

104TH CONGRESS
1ST SESSION

S. 1206

To amend the Internal Revenue Code of 1986 to allow a refundable tax credit for adoption expenses and to exclude from gross income employee and military adoption assistance benefits and withdrawals from IRAs for certain adoption expenses, and to amend title 5, United States Code, to exclude from gross income employee and military adoption assistance benefits and withdrawals from IRAs for certain adoption expenses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 6 (legislative day, SEPTEMBER 5), 1995

Mr. COATS 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 refundable tax credit for adoption expenses and to exclude from gross income employee and military adoption assistance benefits and withdrawals from IRAs for certain adoption expenses, and to amend title 5, United States Code, to exclude from gross income employee and military adoption assistance benefits and withdrawals from IRAs for certain adoption expenses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Adoption Assistance
3 Act”.

4 **TITLE I—GENERAL ADOPTION**
5 **ASSISTANCE**

6 **SEC. 101. REFUNDABLE CREDIT FOR ADOPTION EXPENSES.**

7 (a) IN GENERAL.—Subpart C of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 (relating to refundable credits) is amended by redес-
10 ignating section 35 as section 36 and by inserting after
11 section 34 the following new section:

12 **“SEC. 35. ADOPTION EXPENSES.**

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

18 “(b) LIMITATIONS.—

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

23 “(2) INCOME LIMITATION.—The amount allow-
24 able as a credit under subsection (a) for any taxable
25 year shall be reduced (but not below zero) by an
26 amount which bears the same ratio to the amount

1 so allowable (determined without regard to this
2 paragraph but with regard to paragraph (1)) as—

3 “(A) the amount (if any) by which the tax-
4 payer’s adjusted gross income (determined
5 without regard to sections 911, 931, and 933)
6 exceeds \$60,000, bears to

7 “(B) \$40,000.

8 “(3) DENIAL OF DOUBLE BENEFIT.—

9 “(A) IN GENERAL.—No credit shall be al-
10 lowed under subsection (a) for any expense for
11 which a deduction or credit is allowable under
12 any other provision of this chapter.

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

17 “(c) QUALIFIED ADOPTION EXPENSES.—

18 “(1) IN GENERAL.—For purposes of this sec-
19 tion, the term ‘qualified adoption expenses’ means
20 reasonable and necessary adoption fees, court costs,
21 attorney fees, and other expenses—

22 “(A) which are directly related to, and the
23 principal purpose of which is for, the legal and
24 final adoption of a child by the taxpayer, and

1 “(B) which are not incurred in violation of
2 State or Federal law or in carrying out any sur-
3 rogate parenting arrangement.

4 “(2) EXPENSES FOR ADOPTION OF SPOUSE’S
5 CHILD NOT ELIGIBLE.—The term ‘qualified adoption
6 expenses’ shall not include any expenses in connec-
7 tion with the adoption by an individual of a child
8 who is the child of such individual’s spouse.

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

13 (b) CONFORMING AMENDMENTS.—

14 (1) Paragraph (2) of section 1324(b) of title
15 31, United States Code, is amended by inserting be-
16 fore the period “, or from section 35 of such Code”.

17 (2) The table of sections for subpart C of part
18 IV of subchapter A of chapter 1 of the Internal Rev-
19 enue Code of 1986 is amended by striking the last
20 item and inserting the following:

 “Sec. 35. Adoption expenses.
 “Sec. 36. Overpayments of tax.”

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

1 **TITLE II—ADOPTION ASSIST-**
 2 **ANCE FOR FEDERAL EMPLOY-**
 3 **EES**

4 **SEC. 201. REIMBURSEMENT FOR ADOPTION EXPENSES.**

5 (a) IN GENERAL.—Subpart G of part III of title 5,
 6 United States Code, is amended by adding at the end the
 7 following:

8 **“CHAPTER 90—MISCELLANEOUS EMPLOYEE**
 9 **BENEFITS**

“9001. Adoption benefits.

