



April 15, 2013

The Honorable Diane Black
Chair, Education and Family Benefits
Committee on Ways and Means
United States House of Representatives
Washington, DC 20515

The Honorable Danny K. Davis
Vice Chair, Education and Family Benefits
Committee on Ways and Means
United States House of Representatives
Washington, DC 20515

RE: Adoption Tax Credit Comments to the Education and Family Benefits Tax Reform Working Group

Dear Chairwoman Black and Vice Chairman Davis:

On behalf of the Adoption Tax Credit Working Group (ATCWG), we write to express our concern for the federal adoption tax credit. The ATCWG is a national collaboration of more than 150 organizations uniting to support the cause of adoption by advocating for the adoption tax credit. We believe – and we know – this tax credit is an important resource to help children find forever families and make adoption affordable for all.

It's important to note that our collaboration represents children and families from all sectors of adoption, including domestic public foster care, domestic private, and international. We came together last year to achieve an adoption tax credit that is:

- **Inclusive:** Children, whether adopted from foster care, through intercountry adoption, or through private domestic adoption should be able to benefit from the adoption tax credit. *In current law.*
- **Permanent:** The adoption tax credit should become a permanent part of the tax code to ensure continued support to those who bring children into families through adoption. *In current law.*
- **Refundable:** The adoption tax credit should be refundable to ensure that families with moderate and lower incomes receive the full benefit of the credit. *Not in current law.*
- **Flat for Special Needs:** All families who adopt a child with special needs should be eligible for a “flat” tax credit, meaning they can claim the maximum credit without documenting expenses. This distinction recognizes the fact that many of the expenses associated with adopting children with special needs show up after an adoption is finalized. *In current law.*



As you know, the adoption tax credit was made permanent as part of the American Taxpayer Relief Act of 2012, for which we are so grateful. Unfortunately, the credit is no longer refundable as it was in 2010 and 2011. In this statement, we share information explaining why we continue to advocate for improvements in the credit. In addition, we describe why it is an effective tax policy and an important part of the broader tax reform discussion.

History of Bipartisan Support

The adoption tax credit has a long history of bipartisanship. Every time the credit was at risk of expiring, Congress worked across the aisle to prioritize its continuation. The adoption tax credit was first enacted through the Small Business and Job Protection Act of 1996 (P.L. 104-188). The act created a tax incentive for adoption of up to \$5,000 for qualified adoption expenses (\$6,000 for children with special needs¹) and a \$5,000 exclusion for employer-reimbursed expenses.

In 2000 the Department of Treasury issued a report² showing the need for improvements to the adoption tax credit – in particular that the credit was helping very few families who adopted from foster care. As a result, members of Congress worked together to increase and expand the benefit. The credit was enhanced through the Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16); it was increased to \$10,000 and adjusted for inflation. The credit was also made “flat” for special needs, meaning that families that adopt foster children who are hard to place are able to claim the maximum credit regardless of their expenses.

The credit was again reauthorized and expanded through the Patient Protection and Affordable Care Act of 2010 (P.L. 111-148). For the first time, the credit was made refundable for 2010 and 2011. The most recent extension of the credit was through the American Taxpayer Relief Act of 2012 (P.L. 112-240). The Act made the credit permanent for the first time, but it did not continue the refundable provision.

¹ Generally, special needs adoptions are the adoptions of children whom the state's child welfare agency considers difficult to place for adoption, and most foster care adoptions are special needs adoptions. A child is considered special needs for purposes of the adoption credit if all of the following conditions are met:

1. The child was a U.S. citizen or resident when the adoption effort began.
2. A state determines that the child cannot or should not be returned to his or her parent's home, and
3. A state determines that the child probably will not be adopted unless assistance is provided to the adoptive family.

² Report to Congress on Tax Benefits for Adoption, Department of the Treasury, October 2000.



Benefit of Adoption to the Government, Families and Society

Adoption provides a lifetime of benefits for children who cannot return to their biological families, including the emotional security of caring adults and a committed family to ensure that their needs are met. Research consistently shows that children with adoptive families fare better than those without permanent families on adjustment measures, developmental outcomes, such as cognitive abilities and educational achievement, and self-support capability in young adulthood³. Although there have been many studies showing the importance adoption offers children and society, of course adoptive parents will be the first to say that adopting has a greater positive impact on them as individuals and families than it has on their children.

