

2003 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB(LRBx4093/1))

Received: 01/22/2004

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Thomas Reynolds (608) 266-2512

By/Representing: Steve

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Tax Credits - individual income
Tax (indiv) - deduct/subtract

Extra Copies:

Submit via email: YES

Requester's email: Sen.Reynolds@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Nonrefundable individual income tax credit for adoption expenses

Instructions:

Identical to SB 292 (LRB -2998/1)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 01/22/2004	wjackson 01/22/2004		_____			
/1			rschlue 01/22/2004	_____	sbasford 01/22/2004	sbasford 01/22/2004	
/2	mshovers	jdye	rschlue	_____	sbasford	sbasford	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	02/09/2004	02/10/2004	02/10/2004 _____		02/10/2004	02/10/2004	

FE Sent For:

<END>

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/?	mshovers 01/22/2004	wjackson 01/22/2004		_____			
/1		1/23/10 jld	rschluet 01/22/2004	_____	sbasford 01/22/2004	sbasford 01/22/2004	

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LRB-2998/1
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RWJ
RMNR

SSA — to

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2003 SENATE BILL 292

October 21, 2003 - Introduced by Senators REYNOLDS, LASSA, STEPP, ROESSLER, WIRCH and CARPENTER, cosponsored by Representatives FREESE, MUSSER, HAHN, AINSWORTH, KREIBICH, BIES, GUNDRUM, HINES, GUNDERSON, W. WOOD, LOTHIAN, VRAKAS and HUNDERTMARK. Referred to Joint Survey Committee on Tax Exemptions.

1 AN ACT to amend 71.05 (6) (b) 22.; and to create 71.07 (6e) and 71.10 (4) (ce) of
2 the statutes; relating to: creating a nonrefundable individual income tax
3 credit for certain adoption expenses and prohibiting new claims for the
4 adoption expenses income tax deduction.

Analysis by the Legislative Reference Bureau

Substitute
amendment

In calculating an individual's Wisconsin adjusted gross income (AGI), an adoptive parent may generally, under current law, deduct from federal AGI up to \$5,000 that is expended during the year to which the claim relates and the preceding two years for adoption fees, court costs, or legal fees relating to the adoption of a child. Under this bill, no deductions may be claimed for such expenses for taxable years that begin after December 31, 2003.

Under federal law, there is a nonrefundable adoption expenses tax credit, under which amounts of up to \$10,000 of qualified adoption expenses may, generally, be credited against the federal tax that is imposed. The Internal Revenue Code (IRC) defines qualified adoption expenses to mean, generally, reasonable and necessary adoption fees, court costs, attorney fees, and other costs that are directly related to the legal adoption of an eligible child by the taxpayer, and defines eligible child to mean an individual under age 18 or physically or mentally incapable of caring for himself.

Federal law provides that, if adoption expenses are paid or incurred during a taxable year before the taxable year in which the adoption is finalized, the credit for those expenses is allowed during the year following the year during which the

SENATE BILL 292

expenses are paid or incurred, and, if the expenses are paid or incurred during or after the year in which the adoption becomes final, the credit for those expenses may be claimed for the year in which they are paid or incurred.

If the amount of the federal credit for which a taxpayer is eligible exceeds the amount of taxes owed, the excess amount of credit may be carried forward for up to five years. The \$10,000 limit is for each child adopted and is a cumulative limit. The amount of the credit that may be claimed is phased out to zero as the claimant's modified federal AGI income rises from \$150,001 to \$190,000. With regard to the adoption of a child who is not a citizen or resident of the United States at the time that the adoption proceedings commence, the credit may be claimed only upon the adoption becoming final.

This ~~bill~~ creates a nonrefundable individual income tax credit for adoption expenses incurred by an individual who is eligible for, and claims, the federal credit. The credit may be claimed for an amount of qualified adoption expenses, up to \$5,000, to the extent that the expenses exceed the amount that the claimant is eligible for, and claims, under the federal credit. For claimants who are nonresidents or part-year residents of Wisconsin, the credit that may be claimed is prorated based on the ratio of the claimant's Wisconsin AGI to federal AGI.

If the credit amount that the claimant is eligible for exceeds the claimant's taxes due, the claimant may carry forward the unused credit for up to five years. Generally, under the ~~bill~~, the provisions of the federal credit, including the definitions of qualified adoption expenses and eligible child, the maximum income phaseout provisions, the determination of the years in which the credit may be claimed for expenses paid or incurred, and the provisions relating to foreign adoptions apply to the credit created in the ~~bill~~.

