

SENATE BILL No. 246

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-19; IC 6-3.1-20.

Synopsis: Income tax credit for adoption expenses. Provides a credit against adjusted gross income tax for adoption related expenses incurred by a taxpayer who adopts a child. Provides that the credit does not apply to stepparent adoptions. Allows a tax credit of not more than \$5,000 for a taxpayer whose household income is less than \$75,000 and gradually reduces the credit for taxpayers with household incomes between \$75,000 and \$115,000. Provides a tax credit of not more than \$5,000 against adjusted gross income for expenses related to the adoption of a special needs child without regard to the income levels applied to the adoption of a non-special needs child.

Effective: January 1, 1999.

Clark

January 7, 1998, read first time and referred to Committee on Finance.

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Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE BILL No. 246

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3.1-19 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JANUARY 1, 1999]:
- 4 **Chapter 19. Child Adoption Tax Credit**
- 5 **Sec. 1. As used in this chapter, "household income" means the**
- 6 **total adjusted gross income of an individual, or of an individual and**
- 7 **the individual's spouse if they reside together, for the taxable year**
- 8 **for which the credit provided by this chapter is claimed.**
- 9 **Sec. 2. (a) As used in this chapter, "qualified adoption expenses"**
- 10 **means any of the following costs incurred by a taxpayer as the result**
- 11 **of the finalized adoption of a child:**
- 12 (1) **Court costs.**
- 13 (2) **The putative father registry fee and adoption history fee.**
- 14 (3) **Actual and reasonable travel expenses of the adoptive**
- 15 **parent.**
- 16 (4) **Actual and reasonable expenses of telephone service of the**
- 17 **adoptive parent.**



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- 1 **(5) Lawful adoption expenses that are:**
 2 **(A) expressly enumerated; or**
 3 **(B) approved by the court supervising the adoption;**
 4 **under IC 35-46-1-9(b).**
- 5 **(b) The term does not include the following:**
 6 **(1) Expenses incurred for the adoption of a child by the child's**
 7 **stepparent.**
 8 **(2) Expenses incurred in carrying out a surrogate parenting**
 9 **arrangement.**
- 10 **Sec. 3. As used in this chapter, "taxpayer" means an individual**
 11 **who has any adjusted gross income tax liability.**
- 12 **Sec. 4. (a) Except as provided in section 5 of this chapter, a**
 13 **taxpayer who adopts a child after December 31, 1998, is entitled to**
 14 **a credit against the adjusted gross income tax imposed by IC 6-3 for**
 15 **the taxable year during which the taxpayer adopts the child. Except**
 16 **as provided in subsection (b), the credit is equal to the lesser of:**
 17 **(1) the taxpayer's qualified adoption expenses; or**
 18 **(2) five thousand dollars (\$5,000).**
- 19 **(b) If the taxpayer's adjusted gross income exceeds seventy-five**
 20 **thousand dollars (\$75,000), the amount allowable as a credit under**
 21 **this chapter for a taxable year is the lesser of the taxpayer's**
 22 **qualified adoption expenses or the amount determined under STEP**
 23 **FOUR of the following formula:**
- 24 **STEP ONE: Determine the amount by which the taxpayer's**
 25 **adjusted gross income exceeds seventy-five thousand dollars**
 26 **(\$75,000).**
- 27 **STEP TWO: Divide the amount determined in STEP ONE by**
 28 **forty thousand (40,000).**
- 29 **STEP THREE: Multiply the amount determined in STEP**
 30 **TWO by five thousand (5,000).**
- 31 **STEP FOUR: Subtract the amount determined in STEP**
 32 **THREE from five thousand dollars (\$5,000).**
- 33 **Sec. 5. A tax credit is not allowed under this chapter for an**
 34 **adoption related expense:**
- 35 **(1) to the extent that the expense was funded or reimbursed by**
 36 **a federal, state, or local program; or**
 37 **(2) if the taxpayer claims a tax credit or deduction for**
 38 **adoption related expenses under any other federal or state**
 39 **law.**
- 40 **Sec. 6. If both spouses reside in the same household, only one (1)**
 41 **credit may be claimed by the spouses under this chapter for the**
 42 **taxable year. However, in the case of a husband and wife who:**

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1 (1) incur adoption related expenses; and
 2 (2) file separate tax returns;
 3 the husband and wife may take the credit in equal shares or one (1)
 4 spouse may take the entire credit.