In addition to helping children and fulfilling parents, adoption saves the government money — tens of thousands of dollars are saved for every child adopted from foster care. A 2006 study, cited by the Children’s Bureau, found that “approximately \$65,422 to \$126,825 is saved for every child who is adopted rather than placed in long-term foster care.”⁴ Some savings accrue from the fact that adoption reduces the need for direct child welfare services—foster care and court oversight are no longer required. Equally significant are the savings derived from, the long-term societal benefits of adoption. The outcomes facing youth who exit foster care on their own, rather than to a family, are startling and depressing. One study found that 25 percent of young people who aged out of foster care did not receive a high school diploma or GED. Fewer than 2 percent of foster care alumni finished college, compared with 23 percent of youth in the general population. More than half of youth who aged out of foster care experienced episodes of homelessness, and nearly 30 percent were incarcerated at some point. These are young people who are less likely to be employed or to have health insurance compared to their peers who have not been in foster care. These outcomes result in substantial government costs.⁵

³ J. Triseliotis, *Identity and Security in Long-Term Fostering and Adoption*, ADOPTION & FOSTERING, 7, 22-31 (1983); M. Bohman, & S. Sigvardson, *Outcome in Adoption: Lessons from Longitudinal Studies*, THE PSYCHOL. OF ADOPTION, 93-106 (1990) (eds. D.M. Brodzinsky & M.D. Schechter 1990); J. Triseliotis, *Long-Term Foster Care or Adoption? The Evidence Examined*, CHILD. & FAM. SOC. WORK, 7, 23-33 (2002); D. Quinton, & J. Selwyn, *Adoption as a Solution to Intractable Parenting Problems: Evidence from Two English Studies*, CHILD. & YOUTH SERV. REV. 31, 1119-26 (2009); E.C. Lloyd, & R.P. Barth, *Developmental Outcomes After Five Years for Foster Children Returned Home, Remaining in Care, or Adopted*, CHILD. & YOUTH SERV. REV. 33, 1383-91 (2011); B. Vinnerljung, & A. Hjerm, *Cognitive, Educational and Self-Support Outcomes of Long-Term Foster Care Versus Adoption: A Swedish National Cohort Study*, CHILD. & YOUTH SERV. REV. 33, 1902-10. (2011).

⁴ R. P. Barth, C. K. Lee, J. Wildfire, and S. Guo, "A Comparison of the Governmental Costs of Long-Term Foster Care and Adoption," Social Service Review (March 2006). Retrieved April 11, 2013, from: <https://cbexpress.acf.hhs.gov/index.cfm?event=website.viewPrinterFriendlyArticle&articleID=1183>

⁵ Fostering Connections Resource Center. Number of Youth Aging Out of Foster Care Drops below 28,000 in 2010. <http://www.fosteringconnections.org/tools/assets/files/Older-Youth-brief-2011-Final.pdf> (accessed December 28, 2012).



Studies have shown that youth adopted from foster care, when compared to peers who age out of foster care, are:

- more likely to complete high school or the equivalent,
- more likely to attend and complete college,
- less likely to become teen parents,
- less likely to abuse drugs and alcohol,
- less likely to have mental health problems,
- less likely to be arrested or incarcerated,
- more likely to be employed, and
- more likely to have adequate incomes.⁶

Rationale for Inclusion in Tax Reform

The adoption tax credit is one way the United States has shown families that adoption is valued in our society. It has provided an incentive to encourage the adoption of children who might not otherwise have a family. The credit provides significant relief to those who choose to adopt and provides families with the resources to meet the ongoing challenges of children with special needs. It also expands the pool of families who can adopt, which creates more opportunities for children to secure permanency.

The refundable adoption tax credit works. It helps children find the permanent, loving family they deserve, by enabling individuals at all income levels to pursue adoption. With the exception of not continuing refundability in the most recent extension (through the American Taxpayer Relief Act of 2012), each time Congress has made changes to the credit, it has made it more accessible to prospective adoptive families and the children who need those families.

The goal of tax policy should be to stimulate economic growth while encouraging strong, sustaining communities. As shown above, adoption does just this. It improves individuals' lives, builds stronger communities, and helps vulnerable, traumatized young people avoid harmful outcomes—outcomes that affect them personally, but also society as a whole. A tax policy that supports and encourages adoption is a good investment, both financially and in human capital.

⁶ Hansen, M.E. (2006). The value of adoption. Washington, DC: American University. Retrieved from <http://www.american.edu/cas/econ/workingpapers/1506.pdf> (May 19, 2008).



Recommendations for Improvement

In 2012 and future years, the adoption tax credit is not refundable. This is a substantial concern and could be devastating to the children who might not be able to be adopted if low- and middle-income families cannot benefit. When the credit is non-refundable, the benefit cannot exceed the family's tax liability. Despite the misperception that only wealthy individuals adopt, we know that people at all income levels offer children a permanent, loving home through adoption. One-third of all adopted children live in families with annual household incomes at or below 200 percent of the poverty level⁷, meaning many do not have a tax liability and cannot use a non-refundable tax credit. Children adopted from foster care are even more likely to enter families with lower incomes. Nationally, nearly half (46 percent) of families adopting from foster care are at or below 200 percent of poverty the level⁸.

