

108TH CONGRESS  
2D SESSION

# S. 2316

To amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from individual retirement plans for adoption expenses.

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IN THE SENATE OF THE UNITED STATES

APRIL 8, 2004

Ms. MURKOWSKI (for herself and Ms. LANDRIEU) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from individual retirement plans for adoption expenses.

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. PENALTY-FREE WITHDRAWALS FROM INDI-**  
4 **VIDUAL RETIREMENT PLANS FOR ADOPTION**  
5 **EXPENSES.**

6 (a) SHORT TITLE.—This section may be cited as the  
7 “Adoption Assistance Act”.

8 (b) IN GENERAL.—Paragraph (2) of section 72(t) of  
9 the Internal Revenue Code of 1986 is amended by adding  
10 at the end the following new subparagraph:

1 “(G) QUALIFIED ADOPTION EXPENSES.—

2 “(i) IN GENERAL.—Distributions from  
3 an individual retirement plan to the extent  
4 that the amount of such distributions does  
5 not exceed the lesser of—

6 “(I) \$10,000 for the taxable year  
7 with respect to the adoption of a  
8 child, or

9 “(II) the amount determined  
10 under clause (ii).

11 “(ii) DETERMINATION OF EXPENSES  
12 NOT COVERED BY CREDIT.—The amount  
13 determined under this clause is the excess  
14 (if any) of—

15 “(I) the qualified adoption ex-  
16 penses (as defined in section 23(d))  
17 paid by the taxpayer during the tax-  
18 able year with respect to the adoption  
19 of such child, over

20 “(II) the amount of the credit al-  
21 lowable under section 23 for such ex-  
22 penses (determined as if such credit  
23 were allowed for such year without re-  
24 gard to any limitation based on liabil-  
25 ity for tax).

1           “(iii) SPECIAL RULES FOR CHILD  
2 WITH SPECIAL NEEDS.—In the case of an  
3 adoption of a child with special needs (as  
4 defined in section 23(d)(3))—

5                   “(I) subclauses (I) and (II) of  
6 clause (i) shall not apply, and

7                   “(II) a distribution during the  
8 applicable period from an individual  
9 retirement plan with respect to such  
10 adoption shall not be taken into ac-  
11 count under this subparagraph to the  
12 extent that such distribution, when  
13 added to all other distributions with  
14 respect to such adoption from indi-  
15 vidual retirement plans for the appli-  
16 cable period, exceeds \$10,000.

17 For purposes of subclause (II), the term  
18 ‘applicable period’ means the 3-taxable  
19 year period beginning with the taxable year  
20 in which such adoption becomes final.

21                   “(iv) ORDERING RULE.—Distributions  
22 shall not be taken into account under  
23 clause (i) if such distributions are de-  
24 scribed in subparagraph (A), (C), (D), (E),  
25 or (F) or to the extent paragraph (1) does

1 not apply to such distributions by reason  
2 of subparagraph (B).

3 “(v) RECONCILIATION ALLOWED.—  
4 Distributions shall not be taken into ac-  
5 count under this subparagraph for any tax-  
6 able year if such distributions are paid on  
7 or before the day prescribed by law for fil-  
8 ing the taxpayer’s return for such taxable  
9 year into the individual retirement plan  
10 from which such distributions were  
11 made.”.

12 (c) EFFECTIVE DATE.—The amendment made by  
13 this section shall apply to distributions after the date of  
14 the enactment of this Act.

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