

Save the Adoption Tax Credit

Pass the Making the Adoption Affordable Act (H.R. 4373/S.3616)

H.R. 4373/S.3616 are the only adoption tax credit bills before Congress that include refundability and thus will help the most children and families.

Why is the adoption tax credit important?

There are many ways to build your family through adoption. International adoption, adoption from foster care, domestic agency adoption, and domestic private adoption are among the major ways orphaned children find forever families. The adoption tax credit was intended to ease the significant financial burden undertaken by every America family that adopts a child, no matter what type of adoption they use to build their family.

The adoption tax credit helps tens of thousands of children every year find a permanent, loving family. By refunding some of the adoption expenses families pay, it makes international and domestic adoptions more affordable, ensuring that more children have the opportunity to have a family and that families at all income levels can offer children a loving home. The cost of an adoption should not be a barrier that prevents children finding loving families.

In the case of adoption of children with special needs (primarily adoptions from foster care), the adoption tax credit is an incentive to encourage families to adopt children who might otherwise spend their lives in foster care. These children are almost always children who are older, who are waiting to be adopted with their brothers or sisters, or who have a disability.

Bottom line, the adoption tax credit makes adoption more possible for the more than 100,000 children in U.S. foster care, and the millions of children worldwide who need a family of their own.

With more than 100,000 children still waiting in the U.S. foster care system for forever homes, with the growing number of children worldwide who are homeless, and with the large number of U.S. birth mothers looking for a secure future for their children, the work of the adoption tax credit is not done.

What is the status of the adoption tax credit?

For calendar year 2012, the adoption tax credit has a maximum credit of \$12,650 (less than in 2010 or 2011). It applies to all types of adoption—from foster care, internationally, or privately from the U.S.—other than stepparent adoptions. The current adoption tax credit is set to expire, or “sunset” on December 31, 2012. As of January 1, 2013, the adoption tax credit as we know it will be gone; the benefit that will remain will be greatly reduced and restrictive.

Although the adoption tax credit was refundable for tax years 2010 and 2011, it is not refundable for 2012. This means that only families who have tax liability (meaning they pay federal income tax) will be able to benefit. Many families started the adoption process in 2011 or even earlier thinking they would be able to claim the benefit, but because of court or other delays may not get the support they need.

What is a special needs adoption?

A special needs adoption is one in which the state or county child welfare agency has determined that the child is not likely to be adopted unless the government provides assistance to the adoptive family. The special needs determination is almost exclusively for foster children, and a significant majority of foster children are considered special needs. Children who are determined to be special needs are typically older, are part of sibling groups that will be placed together with one family, or have physical, emotional, or mental disabilities. All children adopted from foster care with an adoption assistance agreement from their state or county are considered special needs for purposes of the tax credit.

Why should the credit be flat for special needs adoptions?

“Flat” means that parents who adopt children with special needs can claim the full adoption tax credit even if they do not have qualified adoption expenses. Most parents who adopt children with special needs do not have very many upfront expenses to complete the adoption. Many have no out-of-pocket expenses. If the adoption tax credit isn’t flat, most parents who adopt from foster care will not benefit from the adoption tax credit at all.

Over the course of their lives, the costs of raising children with special needs are often much higher than the expense of raising other children. Families adopting a group of two brothers and two sisters may need to build onto their home so the girls and boys can have separate bedrooms. Other children may need ongoing therapy or other support to address the neglect and abuse they suffered early in their lives. Many children adopted from foster care are far behind in school, and may need special services to catch up. When adopting a child or youth with a physical disability, parents may need to buy adaptive equipment or make changes to their homes to accommodate the child’s special needs.

If foster children are not adopted, the government bears the cost of care until they turn 18 or later. A study by Richard Barth and others showed that each adoption from foster care saves the government about \$143,000 in child welfare and human services costs. Research by Mary Eschelbach Hansen found that each adoption from foster care saves up to \$235,000 in total public costs over the child’s lifetime (including savings related to reduced crime and reduced use of special education services).

What does refundable mean? Why does it matter?

When a tax credit is refundable, taxpayers can benefit from the credit even if the credit is larger than what they pay in federal income tax. A non-refundable credit is one in which taxpayers receive a refund of federal income taxes, but only up to the amount of taxes they otherwise had due. Here’s a rough example: A family has \$5,000 in federal income taxes withheld from their paychecks during the year. When they do their taxes, they are due a refund of \$4,000. The \$1,000 the IRS keeps is their tax liability. If they adopted with expenses of \$8,000, and the credit was not refundable, they would receive a maximum of \$1,000 in adoption tax credit for the year (meaning that they have \$5,000 instead of \$4,000 refunded to them). If the credit was fully refundable, they would receive a refund of \$12,000—their \$4,000 regular refund plus the full \$8,000 in their adoption expenses.

Families who have lower or moderate incomes will benefit little or not at all if the adoption tax credit is not refundable. In 2010, when the adoption tax credit became refundable, almost 80 percent of families who filed for the credit benefited from the “refundable” feature of the adoption tax credit.

What happens if no action is taken?

Far fewer children and their adoptive families will benefit. In 2012, the adoption tax credit is not refundable, so many lower and moderate income families will not benefit or will receive only a portion of their credit.

After 2012, the credit will apply only to special needs adoptions where the family has qualified adoption expenses. Most of the adoptions from foster care do not have any upfront expenses, so very few families who adopt from foster care will receive any refund. Those adopting internationally or privately will not receive a benefit at all.



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