In a law review on the inequity of the adoption tax credit, author Nathen Hibben stated that, "The value of the credit is \$0 to a family earning \$35k or less, because the family will not have sufficient income to generate any tax liability. This means that approximately 43.4 million American households (or 1/3 of all households) in the U.S. are completely ineligible for the adoption tax credit benefit [when it is not refundable]"⁹. The paper continued to make the point, "In real dollars, the credit benefits higher-income taxpayers more than it does lower- and middle-income tax payers. Simply raising the credit amount does not solve the problem...Instead, the very structure of the credit must be addressed."¹⁰ The law review was prepared in 2009, before the credit was made refundable for the first time in 2010. Notably, the review also recommended that the number one solution *is* to make the credit refundable.

In a recent analysis of IRS data, we found that families with an adjusted gross income (AGI) between \$30,000 to \$50,000 on average can use only \$1,148 of the credit each year (\$6,668 over the six-year carryforward period). On the other hand, families with AGI between \$50,000 to \$100,000 on average can only use \$2,381 (they would use only \$2,381 each of the first five years, and \$745 in the final year). This means, families with more resources get the most government help.

A refundable adoption tax credit makes an enormous difference in terms of which families are able to claim it. Some families will never be able to adopt without the benefit of the

⁷ Vandivere, S., Malm, K., and Radel, L. *Adoption USA: A Chartbook Based on the 2007 National Survey of Adoptive Parents*. (Washington, D.C.: The U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, 2009).

⁸ *Ibid.*

⁹ Nathen S. Hibben, *The Inequitable Tax Benefits of Adoption*, *Liberty University Law Review*, (Fall 2009)

¹⁰ *Ibid.*



adoption tax credit. Others will adopt, but won't benefit at all, which may mean they face challenges meeting their children's needs, particularly if they adopted a child with special needs from foster care. If we increase low- and moderate-income families' access to the credit, we make adoption possible for more waiting children. To ensure the adoption tax credit is promoting adoptions, we must ensure that more adoptive families are able to access it.

The Dornoff family of Williamsburg, Michigan has adopted a number of children with significant needs from foster care. They continue to care for many of their adult children today. They provide love, safety, and permanency to children who are bound to wheelchairs, require tube feedings, and live with autism. The Dornoffs ask members of Congress "to understand that children fare best in families – and the earlier they get there the better! All past abuse and issues are not magically cured with being adopted, but adoption certainly gives children a fighting chance. It is more cost-effective to have children adopted than to have them remain in the system." The Dornoff family welcomed children with special needs into their hearts and home through adoption, and they ask Congress to ensure benefits like the refundable adoption tax credit continue to be available so more children find loving families and those families have the means to meet their children's often substantial special needs. – Dornoff Family, Williamsburg, MI

Even for those families who might be able to adopt once without the credit, the benefit can help them give a second or third child a family as well. We have heard from countless families that describe the tax credit as an incentive to adopt a second time. When parents can get the credit more immediately – as they can with a refundable credit – they can adopt again. Without it, they might not ever be able to adopt or might wait many years as they pay down their loans over time. For each year a parent waits to adopt, a child is also waiting for a family.

"After we adopted our beautiful daughter, Karene, we began to prayerfully consider bringing home another child from her orphanage in Armenia. We were grateful that we were able to receive the adoption tax credit in 2011 when it was refundable. Receiving the refund helped at a crucial time when our daughter came home and we experienced additional bills accrued after the adoption due to the critical care she needed. In addition, we were unable at that time to think about any efforts to raise funds for a second adoption. The refund helped us greatly after our daughter came home, and also helped to relieve the burden of considering the cost of a subsequent adoption." - Hardin Family, White House, TN



Our working group seeks to give voice to the more than 100,000 children in foster care who are waiting to be adopted, and to orphans worldwide who do not yet have permanent loving families. We represent the interests of thousands of adoptive and prospective adoptive parents who want to offer these children a forever home to call their own. We urge this Committee and members of Congress to collectively reinstate the refundable provision and maintain the permanence of the adoption tax credit, so that more children can grow, thrive and be cared for through adoption.

On behalf of these children and families we thank you for your continued leadership and bipartisan efforts to continue to strengthen and improve the adoption tax credit policy.