5 **Sec. 7.** The amount of the credit provided by this chapter that
 6 a taxpayer uses during a particular taxable year may not exceed the
 7 sum of the taxes imposed by IC 6-3 for the taxable year after the
 8 application of all credits that under IC 6-3.1-1-2 are to be applied
 9 before the credit provided by this chapter. If the credit provided by
 10 this chapter exceeds that sum for the taxable year for which the
 11 credit is first claimed, then the taxpayer may elect to have the excess
 12 carried over to succeeding taxable years and used as a credit against
 13 the tax otherwise due and payable by the taxpayer under IC 6-3
 14 during those taxable years.

15 **Sec. 8. (a)** If the taxpayer elects to have the unused credit
 16 carried over to succeeding taxable years under this chapter, each
 17 time the credit is carried over to a succeeding taxable year the
 18 unused credit is to be reduced by the amount that was used as a
 19 credit during the immediately preceding taxable year. The credit
 20 provided by this chapter may be carried forward and applied to
 21 succeeding taxable years for fifteen (15) taxable years following the
 22 unused credit year.

23 **(b)** A taxpayer is not entitled to a carryback or a refund of an
 24 unused credit.

25 **Sec. 9.** A credit earned by a taxpayer in a particular taxable
 26 year shall be applied against the taxpayer's tax liability for that
 27 taxable year before any credit carryover is applied against that
 28 liability under section 8 of this chapter.

29 SECTION 2. IC 6-3.1-20 IS ADDED TO THE INDIANA CODE
 30 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 31 JANUARY 1, 1999]:

32 **Chapter 20. Special Needs Child Adoption Tax Credit**

33 **Sec. 1.** As used in this chapter, "disability" means a medically
 34 verified mental, physical, or emotional impairment that substantially
 35 limits at least one (1) major life activity, including impairments that
 36 are congenital or acquired by accident, injury, or disease.

37 **Sec. 2.** As used in this chapter, "qualified adoption expenses"
 38 has the meaning set forth in IC 6-3.1-19-2.

39 **Sec. 3.** As used in this chapter, "special needs child" means a
 40 child who has been determined by the division of family and
 41 children, a child placing agency (as defined in IC 12-7-2-31), or a
 42 circuit or superior court to be a child who is:



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- 1 (1) a citizen or resident of the United States (as defined in 26
2 U.S.C. 217);
3 (2) less than eighteen (18) years of age and:
4 (A) cannot or should not be returned to the home of the
5 child's parents; and
6 (B) is reasonably difficult to place with adoptive parents
7 because the child is at least two (2) years of age, is part of
8 a group of siblings to be placed in the same home, is a
9 member of a minority group, or has a handicap; or
10 (3) at least eighteen (18) years of age and has a disability that
11 would limit the child's ability to live independently of the
12 adoptive parents.
- 13 **Sec. 4.** As used in this chapter, "taxpayer" means an individual
14 who has any adjusted gross income tax liability.
- 15 **Sec. 5.** As used in this chapter, "department" refers to the state
16 department of revenue.
- 17 **Sec. 6.** (a) A taxpayer who legally adopts a special needs child
18 after December 31, 1998, is entitled to a tax credit under subsection
19 (b).
20 (b) The department shall grant a tax credit against adjusted
21 gross income tax liability equal to the lesser of five thousand dollars
22 (\$5,000) or the amount of qualified adoption expenses incurred for
23 each special needs child adopted. However, the amount of the credit
24 must be reduced by an amount equal to any deductions, credits, or
25 funds for qualified adoption expenses that the taxpayer is eligible for
26 from any state or federal law or program.
- 27 **Sec. 7.** A husband and wife who adopt a special needs child and
28 who file separate tax returns may take the credit in equal shares or
29 one (1) of them may use the whole credit.
- 30 **Sec. 8.** (a) If the amount determined under section 6(b) of this
31 chapter for a taxpayer in a taxable year exceeds the taxpayer's
32 adjusted gross income tax liability (IC 6-3-1 through IC 6-3-7) for
33 that taxable year, the taxpayer may carry the excess over to the
34 following taxable years. The amount of the credit carryover from a
35 taxable year shall be reduced to the extent that the carryover is used
36 by the taxpayer to obtain a credit under this chapter for any
37 subsequent taxable year.
- 38 (b) A taxpayer is not entitled to a carryback or refund of an
39 unused credit.
- 40 **Sec. 9.** A credit received by a taxpayer under this chapter may
41 not be considered as a resource or income by a state or local agency
42 to determine initial or continuing eligibility for services for which the

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1 special needs child may qualify.

2 **Sec. 10.** The department, after consultation with the division of
3 family and children, may adopt rules under IC 4-22-2 necessary to
4 implement this chapter.

5 SECTION 3. [EFFECTIVE JANUARY 1, 1999] IC 6-3.1-19 and
6 IC 6-3.1-20, both as added by this act, apply to taxable years
7 beginning after December 31, 1998.

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