

104TH CONGRESS
1ST SESSION

S. 1165

To amend the Internal Revenue Code of 1986 to allow a tax credit for adoption expenses and an exclusion for employer-provided adoption assistance.

IN THE SENATE OF THE UNITED STATES

AUGUST 10 (legislative day, JULY 10), 1995

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow a tax credit for adoption expenses and an exclusion for employer-provided adoption assistance.

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 “Fairness for Adopting
5 Families Act”.

6 **SEC. 2. CREDIT FOR ADOPTION EXPENSES.**

7 (a) IN GENERAL.—Subpart A of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 (relating to nonrefundable personal credits) is

1 amended by inserting after section 22 the following new
2 section:

3 **“SEC. 23. ADOPTION EXPENSES.**

4 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
5 dividual, there shall be allowed as a credit against the tax
6 imposed by this subtitle for the taxable year the amount
7 of the qualified adoption expenses paid or incurred by the
8 taxpayer during such taxable year.

9 “(b) LIMITATIONS.—

10 “(1) DOLLAR LIMITATION.—The aggregate
11 amount of qualified adoption expenses which may be
12 taken into account under subsection (a) with respect
13 to the adoption of a child shall not exceed \$5,000.

14 “(2) INCOME LIMITATION.—The amount allow-
15 able as a credit under subsection (a) for any taxable
16 year shall be reduced (but not below zero) by an
17 amount which bears the same ratio to the amount
18 so allowable (determined without regard to this
19 paragraph but with regard to paragraph (1)) as—

20 “(A) the amount (if any) by which the tax-
21 payer’s taxable income exceeds \$60,000, bears
22 to

23 “(B) \$40,000.

24 “(3) DENIAL OF DOUBLE BENEFIT.—

1 “(A) IN GENERAL.—No credit shall be al-
2 lowed under subsection (a) for any expense for
3 which a deduction or credit is allowable under
4 any other provision of this chapter.

5 “(B) GRANTS.—No credit shall be allowed
6 under subsection (a) for any expense to the ex-
7 tent that funds for such expense are received
8 under any Federal, State, or local program.

9 “(C) REIMBURSEMENT.—No credit shall
10 be allowed under subsection (a) for any expense
11 to the extent that such expense is reimbursed
12 and the reimbursement is excluded from gross
13 income under section 137.

14 “(c) CARRYFORWARDS OF UNUSED CREDIT.—If the
15 credit allowable under subsection (a) for any taxable year
16 exceeds the limitation imposed by section 26(a) for such
17 taxable year reduced by the sum of the credits allowable
18 under this subpart (other than this section), such excess
19 shall be carried to the succeeding taxable year and added
20 to the credit allowable under subsection (a) for such tax-
21 able year. No credit may be carried forward under this
22 subsection to any taxable year following the fifth taxable
23 year after the taxable year in which the credit arose.

24 “(d) QUALIFIED ADOPTION EXPENSES.—For pur-
25 poses of this section, the term ‘qualified adoption ex-

1 penses' means reasonable and necessary adoption fees,
2 court costs, attorney fees, and other expenses which are
3 directly related to the legal and finalized adoption of a
4 child by the taxpayer and which are not incurred in viola-
5 tion of State or Federal law or in carrying out any surro-
6 gate parenting arrangement. The term 'qualified adoption
7 expenses' shall not include any expenses in connection
8 with the adoption by an individual of a child who is the
9 child of such individual's spouse.

10 “(e) MARRIED COUPLES MUST FILE JOINT RE-
11 TURNS.—Rules similar to the rules of paragraphs (2), (3),
12 and (4) of section 21(e) shall apply for purposes of this
13 section.”

14 (b) CONFORMING AMENDMENT.—The table of sec-
15 tions for subpart A of part IV of subchapter A of chapter
16 1 of the Internal Revenue Code of 1986 is amended by
17 inserting after the item relating to section 22 the following
18 new item:

“Sec. 23. Adoption expenses.”

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 1995.

1 **SEC. 3. EXCLUSION OF AMOUNTS RECEIVED UNDER EM-**
2 **EMPLOYER'S ADOPTION ASSISTANCE PRO-**
3 **GRAMS.**

4 (a) IN GENERAL.—Part III of subchapter B of chap-
5 ter 1 of such Code (relating to items specifically excluded
6 from gross income) is amended by redesignating section
7 137 as section 138 and by inserting after section 136 the
8 following new section:

9 **“SEC. 137. ADOPTION ASSISTANCE PROGRAMS.**

10 “(a) IN GENERAL.—Gross income of an employee
11 does not include amounts paid or expenses incurred by the
12 employer for qualified adoption expenses in connection
13 with the adoption of a child by an employee if such
14 amounts are furnished pursuant to an adoption assistance
15 program.

16 “(b) LIMITATIONS.—

17 “(1) DOLLAR LIMITATION.—The aggregate
18 amount excludable from gross income under sub-
19 section (a) for all taxable years with respect to the
20 legal adoption of any single child by the taxpayer
21 shall not exceed \$5,000.

22 “(2) INCOME LIMITATION.—The amount ex-
23 cludable from gross income under subsection (a) for
24 any taxable year shall be reduced (but not below
25 zero) by an amount which bears the same ratio to
26 the amount so excludable (determined without re-

1 gard to this paragraph but with regard to paragraph
2 (1)) as—

3 “(A) the amount (if any) by which the tax-
4 payer’s taxable income (determined without re-
5 gard to this section) exceeds \$60,000, bears to
6 “(B) \$40,000.

7 “(c) ADOPTION ASSISTANCE PROGRAM.—For pur-
8 poses of this section, an adoption assistance program is
9 a plan of an employer—

10 “(1) under which the employer provides employ-
11 ees with adoption assistance, and

12 “(2) which meets requirements similar to the
13 requirements of paragraphs (2), (3), and (5) of sec-
14 tion 127(b).

15 An adoption reimbursement program operated under sec-
16 tion 1052 of title 10, United States Code (relating to
17 armed forces) or section 514 of title 14, United States
18 Code (relating to members of the Coast Guard) shall be
19 treated as an adoption assistance program for purposes
20 of this section.

21 “(d) QUALIFIED ADOPTION EXPENSES.—For pur-
22 poses of this section, the term ‘qualified adoption ex-
23 penses’ has the meaning given such term by section
24 23(d).”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for such part III is amended by striking the item relating
3 to section 137 and inserting the following:

 “Sec. 137. Adoption assistance programs.
 “Sec. 138. Cross reference to other Acts.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 1995.

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