Sincerely,

The Adoption Tax Credit Working Group's Executive Committee

American Academy of Adoption Attorneys
Adopt America Network
Christian Alliance for Orphans
Congressional Coalition on Adoption Institute (Secretariat)
Dave Thomas Foundation for Adoption
Evan B. Donaldson Adoption Institute
Joint Council on International Children's Services
National Council For Adoption
North American Council on Adoptable Children
RESOLVE: The National Infertility Association
ShowHope
Voice for Adoption



Other Members of the Adoption Tax Credit Working Group

AASK – Adopt A Special Kid
About A Child
Across The World Adoptions
ACT (Adoption in Child Time)
AdoptFund, Inc.
Adoption & Beyond, Inc.
Adoption ARK, Inc.
Adoption Associates, Inc.
The Adoption Consultancy
Adoption Advocates International
The Adoption Exchange
Adoption Learning Partners
Adoption Law Group
Adoption STAR
Adoption Today
Adoptions Together
Adoptive Families magazine
Adoptive Parents Committee Inc.
Agape Adoptions
Alabama Foster & Adoptive Parent Association
All Blessings International, Inc.
All God’s Children International
Alpine Adoption, Inc.
Amara
American Adoptions
Americans for International Aid and Adoption
Angels’ Haven Outreach
Ashcraft Franklin Young & Peters, LLP
Baker Victory Services
Bal Jagat – Children’s World Inc.
The Barker Foundation
Bay Area Adoption Services
Beacon House Adoption Services, Inc.
Bethany Christian Services
Broward Foster & Adoptive Parent Association
Buckner International
Caring for Kids, Inc.
Carolina Adoption Services, Inc.
Catholic Charities of the Diocese of Baton Rouge
Child Welfare League of America (CWLA)
Children at Heart Adoption Services, Inc.
Children’s Home Society & Family Services
Children’s Hope International
Children’s House International
A Chosen Child Adoption Services
Christian Adoption Services, Inc.
Christian Family Services of the Midwest, Inc.
Connecticut Association of Foster and Adoptive Parents
The Cradle
Creating a Family
Crossroads Adoption Services
Dillon International, Inc.
Dillon Southwest
European Adoption Consultants, Inc.
European Children Adoption Services
Faith International Adoptions
Families Like Ours, Inc.
Families for Private Adoption
Families Thru International Adoption
Family & Youth Initiative
Family Connections Christian Adoptions
Family Enrichment Center
Family Focus Adoption Services
Family Resource Center
Florida State Foster/Adoptive Parent Association
Forever Families Through Adoption, Inc.
Foster Family-based Treatment Association
Foster Parents Association of Washington State
Fostering Families Today
Friends in Adoption
Generations Adoptions
Georgia Association of Licensed Adoption Agencies
Georgia Council of Adoption Lawyers
Gladney Center for Adoption
Global Adoption Services
Golden Cradle Adoption Services
Michael S. Goldstein, Esq., LCSW
Helpusadopt.org
Holt International Children’s Services
Hopscotch Adoptions, Inc.
Idaho Foster and Adoptive Parents Association
Illien Adoptions International, Inc.
Independent Adoption Center
Iowa Foster and Adoptive Parents Association
Jewish Adoption and Foster Care Options (JAFCO)
Journeys of the Heart Adoption Services
La Vida International
Law Office of Barbara Thornell Ginn
Lifeline Children’s Services
Lifesong for Orphans



Lutheran Services in America
Lutheran Social Services of New England
Lutheran Social Services of Wisconsin and Upper Michigan
Michigan Association for Foster, Adoptive,
and Kinship Parents
Minnesota Foster Care Association
Miriam's Promise
MLJ Adoptions
My Adoption Advisor, LLC
National Center for Adoption Law and Policy
National Down Syndrome Adoption Network
National Foster Parent Association
Nebraska Foster and Adoptive Parent Association
New Beginnings International Children's and Family Services
New Hope for Children
New York State Citizens' Coalition for Children
One Church One Child of North/North Central Texas, Inc.
Oregon Post Adoption Resource Center
Pact, An Adoption Alliance
Partners for Adoption
Pinellas County Foster and Adoptive Parent Association
Project 1.27

Sierra Forever Families
The Sparrow Fund
Spence-Chapin
Spirit of Faith Adoptions
SPOON Foundation
Sunny Ridge Family Center
RainbowKids.com Adoption Advocacy
A Red Thread Adoption Services, Inc.
Resources4adoption.com
The Sylvia Thomas Center for Adoptive and Foster Families
Texas Foster Family Association
Three Rivers Adoption Council
Together as Adoptive Parents, Inc.
Tuscarawas County Job and Family Services
USAadopt, LLC
Villa Hope
WACAP (World Association for Children and Parents
Welcome House Adoption Program,
of Pearl S. Buck International
Wide Horizons For Children
Youth Villages
Youthville