~~This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.~~

~~For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.05 (6) (b) 22. of the statutes is amended to read:

2 71.05 (6) (b) 22. For taxable years beginning after December 31, 1995, and
3 before January 1, 2004, an amount up to \$5,000 that is expended during the period
4 that consists of the year to which the claim relates and the prior 2 taxable years, by
5 a full-year resident of this state who is an adoptive parent, for adoption fees, court

Substitute
amendment

SENATE BILL 292

1 costs or legal fees relating to the adoption of a child, for whom a final order of adoption
2 has been entered under s. 48.91 (3) during the taxable year.

3 **SECTION 2.** 71.07 (6e) of the statutes is created to read:

4 **71.07 (6e) ADOPTION EXPENSES CREDIT.** (a) *Definitions.* In this subsection:

5 1. “Claimant” means an individual who is eligible for, and claims, the federal
6 credit.

7 2. “Federal credit” means the federal tax credit, for adoption expenses, under
8 section 23 of the Internal Revenue Code.

9 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
10 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
11 amount of those taxes, an amount of up to \$5,000 of qualified adoption expenses, to
12 the extent that those expenses exceed the amount of the credit for which a claimant
13 is eligible, and claims, under the federal credit in the year to which the claim relates.

14 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
15 is claimed within the time period under s. 71.75 (2).

16 2. For a claimant who is a nonresident or part-year resident of this state and
17 who is a single person or a married person filing a separate return, multiply the
18 credit for which the claimant is eligible under par. (b) by a fraction the numerator of
19 which is the individual’s Wisconsin adjusted gross income and the denominator of
20 which is the individual’s federal adjusted gross income. If a claimant is married and
21 files a joint return, and if the claimant or the claimant’s spouse, or both, are
22 nonresidents or part-year residents of this state, multiply the credit for which the
23 claimant is eligible under par. (b) by a fraction the numerator of which is the couple’s
24 joint Wisconsin adjusted gross income and the denominator of which is the couple’s
25 joint federal adjusted gross income.

Shovers, Marc

From: Krieser, Steve
Sent: Friday, February 06, 2004 11:24 AM
To: Shovers, Marc
Subject: FW: Redraft of LRBs0318/1: Sub Amendment to 2003 SB 408

Importance: High

Incidentally, would this bill, if amended by this sub, have to go to the Finance committee?

Steve Krieser
Office of State Senator Tom Reynolds
5th Senate District
Chief of Staff
Clerk, Committee on Labor, Small Business Development and Consumer Affairs
Phone: 608-266-2512 Fax: 608-267-0367
Toll-Free: 866-817-6061
Web: <http://www.senreynolds.com>



Krieser, Steve.vcf

-----Original Message-----

From: Krieser, Steve
Sent: Friday, February 06, 2004 8:48 AM
To: Shovers, Marc
Subject: Redraft of LRBs0318/1: Sub Amendment to 2003 SB 408
Importance: High

Hi Marc:

Please re-draft the above-captioned amendment so that the repeal of the existing deduction, and the effective date of the new credit, are delayed to tax years beginning on January 1, 2005. Everything else should remain the same. This legislation is up for hearing on Thursday, February 12. Please feel free to contact me with any questions you may have.

Steve Krieser
Office of State Senator Tom Reynolds
5th Senate District
Chief of Staff
Clerk, Committee on Labor, Small Business Development and Consumer Affairs
Phone: 608-266-2512 Fax: 608-267-0367
Toll-Free: 866-817-6061
Web: <http://www.senreynolds.com>



Krieser, Steve.vcf



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SENATE SUBSTITUTE AMENDMENT,
TO 2003 SENATE BILL (LRB-4093/1)

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2 the statutes; **relating to:** creating a nonrefundable individual income tax
3 credit for certain adoption expenses and prohibiting new claims for the
4 adoption expenses income tax deduction.

Analysis by the Legislative Reference Bureau

In calculating an individual's Wisconsin adjusted gross income (AGI), an adoptive parent may generally, under current law, deduct from federal AGI up to \$5,000 that is expended during the year to which the claim relates and the preceding two years for adoption fees, court costs, or legal fees relating to the adoption of a child. Under this substitute amendment, no deductions may be claimed for such expenses for taxable years that begin after December 31, ~~2003~~ 2004 ✓

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Federal law provides that, if adoption expenses are paid or incurred during a taxable year before the taxable year in which the adoption is finalized, the credit for those expenses is allowed during the year following the year during which the expenses are paid or incurred, and, if the expenses are paid or incurred during or after the year in which the adoption becomes final, the credit for those expenses may be claimed for the year in which they are paid or incurred.

If the amount of the federal credit for which a taxpayer is eligible exceeds the amount of taxes owed, the excess amount of credit may be carried forward for up to five years. The \$10,000 limit is for each child adopted and is a cumulative limit. The amount of the credit that may be claimed is phased out to zero as the claimant's modified federal AGI income rises from \$150,001 to \$190,000. With regard to the adoption of a child who is not a citizen or resident of the United States at the time that the adoption proceedings commence, the credit may be claimed only upon the adoption becoming final.