10 **“§ 9001. Adoption benefits**

11 “(a) For the purpose of this section—

12 “(1) the term ‘agency’ means—

13 “(A) an Executive agency;

14 “(B) an agency in the judicial branch; and

15 “(C) an agency in the legislative branch

16 (other than any included under subparagraph

17 (A));

18 “(2) the term ‘employee’ does not include any

19 individual who, pursuant to the exercise of any au-

20 thority under section 8913(b), is excluded from par-

21 ticipating in the health insurance program under

22 chapter 89; and

23 “(3) the term ‘adoption expenses’, as used with

24 respect to a child, means any reasonable and nec-

1 essary expenses directly relating to the adoption of
2 such child, including—

3 “(A) fees charged by an adoption agency;

4 “(B) placement fees;

5 “(C) legal fees;

6 “(D) counseling fees;

7 “(E) medical expenses, including those re-
8 lating to obstetrical care for the biological
9 mother, medical care for the child, and physical
10 examinations for the adopting parent or par-
11 ents;

12 “(F) foster-care charges; and

13 “(G) transportation expenses.

14 “(b) The head of each agency shall by regulation es-
15 tablish a program under which any employee of such agen-
16 cy who adopts a child shall be reimbursed for any adoption
17 expenses incurred by such employee in the adoption of
18 such child.

19 “(c) Under the regulations, reimbursement may be
20 provided only—

21 “(1) after the adoption becomes final, as
22 determined under the laws of the jurisdiction
23 governing the adoption;

1 “(2) if, at the time the adoption becomes
2 final, the child is under 18 years of age and un-
3 married; and

4 “(3) if appropriate written application is
5 filed within such time, complete with such infor-
6 mation, and otherwise in accordance with such
7 procedures as may be required.

8 “(d)(1) Reimbursement for an employee under this
9 section with respect to any particular child—

10 “(A) shall be payable only if, or to the extent
11 that, similar benefits paid (or payable) under one or
12 more programs established under State law or an-
13 other Federal statute have not met (or would not
14 meet) the full amount of the adoption expenses in-
15 curred; and

16 “(B) may not exceed \$2,000.

17 “(2)(A) In any case in which both adopting parents
18 are employees eligible for reimbursement under this sec-
19 tion, each parent shall be eligible for an amount deter-
20 mined in accordance with paragraph (1), except as pro-
21 vided in subparagraph (B).

22 “(B) No amount shall be payable under this section
23 if, or to the extent that, payment of such amount would
24 cause the sum of the total amount payable to the adoptive
25 parents under this section, and the total amount paid (or

1 payable) to them under any program or programs referred
2 to in paragraph (1)(A), to exceed the lesser of—

3 “(i) the total adoption expenses incurred; or

4 “(ii) \$4,000.

5 “(3) The guidelines issued under subsection (g) shall
6 include provisions relating to interagency cooperation and
7 other appropriate measures to carry out this subsection.

8 “(e) Any amount payable under this section shall be
9 paid from the appropriation or fund used to pay the em-
10 ployee involved.

11 “(f) An application for reimbursement under this sec-
12 tion may not be denied based on the marital status of the
13 individual applying.

14 “(g)(1) The Office of Personnel Management may
15 issue any general guidelines which the Office considers
16 necessary to promote the uniform administration of this
17 section.

18 “(2) The regulations prescribed by the head of each
19 Executive agency under this section shall be consistent
20 with any guidelines issued under paragraph (1).

21 “(3) Upon the request of any agency, the Office may
22 provide consulting, technical, and any other similar assist-
23 ance necessary to carry out this section.”.

1 (b) CONFORMING AMENDMENTS.—(1) The heading
 2 of subpart G of part III of title 5, United States Code,
 3 is amended to read as follows:

4 **“SUBPART G—ANNUITIES, INSURANCE, AND**
 5 **MISCELLANEOUS BENEFITS”.**

6 (2) The analysis for part III of title 5, United States
 7 Code, is amended—

8 (A) by striking the item relating to subpart G
 9 and inserting in lieu thereof the following:

10 **“SUBPART G—ANNUITIES, INSURANCE, AND**
 11 **MISCELLANEOUS BENEFITS”;** and

12 (B) by adding after the item relating to chapter
 13 89 the following:

“90. Miscellaneous Employee Benefits 9001”.

