



Joint Committee on Taxation  
May 8, 2001  
JCX-34-01

**DESCRIPTION OF AN AMENDMENT  
IN THE NATURE OF A SUBSTITUTE TO H.R. 622,  
THE “HOPE FOR CHILDREN ACT”  
Scheduled for a Markup by the  
House Committee on Ways and Means on May 9, 2001**

**Present Law**

**Tax credit**

**In general**

A tax credit is allowed for qualified adoption expenses paid or incurred by a taxpayer. The maximum credit is \$5,000 per eligible child (\$6,000 for a special needs child). An eligible child is an individual (1) who has not attained age 18 or (2) is physically or mentally incapable of caring for himself or herself. A special needs child is an eligible child who is a citizen or resident of the United States who a State has determined: (1) cannot or should not be returned to the home of the birth parents; and (2) has a specific factor or condition because of which the child cannot be placed with adoptive parents without adoption assistance.

Qualified adoption expenses may be incurred in one or more taxable years, but the credit may not exceed \$5,000 per adoption (\$6,000 for a special needs child). The adoption credit is phased out ratably for taxpayers with modified adjusted gross income between \$75,000 and \$115,000. Modified adjusted gross income is the sum of the taxpayer’s adjusted gross income plus amounts excluded from income under Code sections 911, 931, and 933 (relating to the exclusion of income of U.S. citizens or residents living abroad; residents of Guam, American Samoa, and the Northern Mariana Islands; and residents of Puerto Rico, respectively).

The adoption credit for special needs children is permanent. The adoption credit with respect to other children does not apply to expenses paid or incurred after December 31, 2001.

**Alternative minimum tax**

Through 2001, the adoption credit generally reduces the individual’s regular income tax and alternative minimum tax. For taxable years beginning after December 31, 2001, the otherwise allowable adoption credit is allowed only to the extent that the individual’s regular income tax liability exceeds the individual’s tentative minimum tax, determined without regard to the minimum tax foreign tax credit.

### **Exclusion from income**

A maximum \$5,000 exclusion from the gross income of an employee is allowed for qualified adoption expenses paid or reimbursed by an employer under an adoption assistance program. The maximum excludible amount is \$6,000 for special needs adoptions. The exclusion is phased out ratably for taxpayers with modified adjusted gross income between \$75,000 and \$115,000. Modified adjusted gross income is the sum of the taxpayer's adjusted gross income plus amounts excluded from income under Code sections 911, 931, and 933 (relating to the exclusion of income of U.S. citizens or residents living abroad; residents of Guam, American Samoa, and the Northern Mariana Islands; and residents of Puerto Rico, respectively). The exclusion does not apply for purposes of payroll taxes. Adoption expenses paid or reimbursed by the employer under an adoption assistance program are not eligible for the adoption credit. A taxpayer may be eligible for the adoption credit (with respect to qualified adoption expenses he or she incurs) and also for the exclusion (with respect to different qualified adoption expenses paid or reimbursed by his or her employer).

The exclusion from income does not apply to amounts paid or expenses incurred after December 31, 2001.

### **Description of Proposal**

#### **Tax credit**

The amendment in the nature of a substitute to H.R. 622 would make the following modifications to the present-law adoption credit. The adoption credit for children other than special needs children would be made permanent. The maximum credit would be increased to \$10,000 per eligible child, including special needs children. The beginning point of the income phase-out range would be increased to \$150,000 of modified adjusted gross income. Finally, the adoption credit would be allowed against the alternative minimum tax.

#### **Exclusion from income**

The amendment in the nature of a substitute to H.R. 622 would make the following modifications to the present-law exclusion from income. The exclusion from income would be extended permanently. The maximum exclusion would be increased to \$10,000 per eligible child, including special needs children. The beginning point of the income phase-out range would be increased to \$150,000 of modified adjusted gross income.

#### **Effective Date**

The proposal would be effective for taxable years beginning after December 31, 2001, except that qualified expenses paid or incurred in taxable years beginning on or before December 31, 2001, would remain subject to the present-law dollar limits.