This substitute amendment creates a nonrefundable individual income tax credit for adoption expenses incurred by an individual who is eligible for, and claims, the federal credit. The credit may be claimed for an amount of qualified adoption expenses, up to \$5,000, to the extent that the expenses exceed the amount that the claimant is eligible for, and claims, under the federal credit. For claimants who are nonresidents or part-year residents of Wisconsin, the credit that may be claimed is prorated based on the ratio of the claimant's Wisconsin AGI to federal AGI.

If the credit amount that the claimant is eligible for exceeds the claimant's taxes due, the claimant may carry forward the unused credit for up to five years. Generally, under the substitute amendment, the provisions of the federal credit, including the definitions of qualified adoption expenses and eligible child, the maximum income phaseout provisions, the determination of the years in which the credit may be claimed for expenses paid or incurred, and the provisions relating to foreign adoptions apply to the credit created in the substitute amendment.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 71.05 (6) (b) 22. [✓] of the statutes is amended to read:

2 71.05 (6) (b) 22. For taxable years beginning after December 31, 1995, and
 3 before January 1, 2004, ^{← number} an amount up to \$5,000 that is expended during the period
 4 that consists of the year to which the claim relates and the prior 2 taxable years, by
 5 a full-year resident of this state who is an adoptive parent, for adoption fees, court
 6 costs or legal fees relating to the adoption of a child, for whom a final order of adoption
 7 has been entered under s. 48.91 (3) during the taxable year.

1 ✓
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2 71.07 (6e) ADOPTION EXPENSES CREDIT. (a) *Definitions*. In this subsection:

3 1. “Claimant” means an individual who is eligible for, and claims, the federal
4 credit.

5 2. “Federal credit” means the federal tax credit, for adoption expenses, under
6 section 23 of the Internal Revenue Code.

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8 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
9 amount of those taxes, an amount of up to \$5,000 of qualified adoption expenses, to
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11 is eligible, and claims, under the federal credit in the year to which the claim relates.

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14 2. For a claimant who is a nonresident or part-year resident of this state and
15 who is a single person or a married person filing a separate return, multiply the
16 credit for which the claimant is eligible under par. (b) by a fraction the numerator of
17 which is the individual’s Wisconsin adjusted gross income and the denominator of
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19 files a joint return, and if the claimant or the claimant’s spouse, or both, are
20 nonresidents or part-year residents of this state, multiply the credit for which the
21 claimant is eligible under par. (b) by a fraction the numerator of which is the couple’s
22 joint Wisconsin adjusted gross income and the denominator of which is the couple’s
23 joint federal adjusted gross income.

Basford, Sarah

From: Shovers, Marc
Sent: Tuesday, February 10, 2004 10:59 AM
To: Basford, Sarah
Subject: FW: Redraft of LRBs0318/1: Sub Amendment to 2003 SB 408

Importance: High

Hi Sarah:

Could you please e-mail s0318/2 to Faith Russell at LFB and Laura Rose at Leg. Council, and also add this information to the request sheet in case the sub. gets redrafted again? Thanks.

Marc

-----Original Message-----

From: Krieser, Steve
Sent: Tuesday, February 10, 2004 10:28 AM
To: Shovers, Marc
Subject: RE: Redraft of LRBs0318/1: Sub Amendment to 2003 SB 408
Importance: High

Hi Marc,

The stripes on the previous sub should be there in your possession by now. I am planning on asking Leg Council to do a brief analysis memo on the new sub. I will also be asking Faith Russell at the LFB to do a memo detailing the fiscal impact of the delayed effective date for the changeover from deduction to credit. The hearing is on Thursday, to the timeline on this is pretty compressed. Please just release the sub draft to Laura Rose and Faith Russell by e-mail at the same time you release it to us. I will let them know that they should expect to see it, so they can get working on their analyses in a timely fashion.

Thanks for your help. Feel free to contact me if you have any questions.

Steve Krieser
Office of State Senator Tom Reynolds
5th Senate District
Chief of Staff

Clerk, Committee on Labor, Small Business Development and Consumer Affairs

Phone: 608-266-2512 Fax: 608-267-0367

Toll-Free: 866-817-6061

Web: <http://www.senreynolds.com>



Krieser, Steve.vcf

-----Original Message-----

From: Shovers, Marc
Sent: Monday, February 09, 2004 3:50 PM
To: Krieser, Steve
Subject: RE: Redraft of LRBs0318/1: Sub Amendment to 2003 SB 408

Hi Steve: