

The Build Back Better Act's Child Tax Credit: How the bill gets us one step closer to a true child allowance



In early September, the House Ways and Means Committee [approved](#) their portion of the Build Back Better Act (BBBA), which includes an extension of the [American Rescue Plan Act's](#) Child Tax Credit (CTC) through 2025. While this proposal falls short of making the program permanent, the plan includes many substantial and important improvements to the CTC. Unfortunately, these improvements are at risk of being weakened as Congress negotiates the Build Back Better package. Congress must not weaken this plan, as these critical changes are necessary to ensure families are able to rely on and benefit from this program for years to come. The legislation:

- **Locks in the increased cash benefit through 2025:** Extends the monthly advanced CTC payment through 2025 at the current level of \$3,600 annually for children under 6 and \$3,000 for children age 6 to 17, including children in all U.S. territories, and indexes the credit to inflation starting in 2022.
- **Permanently helps families with the lowest incomes:** Makes full refundability permanent to ensure that the families with low income or no income at all can get the full benefit of the CTC even after 2025.
- **Ensures immigrant children are included:** Restores eligibility for [roughly 1 million immigrant children](#) with Tax Identification Numbers (ITINs) who have been excluded from the program since passage of the 2017 Tax Cuts and Jobs Act.
- **Protects monthly CTC payments from offsets:** Protects families from having their CTC payments reduced by the government for past-due federal or state debts or past-due child support or being subject to bank garnishment or levy by private debt collectors.
- **Protects families from owing money back to the IRS:** Ensures families will not owe money back to the IRS if their income changes from one year to the next through an “income lookback” which bases eligibility on previous year’s income if that is lower. For 2022, the bill also increases the safe harbor that protects lower- and middle-income families from repayment if a child changes household. It has additional protections against repayment for all families starting in 2023, which are described in more detail below.
- **Ensures families have permanent access to CTC online tools:** Permanently authorizes an online portal so families can sign up for the monthly CTC and update important personal information like the new birth or adoption of a child, changes to family income, marital status, and more.
- **Increases federal funding for CTC outreach:** Includes \$1 billion to help with enrollment and outreach to ensure all eligible children receive the CTC.

Structuring the Child Tax Credit so it works like a child allowance

Starting in 2023, the Build Back Better Act makes several additional changes to how the CTC is structured so that it functions more like a true child allowance and works well for the families who need it most.

It changes how CTC eligibility is determined. Under existing law [hundreds of thousands of children](#) are excluded from the CTC every year because tax rules prohibit the benefit from adequately responding to families’ changing circumstances. The BBBA addresses this by:

- **Establishing monthly eligibility:** Allows CTC eligibility to be determined on a monthly rather than an annual basis, eliminating the requirement that a child live in a single household for more than six months in any given year in order to be eligible for the credit.
 - Monthly eligibility ensures children are eligible for the CTC even if they change households frequently and allows for families to more easily switch who receives the benefit as the child moves households.
 - Under the provisions, caregivers can claim a child for a given month if the child lives with them for at least half of that month.
 - Allows caregivers to continue claiming the credit during a “temporary absence” of a child from the home.
- **Instituting new caregiver rules:** Extends the ability to claim a child to anyone who cares for that child, to ensure children are not excluded from the CTC because they live with family friends or more distant relatives who do not meet the relationship test under [existing tax rules](#).
 - Care is defined as uncompensated supervision or financial support, maintaining a secure residence, and more.
 - The bill creates tie-breaker rules to resolve disputes that may arise when a child is living with more than one caregiver—top priority goes to parents, then relatives, then other caregivers, with certain exceptions.
 - The bill also instructs the IRS to create an “expedited process” for adjudicating competing claims when caregivers disagree over who should claim the credit, as well as an appeals process for adverse decisions.
- **Instructing the IRS to establish procedures to ensure automatic eligibility** for children at birth and allows the IRS to use information from other government programs to enroll children automatically in the program.

It protects families against repayment to the IRS. Under existing law, families who, through no fault of their own, receive more money from the IRS than they are eligible for may be required to repay the excess. Starting in 2023, this bill creates more robust protections against repayment for these families by:

- **Establishing a policy of presumptive eligibility:** Presumptive eligibility means that once a caregiver establishes eligibility for the CTC, all advance payments to that caregiver are considered valid and are therefore not subject to recapture by the IRS until the period of presumptive eligibility ends.
 - A period of presumptive eligibility begins when a caregiver properly claims a child on their taxes or otherwise claims the credit on behalf of a child who has entered their care and is expected to remain in their care for at least a few months.
 - A period of presumptive eligibility ends if a caregiver fails to make an annual reaffirmation of their eligibility by filing their taxes or if the caregiver is found to have made an intentional misrepresentation to get payments for which they are, in fact, ineligible.
- **Creating a grace period:** In cases where a new primary caregiver does not notify the IRS and establish presumptive eligibility in a timely manner, the bill allows up to 3 months of retroactive payments once in a 36-month time period. In cases where a new primary caregiver does not notify the IRS in a timely manner due to domestic violence, serious illness, natural disaster, or any other type of hardship, up to 6 months of retroactive payments may be allowed.