

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 815
 Ways and Means

(Delegate Rosenberg, *et al.*)

Income Tax - Subtraction Modification for Adoption Expenses

This bill expands the existing State income tax subtraction modification allowed for the expenses incurred by adoptive parents: from \$6,000 to \$9,000 for the adoption of a child with a special need; and from \$5,000 to \$7,500 for a child without a special need. The subtraction modification for adoptive parents who adopt children who are not Maryland residents at the time of adoption increases from \$3,000 to \$4,500 for a child with a special need; and from \$2,000 to \$3,000 for a child without a special need.

The bill takes effect July 1, 2007 and applies to tax year 2007 and beyond.

Fiscal Summary

State Effect: General fund revenues could decrease by \$26,000 annually beginning in FY 2008. Future years reflect a constant number of qualifying adoptions. Expenditures would not be affected.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	(\$26,000)	(\$26,000)	(\$26,000)	(\$26,000)	(\$26,000)
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	(\$26,000)	(\$26,000)	(\$26,000)	(\$26,000)	(\$26,000)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local income tax revenues would decrease by \$16,400 annually beginning in FY 2008. Expenditures would not be affected.

Small Business Effect: None.

Analysis

Current Law: Reasonable and necessary adoption fees, court costs, attorney fees, and other expenses incurred by an adoptive parent qualify for a State income subtraction modification. The maximum value of the subtraction modification equals \$6,000 for a child with a special need and \$5,000 for a child without a special need. The subtraction modification for adoptive parents who adopt children who are not Maryland residents at the time of adoption is \$3,000 for a child with a special need and \$2,000 for a child without a special need. In order to claim the subtraction modification, the adoption must be made through a private, not for profit, licensed adoption agency or a public child welfare agency.

Background: Under federal law, adoptive parents may be eligible for a tax credit, or can exclude from federal adjusted gross income (FAGI) employer-provided adoption expenses. An eligible child is any child under age 18 or any disabled person physically or mentally unable to take care of himself or herself. Eligible expenses include adoption and attorney fees, court costs, travel expenses, and re-adoption expenses related to the adoption of a foreign child. Qualified expenses for the credit do not include expenses: (1) for which the parent received funds under any State, local, or federal program; (2) that violate state or federal law; (3) for carrying out a surrogate parenting arrangement; (4) for the adoption of a spouse's child; (5) paid or reimbursed by an employer or any other person or organization; (6) paid before 1997; and (7) allowed as a credit or deduction under any other provision of federal income tax law.

In tax year 2006, the value of the credit was \$10,960. An individual may also exclude from FAGI employer-provided adoption expenses up to \$10,960 per child. The credit is allowed for taxpayers with FAGI less than \$204,410 in tax year 2006. The federal Joint Committee on Taxation estimates that the credit and exclusion of employer-paid adoption expenses reduce federal revenues will reduce federal income tax revenues by approximately \$500 million in federal fiscal year 2008.

Exhibit 1 lists the number of public agency, independent, and licensed private agency adoptions in fiscal 2002 through 2005. Independent adoptions are not eligible for the State income subtraction modification.

Exhibit 1
Maryland Adoptions by Type
Fiscal 2002-2005

<u>Adoption Type</u>	<u>FY 2002</u>	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>4-Year Average</u>
Public Agency	968	769	831	730	825
Independent	452	584	593	650	570
Licensed Private Agency	<u>337</u>	<u>332</u>	<u>314</u>	<u>233</u>	<u>304</u>
Total	1,757	1,685	1,738	1,613	1,698

Source: Department of Human Resources

State/Local Revenues: The bill increases the maximum amount of qualifying adoption expenses beginning in tax year 2007. As a result, State general fund revenues could decrease by \$26,000 annually beginning in fiscal 2008. Local government revenues could decrease by \$16,400 annually. This estimate is based on the following facts and assumptions:

- The Department of Human Resources (DHR) estimates that 10% of private agency adoptions are children with special needs.
- Public agency adoptions expenses typically range from a minimal amount to \$2,500. It is estimated that increasing the limit would affect State revenues minimally.
- Private agency adoption expenses typically range between \$15,000 and \$20,000. It is assumed that adoptive parents would claim the entire amount of the increased subtraction modifications.
- DHR estimates that 50% of children adopted through private agencies are Maryland residents at the time of adoption.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Joint Committee on Taxation, Department of Human Resources, Internal Revenue Service, Department of Legislative Services

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