001-04) \$700 (2005-08) \$800 (2009) \$1,000 (2010)	\$1,000 (2003-04)	\$1,000 (2005-10)	*	*	\$1,000 (2011-12)	\$1,000 (permanent)
Inflation adj.	NO	*	*	*	*	*	*	*	*
Refundable <sup>a</sup>	NO	*	YES (2001-2010)	*	*	*	*	YES (2011-2012)	YES (permanent)
Refundability Threshold	na	*	\$10,000 (2001-10)	*	*	\$8,500 (2008)	\$3,000 (2009-10)	\$3,000 (2011-12)	\$3,000 (2013-2017) \$10,000
Inflation Adj.	na	*	YES (2002-10)	*	*	NO	NO (2009-2010)	NO (2011-12)	NO (2013-2017) YES thereafter
Refundability Rate	na	*	10% (2001-04) 15% (2005-10)	*	15% (2004-2010)	*	*	15% (2011-12)	15% (permanent)
Phase-Out Threshold <sup>b</sup>	\$55,000 MFS \$75,000 HOH \$110,00 MFJ	*	*	*	*	*	*	*	*
Phase-Out Rate	5%	*	*	*	*	*	*	*	*
Offset AMT	NO	YES (2000-01)	YES (2002-10)	*	*	*	*	YES (2011-2012)	YES (permanent)
Revenue Effect	-\$183.38 billion (1997-07)	-\$2.89 billion <sup>c</sup> (2000-09)	-\$171.78 billion (2001-11)	-\$32.49 billion (2003-13)	-\$63.77 billion (2005-14)	-\$3.13 billion (2009-18)	-\$14.83 billion (2009-19)	-\$91.44 billion (2011-20)	\$405.01 billion (2013-2022)

**Source:** Joint Committee on Taxation

**Notes:** \*-Indicates unchanged from prior law. Except as otherwise noted, revenue effects reflect the cost of the child tax credit provisions exclusively.

- a. Prior to EGTRRA, the child credit was only refundable for families with three or more children under the alternative formula.
- b. MFS, HOH and MFJ refer to tax filing status, specifically: MFS: married filing separately; HOH: head of household; MFJ: married filing joint.
- c. This law allowed nonrefundable personal credits (including the child tax credit) to offset the regular tax in full (without regard to the tentative minimum tax) for tax year 1999 (which was an extension of a provision in P.L. 105-277). For tax years 2000 and 2001, this law included a special provision that allowed personal nonrefundable credits in full against regular tax and the AMT. The revenue effect reflects the effect of these provisions on personal nonrefundable credit, and is not limited to their effect on the child tax credit.

## **EGTRRA, JGTRRA, and WFTRA**

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA; P.L. 107-16) made four significant changes to the child tax credit. First, EGTRRA increased the maximum amount of the credit per child in scheduled increments until it reached \$1,000 per child in 2010. Second, EGTRRA made the credit refundable for families irrespective of size using the earned income formula. For tax years 2001 through 2004, the earned income formula set the amount of the refundable portion of the credit equal to 10% of a taxpayer's earned income in excess of \$10,000, up to the maximum amount of the credit for that tax year. The refundability rate was scheduled to increase to 15% for tax years 2005 through 2010. The \$10,000 threshold was indexed for inflation beginning in 2002. Third, EGTRRA allowed the child tax credit to offset AMT tax liability for tax years 2002 through 2010. Fourth, the law temporarily repealed the prior law provision that reduced the refundable portion of the child tax credit by the amount of the AMT. All the EGTRRA provisions were scheduled to expire at the end of 2010.

The Jobs Growth and Tax Relief Reconciliation Act of 2003 (JGTRRA; P.L. 108-27) temporarily accelerated the scheduled increase in the maximum credit amount. Specifically, while EGTRRA increased the maximum credit amount to \$600 per child for 2003 and 2004, JGTRRA increased this amount to \$1,000 per child for those two years. In the summer of 2003, the \$400 increase in the credit for 2003 was paid in advance from the Treasury Department to many families who qualified for the child tax credit. These direct payments were distributed based on information contained on taxpayers' 2002 income tax returns. The JGTRRA provisions were scheduled to expire after 2004, and the child tax credit would have reverted to its scheduled level under EGTRRA—\$700 per child in 2005.

In September 2004, Congress passed the Working Families Tax Relief Act of 2004 (WFTRA; P.L. 108-311), which further accelerated the implementation of key provisions of EGTRRA. This act extended the maximum amount of the credit established under JGTRRA, \$1,000 per child, through 2009. For 2010, the EGTRRA provisions would apply and the maximum amount of the credit would remain \$1,000 per child. In addition, WFTRA increased the refundability rate to 15% for 2004. Under EGTRRA, the refundability rate would remain at 15% from 2005 through 2010.

WFTRA also contained a provision that allowed combat pay to be included as part of earned income for purposes of computing refundability of the child tax credit. As more soldiers began to see combat due to the wars in Iraq and Afghanistan, they started receiving combat pay. Income earned by members of the armed services in a combat zone is generally excluded from taxation. This exclusion benefits taxpayers who have positive tax liability and reduces the taxes they owe. However, for some lower-income members of the armed forces, the exclusion resulted in earnings being too low to qualify for the refundable portion of the child tax credit. The inclusion of combat pay as earned income for purposes of calculating the refundable child tax credit under WFTRA meant that the earnings of some military families would increase above the refundability threshold, ultimately resulting in larger child tax credit refunds. This change was for 2004 through 2010, and was scheduled to expire, along with other provisions of EGTRRA, at the end of 2010.

## **EESA, ARRA, and P.L. 111-312**

In October 2008, Congress passed the Emergency Economic Stabilization Act of 2009 (EESA; P.L. 110-343) in response to the financial and housing crisis. The law included a provision to lower the refundability threshold for the child tax credit for 2008 from \$12,050<sup>7</sup> to \$8,500. In the absence of any additional congressional action, the refundability threshold was scheduled to increase to \$12,550 in 2009.

In early 2009, Congress began to debate different legislative proposals for economic stimulus. Part of that debate concerned changing the refundability threshold of the child tax credit. The House proposed<sup>8</sup> reducing the refundability threshold to zero for 2009 and 2010, while the Senate proposed<sup>9</sup> lowering the refundability threshold to \$8,100 over the same time period. The House's proposed changes to the child tax credit were estimated to cost \$18.3 billion over 10 years, in comparison to \$7.2 billion for the Senate proposal. The provision took its final shape during the meetings between the Senate and the House conferees.<sup>10</sup> In February 2009 Congress passed the American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5), which ultimately reduced the refundability threshold to \$3,000 for 2009 and 2010. This proposal was estimated to cost \$14.8 billion over 10 years.<sup>11</sup>

At the end of 2010, both the EGTRRA and ARRA provisions of the child tax credit (see **Table 2**) were scheduled to expire. Since ARRA's changes to the refundability threshold built upon changes made by EGTRRA, the expiration of EGTRRA would effectively terminate the expansion of refundability made by the 2009 stimulus law (ARRA). Absent an extension of EGTRRA, the maximum amount of the child tax credit would have reverted to \$500 per child, the credit would only have been refundable to families with three or more children using the alternative formula, and the amount of the child tax credit would not have been allowed in full against the AMT. In December 2010, Congress passed the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312), which extended both the EGTRRA provisions of the child tax credit<sup>12</sup> and the expansion of refundability from ARRA for two years through the end of 2012.

## **ATRA**

At the end of 2012, Congress passed the American Taxpayer Relief Act of 2012 (P.L. 112-240; ATRA). This law made the EGTRRA changes to the child tax credit permanent and extended the \$3,000 refundability threshold enacted as part of ARR for five years, through the end of 2017. Hence, the child tax credit is now permanently \$1,000 per child, and partially refundable whereby

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<sup>7</sup> The \$10,000 threshold established by EGTRRA, adjusted for inflation.

<sup>8</sup> H.R. 1 that passed the House on January 28, 2009

<sup>9</sup> S.Amdt. 570 in the nature of a substitute to H.R. 1, which passed the Senate on February 10, 2009.

<sup>10</sup> See the Conference Report H.Rept. 111-16.

<sup>11</sup> U.S. Congress, Joint Committee on Taxation, JCX-19-09, *Estimated Budget Effects Of The Revenue Provisions Contained In The Conference Agreement For H.R. 1, The "American Recovery And Reinvestment Tax Act Of 2009,"* February 12, 2009, p. 1.

<sup>12</sup> This includes the inclusion of combat pay as part of earned income for purposes of calculating refundability under the earned income formula created by EGTRRA. In addition this law extended for two years (through the end of 2012) the EGTRRA repeal of a prior-law provision that reduced the refundable portion of the child credit by the amount of the AMT and it extended the EGTRRA provision which allowed the child tax credit to offset a taxpayer's AMT.

the refundable portion is equal to 15% of earnings in excess of the refundability threshold. That threshold is temporarily \$3,000 between 2013 through 2017, and permanently \$10,000 (indexed for inflation occurring after 2001) thereafter. In addition, the child tax credit can permanently offset the AMT as a result of ATRA. **Table 2** summarizes the key changes made to the credit by several pieces of legislation.

## Appendix. Legislative History 1991-1999

### Before Enactment: The National Commission on Children and the Contract with America

The first child tax credit was enacted in 1997 as part of the Taxpayer Relief Act of 1997 (P.L. 105-34), but it was conceived years earlier and included in several different bills before it ultimately became law. In 1991, the bipartisan National Commission on Children,<sup>13</sup> which was established to provide solutions to a variety of problems facing children, recommended in its final report to the President the creation of a \$1,000 refundable child tax credit for all children through age 18. Their proposed credit amount was indexed for inflation. The report cited slow wage growth, the increasing costs of living, and a rising tax burden for the average family as key factors leading to increased financial burdens on families with children.

The report's authors acknowledged that there were provisions in the tax code meant to address the increased financial burden to families that arose from having children, specifically the exemption for dependents. The dependent exemption was intended to provide economic relief to families with children by reducing taxable income by a fixed amount per dependent, and hence reducing tax liability. However, the amount of the exemption was fixed in nominal terms (i.e., not adjusted for inflation) and the commission's report highlighted the fact that its real value had declined considerably since it was established in 1948.<sup>14</sup> The commission argued against simply increasing the amount of the dependent exemption, noting that such a policy would not provide adequate benefit to lower- and middle-income families. Specifically, the commission noted that the dependent exemption, similar to a tax deduction, provided greater monetary benefit to taxpayers with greater taxable income since it was proportional to a taxpayer's highest marginal tax bracket. And since the dependent exemption could not lower the tax liability of taxpayers who, due to low income, owed no federal income tax, it was unavailable to many families with children who the commission believed most needed economic assistance.

Three years later, in 1994, a child tax credit was included in legislation meant to enact key principles of the Contract with America, a list of policy proposals released by the Republican Party before the 1994 midterm elections. In the 104<sup>th</sup> Congress, both the American Dream Restoration Act (H.R. 6) and later the Tax Fairness and Deficit Reduction Act of 1995 (H.R. 1215) included a \$500 per child nonrefundable<sup>15</sup> tax credit for children under 18 years. The credit began to phase out for families with AGI above \$200,000 (regardless of filing status). In response

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<sup>13</sup> For more information on the National Commission on Children, see their final report: National Commission on Children, *Beyond Rhetoric: A New American Agenda for Children and Families*, Washington, DC, 1991.

<sup>14</sup> In the Joint Committee on Taxation's explanation of the Taxpayer Relief Act of 1997, the committee cited the decline in the real value of the personal exemption by more than one-third over the prior 50 years as evidence of the tax system's failure to reflect a family's ability to pay. According to JCT, "The Congress believed that the individual income tax structure does not reduce tax liability by enough to reflect a family's reduced ability to pay taxes as family size increases. In part, this is because over the last 50 years the value of the dependent personal exemption has declined in real terms by over one third." For more information see U.S. Congress, Joint Committee on Taxation, JCS-23-97, *General Explanation of Tax Legislation Enacted in 1997*, December 17, 1997, pp. 6-7.

<sup>15</sup> The legislative language of the child tax credit included in H.R. 6 was drafted to create a new refundable credit. While the credit created by H.R. 6 could exceed a taxpayer's income tax liability, it could not exceed the sum of their income and Social Security taxes.

to the legislation that had been drafted in Congress, President Clinton proposed his own child tax credit during the 104<sup>th</sup> Congress in his Middle Class Bill of Rights Tax Relief Act of 1995. Under this proposal, the child tax credit was a \$300 per child nonrefundable tax credit for tax years 1996 through 1998, increasing to \$500 per child after 1998, with income phase-outs beginning at \$60,000. The credit amounts were indexed for inflation. An eligible child was defined as being under 13 years of age.<sup>16</sup> President Clinton's proposal was estimated by the Treasury Department to cost \$35.6 billion over five years, while the American Dream Restoration Act was estimated to cost \$107 billion over the same time period.<sup>17</sup>

## **Taxpayer Relief Act of 1997 and Other Legislation**

After failing to come to an agreement in 1995, Congress and President Clinton revisited the topic of a child tax credit in 1997. The House, Senate, and Clinton administration all proposed a \$500 nonrefundable tax credit. A key distinction among the proposals centered on the interaction of the child tax credit with the EITC, which would have an impact on the availability of the child tax credit to lower-income taxpayers.<sup>18</sup> Both the Senate and House legislation proposed applying the nonrefundable child tax credit after the EITC had already reduced tax liability. President Clinton proposed the application of the child tax credit before the application of the EITC. For many low- and moderate-income taxpayers, claiming the EITC before the nonrefundable child tax credit reduced or eliminated their child tax credit. By contrast, claiming the nonrefundable child credit before the EITC allowed the taxpayer to claim the full amount of the child tax credit they were eligible for and did not change the value of their EITC. For example, assume that in 1997 a two-parent, two-child family has \$23,000 of income. This family would have an \$825 tax liability before the application of credits. They would also be eligible for \$1,325 in the EITC and, assuming the child credit was \$500 per child, \$1,000 of child tax credit. If the EITC was claimed before the child tax credit, this family's tax liability would be reduced to zero and they would receive the remainder of the EITC as a \$500 refund. Since they had no tax liability, they could not claim the \$1,000 of nonrefundable child tax credit. If, on the other hand, they claimed the child tax credit first, they could claim \$825 of the non refundable child tax credit, reducing their tax liability to zero and then claim the full \$1,325 of EITC as a refund.<sup>19</sup>

The child tax credit proposals differed in other ways, notably the interaction of the child tax credit with the child and dependent care credit, the age of a qualifying child, and the income phase-out levels and phase-out rates. Given that the child tax credit was part of a broader tax bill that had to meet budget rules, many of the specific details of the provision were likely agreed upon after evaluating their budgetary impact.

What emerged from the conference negotiations that year was the Taxpayer Relief Act of 1997

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<sup>16</sup> U.S. Congress, Joint Committee on Taxation, *Background and Information Relating to Three Tax Cut Proposals for Middle Income Americans: A \$500 per Child Tax Credit, A Reduction in the Marriage Penalty, and A Deduction for Education and Job Training Expenses*. 104<sup>th</sup> Cong., 1<sup>st</sup> sess., March 15, 1995, p. 5.

<sup>17</sup> "Treasury Release Contrasting Revenue Costs of Clinton, GOP Tax Cuts," *Tax Notes Today*, LB1290, December 16, 1994.

<sup>18</sup> For more information on the differences in the House, Senate and Clinton administration proposals, see Table 1 in the archived CRS Report 97-687E, *Child Tax Credits: Comparison of Proposals for Low-Income Taxpayers*, by Gregg Esenwein and Jack Taylor, available by request.

<sup>19</sup> All these figures are from Table 2 of the archived CRS Report 97-687E, *Child Tax Credits: Comparison of Proposals for Low-Income Taxpayers*, by Gregg Esenwein and Jack Taylor, available by request.

(P.L. 105-34), which established a child tax credit. The credit was structured as a \$500 nonrefundable tax credit (\$400 in 1998) for most families with qualifying children under 17. The credit phased out at a rate of \$50 for every \$1,000 by which a taxpayer's modified AGI exceeded thresholds based on filing status, namely \$110,000 for taxpayers filing as married joint, \$75,000 for taxpayers filing as head of household, and \$55,000 for taxpayers filing as married separate. The credit was refundable for taxpayers with three or more qualifying children and was calculated as the excess of a taxpayer's payroll taxes over their EITC (the alternative formula). Neither the credit amount nor the phase-out thresholds were indexed for inflation. The refundable portion of the credit was reduced by the amount of the taxpayer's alternative minimum tax (AMT).<sup>20</sup> In addition, the total amount by which personal nonrefundable credits (including the child tax credit) could reduce an individual's regular tax liability was limited.<sup>21</sup>

The Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998 (P.L. 105-277), which was enacted shortly after the enactment of the Taxpayer Relief Act of 1997, repealed the provision that reduced the refundable portion of the child tax credit by the AMT for tax year 1998. In addition, this act allowed personal nonrefundable credits (including the child tax credit) to fully offset a taxpayer's regular income tax liability in 1998.<sup>22</sup>

The Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-170) extended the provision in P.L. 105-277 which allowed the nonrefundable personal credit to fully offset regular tax liability for one additional year, through the end of 1999. In addition, for tax years 2000 and 2001, the act included a provision which allowed taxpayers to use their personal nonrefundable credits (including the child tax credit) to not only offset their regular tax liability in full, but also their AMT. Finally, the act also extended for tax years 1999 through 2001 the prior-law repeal of the provision that reduced the refundable portion of the child tax credit by the AMT.

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<sup>20</sup> For more information on the AMT, see CRS Report RL30149, *The Alternative Minimum Tax for Individuals*, by Steven Maguire.

<sup>21</sup> The total amount of personal nonrefundable credits was limited to the extent that a taxpayer's regular tax liability exceeded their tentative minimum tax. The tentative minimum tax is an alternative tax calculated using a different definition of taxable income and different tax rates. For more information on the interaction of personal tax credits and the AMT, see CRS Report RL30149, *The Alternative Minimum Tax for Individuals*, by Steven Maguire.

<sup>22</sup> While personal nonrefundable credits could now offset both the regular tax and tentative minimum tax, they could only offset the tentative minimum tax by an amount less than or equal to their regular tax liability. Hence these credits could not offset the AMT (which is defined as the difference between the tentative minimum and regular tax liability). For more information on the interaction of personal tax credits and the AMT, see CRS Report RL30149, *The Alternative Minimum Tax for Individuals*, by Steven Maguire.