14 **SEC. 202. APPLICABILITY TO POSTAL EMPLOYEES.**

15 Section 1005 of title 39, United States Code, is
 16 amended by adding at the end the following:

17 “(g) Section 9001 of title 5 shall apply to the Postal
 18 Service. Regulations prescribed by the Postal Service to
 19 carry out this subsection shall be consistent with any
 20 guidelines issued under subsection (g)(1) of such sec-
 21 tion.”.

22 **SEC. 203. EFFECTIVE DATE.**

23 This title shall take effect on October 1, 1995, and
 24 shall apply with respect to any adoption which becomes
 25 final (determined in the manner described in section

1 9001(c)(1) of title 5, United States Code, as added by this
2 title) on or after that date.

3 **TITLE III—EXCLUSION OF**
4 **ADOPTION ASSISTANCE**

5 **SEC. 301. EXCLUSION OF ADOPTION ASSISTANCE.**

6 (a) IN GENERAL.—Part III of subchapter B of chap-
7 ter 1 of the Internal Revenue Code of 1986 is amended
8 by redesignating section 137 as section 138 and by insert-
9 ing after section 136 the following new section:

10 **“SEC. 137. ADOPTION ASSISTANCE.**

11 “(a) IN GENERAL.—Gross income of an employee
12 does not include employee adoption assistance benefits, or
13 military adoption assistance benefits, received by the em-
14 ployee with respect to the employee’s adoption of a child.

15 “(b) DEFINITIONS.—For purposes of this section—

16 “(1) EMPLOYEE ADOPTION ASSISTANCE BENE-
17 FITS.—The term ‘employee adoption assistance ben-
18 efits’ means payment by an employer of qualified
19 adoption expenses with respect to an employee’s
20 adoption of a child, or reimbursement by the em-
21 ployer of such qualified adoption expenses paid or
22 incurred by the employee in the taxable year.

23 “(2) EMPLOYER AND EMPLOYEE.—The terms
24 ‘employer’ and ‘employee’ have the respective mean-
25 ings given such terms by section 127(c).

1 “(3) MILITARY ADOPTION ASSISTANCE BENE-
2 FITS.—The term ‘military adoption assistance bene-
3 fits’ means benefits provided under section 1052 of
4 title 10, United States Code, or section 514 of title
5 14, United States Code.

6 “(4) QUALIFIED ADOPTION EXPENSES.—

7 “(A) IN GENERAL.—The term ‘qualified
8 adoption expenses’ means reasonable and nec-
9 essary adoption fees, court costs, attorney fees,
10 and other expenses—

11 “(i) which are directly related to, and
12 the principal purpose of which is for, the
13 legal adoption of an eligible child by the
14 taxpayer, and

15 “(ii) which are not incurred in viola-
16 tion of State or Federal law or in carrying
17 out any surrogate parenting arrangement.

18 “(B) ELIGIBLE CHILD.—The term ‘eligible
19 child’ means any individual—

20 “(i) who has not attained age 18 as of
21 the time of the adoption, or

22 “(ii) who is physically or mentally in-
23 capable of caring for himself.

24 “(c) COORDINATION WITH OTHER PROVISIONS.—

25 The Secretary shall issue regulations to coordinate the ap-

1 plication of this section with the application of any other
2 provision of this title which allows a credit or deduction
3 with respect to qualified adoption expenses.”

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for part III of subchapter B of chapter 1 of such Code
6 is amended by striking the item relating to section 137
7 and inserting the following new items:

“Sec. 137. Adoption assistance.

“Sec. 138. Cross references to other Acts.”

8 (c) EFFECTIVE DATE.—The amendments made this
9 section shall apply to taxable years beginning after De-
10 cember 31, 1995.

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