

HOUSE BILL No. 1014

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1.

Synopsis: Tax credits for adoption and child care 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 tax 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. Provides a refundable child care tax credit against state income tax liability equal to the lesser of \$300 or 15% of the taxpayer's employment related child care expenses if the taxpayer's adjusted gross income is not more than \$20,000.

Effective: January 1, 1999.

Day

January 6, 1998, read first time and referred to Committee on Ways and Means.



Introduced

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.

HOUSE BILL No. 1014

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**
7 **and the individual's spouse if they reside together, for the taxable**
8 **year for which the credit provided by this chapter is claimed.**

9 **Sec. 2. (a) As used in this chapter, "qualified adoption**
10 **expenses" means any of the following costs incurred by a taxpayer**
11 **as the result 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
17 the adoptive parent.



- 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**
 7 **child's 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 legally adopts a child after December 31, 1998, is**
 14 **entitled to a credit against the adjusted gross income tax imposed**
 15 **by IC 6-3 for the taxable year during which the taxpayer adopts**
 16 **the child. Except as provided in subsection (b), the credit is equal**
 17 **to the lesser of:**
- 18 **(1) the taxpayer's qualified adoption expenses; or**
 19 **(2) five thousand dollars (\$5,000).**
- 20 **(b) If the taxpayer's adjusted gross income exceeds**
 21 **seventy-five thousand dollars (\$75,000), the amount allowable as**
 22 **a credit under this chapter for a taxable year is the lesser of the**
 23 **taxpayer's qualified adoption expenses or the amount determined**
 24 **under STEP FOUR of the following formula:**
- 25 **STEP ONE: Determine the amount by which the taxpayer's**
 26 **adjusted gross income exceeds seventy-five thousand dollars**
 27 **(\$75,000).**
- 28 **STEP TWO: Divide the amount determined in STEP ONE**
 29 **by forty thousand (40,000).**
- 30 **STEP THREE: Multiply the amount determined in STEP**
 31 **TWO by five thousand (5,000).**
- 32 **STEP FOUR: Subtract the amount determined in STEP**
 33 **THREE from five thousand dollars (\$5,000).**
- 34 **Sec. 5. A tax credit is not allowed under this chapter for an**
 35 **adoption related expense:**
- 36 **(1) to the extent that the expense was funded or reimbursed**
 37 **by a federal, state, or local program; or**
 38 **(2) if the taxpayer claims a tax credit or deduction for**
 39 **adoption related expenses under any other federal or state**
 40 **law.**
- 41 **Sec. 6. If both spouses reside in the same household, only one**
 42 **(1) credit may be claimed by the spouses under this chapter for the**



1 taxable year. However, in the case of a husband and wife who:

2 (1) incur adoption related expenses; and

3 (2) file separate tax returns;

4 the husband and wife may take the credit in equal shares or one (1)
5 spouse may take the entire credit.

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

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

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

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

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

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

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

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

41 **Sec. 3.** As used in this chapter, "special needs child" means a
42 child who has been determined by the division of family and



1 children, a child placing agency (as defined in IC 12-7-2-31), or a
 2 circuit or superior court to be a child who is a citizen or resident of
 3 the United States (as defined in 26 U.S.C. 217) and is:

4 (1) less than eighteen (18) years of age and:

5 (A) cannot or should not be returned to the home of the
 6 child's parents; and

7 (B) is reasonably difficult to place with adoptive parents
 8 because the child is at least two (2) years of age, is part
 9 of a group of siblings to be placed in the same home, is
 10 a member of a minority group, or has a disability; or

11 (2) at least eighteen (18) years of age and has a disability that
 12 would limit the child's ability to live independently of the
 13 adoptive parents.

14 Sec. 4. As used in this chapter, "taxpayer" means an individual
 15 who has any adjusted gross income tax liability.

16 Sec. 5. As used in this chapter, "department" refers to the
 17 department of state revenue.

18 Sec. 6. (a) A taxpayer who legally adopts a special needs child
 19 after December 31, 1998, is entitled to a tax credit under subsection
 20 (b).

21 (b) The department shall grant a tax credit against adjusted
 22 gross income tax liability equal to the lesser of five thousand
 23 dollars (\$5,000) or the amount of qualified adoption expenses
 24 incurred for each special needs child adopted.

25 (c) A tax credit is not allowed under this chapter for an
 26 adoption related expense:

27 (1) to the extent that the expense was funded or reimbursed
 28 by a federal, state, or local program; or

29 (2) if the taxpayer claims a tax credit or deduction for
 30 adoption related expenses under any other federal or state
 31 law.

32 Sec. 7. A husband and wife who adopt a special needs child and
 33 who file separate tax returns may take the credit in equal shares or
 34 one (1) of them may use the whole credit.

35 Sec. 8. (a) If the amount determined under section 6(b) of this
 36 chapter for a taxpayer in a taxable year exceeds the taxpayer's
 37 adjusted gross income tax liability (IC 6-3-1 through IC 6-3-7) for
 38 that taxable year, the taxpayer may carry the excess over to the
 39 following taxable years. The amount of the credit carryover from
 40 a taxable year shall be reduced to the extent that the carryover is
 41 used by the taxpayer to obtain a credit under this chapter for any
 42 subsequent taxable year.



1 (b) A taxpayer is not entitled to a carryback or refund of an
2 unused credit.

3 Sec. 9. A tax credit received by a taxpayer under this chapter
4 may not be considered as a resource or income by a state or local
5 agency to determine initial or continuing eligibility for services for
6 which the special needs child may qualify.

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

10 SECTION 3. IC 6-3.1-21 IS ADDED TO THE INDIANA CODE
11 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
12 JANUARY 1, 1999]:

13 **Chapter 21. Child Care Tax Credits for Individuals**

14 Sec. 1. As used in this chapter, "adjusted gross income" has
15 the meaning set forth in IC 6-3-1-3.5.

16 Sec. 2. (a) As used in this chapter, "employment related child
17 care expenses" means amounts that are:

- 18 (1) paid for the care of a qualifying child; and
19 (2) incurred to enable an individual taxpayer, including an
20 individual taxpayer's spouse in the case of a joint return, to
21 be gainfully employed.

22 (b) The term does not include an amount paid for services
23 outside the taxpayer's household at a camp where a qualifying
24 child stays overnight.

25 (c) The term does not include amounts paid for services
26 outside the taxpayer's household that are not provided in
27 conformity with applicable state and local laws.

28 Sec. 3. As used in this chapter, "qualifying child" means an
29 individual who:

- 30 (1) is the child, including an adopted child, stepchild, or
31 foster child, of the individual taxpayer;
32 (2) resides with the individual taxpayer, including the
33 individual taxpayer's spouse in the case of a joint return, in
34 Indiana for more than one-half (1/2) of the taxable year;
35 (3) is dependent on the individual taxpayer, including the
36 individual taxpayer's spouse in the case of a joint return, for
37 more than one-half (1/2) of the individual's support;
38 (4) is less than thirteen (13) years of age on the last day of the
39 taxable year; and
40 (5) is not married as of the last day of the taxable year.

41 Sec. 4. As used in this chapter, "state income tax liability"
42 means the total income tax liability incurred under IC 6-3, as



1 computed after application of the credits that under IC 6-3.1-1-2
2 are to be applied before the credit provided by this chapter.

3 **Sec. 5. An individual taxpayer, including an individual**
4 **taxpayer's spouse in the case of a joint return, who has:**

5 (1) employment related child care expenses during the
6 taxable year; and

7 (2) has adjusted gross income, or combined adjusted gross
8 income with the taxpayer's spouse in the case of a joint
9 return, of not more than twenty thousand dollars (\$20,000)
10 for the taxable year;

11 is entitled to a credit against the taxpayer's state income tax
12 liability for the taxable year.

13 **Sec. 6. The amount of a credit allowed under section 5 of this**
14 **chapter for a taxable year is equal to the lesser of:**

15 (1) the amount of employment related child care expenses
16 incurred in the taxable year multiplied by fifteen percent
17 (15%); or

18 (2) three hundred dollars (\$300).

19 **Sec. 7. If both spouses reside in the same household, the total**
20 **amount of the credit computed under section 6 of this chapter may**
21 **be claimed only once.**

22 **Sec. 8. (a) If the credit provided under this chapter exceeds the**
23 **state income tax liability due from the taxpayer for the taxable**
24 **year, the excess may be:**

25 (1) used as a credit against the taxpayer's tax liability in
26 subsequent taxable years; or

27 (2) refunded.

28 **The amount of the credit carryover from a taxable year shall be**
29 **reduced to the extent that the carryover is used by the taxpayer to**
30 **obtain a credit under this chapter for any subsequent taxable year.**

31 **(b) A taxpayer is not entitled to a carryback of an unused**
32 **credit.**

33 **(c) A taxpayer is entitled to the credit under this chapter in**
34 **addition to any other credits to which the taxpayer is entitled.**

35 **Sec. 9. (a) The department may adopt rules under IC 4-22-2 to**
36 **implement this chapter.**

37 **(b) The department may require that a taxpayer apply for a**
38 **credit or a refund under this chapter on a form designated by the**
39 **department.**

40 **SECTION 4. [EFFECTIVE JANUARY 1, 1999] IC 6-3.1-19,**
41 **IC 6-3.1-20, and IC 6-3.1-21, all as added by this act, apply only to**
42 **taxable years beginning after December 31, 1998.**

