



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

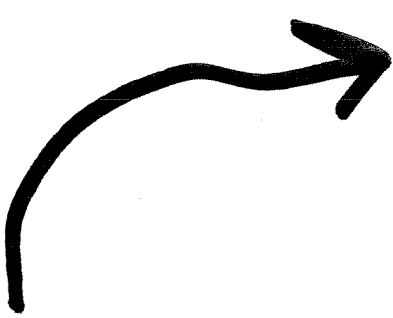
Date Transfer Requested: 07/01/2005 (Per: CMH)



Appendix – Part 07 of 11

☞ The 2005 drafting file for:

- LRB 05b0767
- LRB 05b0789
- LRB 05b0790
- LRB 05b0791
- LRB 05b0792
- LRB 05b0793
- LRB 05b0794
- LRB 05b0796
- LRB 05b0797
- LRB 05b0817
- LRB 05b0819



has been copied/added to the 2005 drafting file
for **LRB 05b0821**

2005 DRAFTING REQUEST

Senate Amendment (SA-AB100)

Received: 06/30/2005

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau 7-7597**

By/Representing: **Russell**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Tax, Individual - income credit**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

LFB:.....Russell -

Topic:

Nonrefundable individual income tax credit for adoption expenses

Instructions:

Same as LRB -0143/1

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 06/30/2005	wjackson 06/30/2005		_____			
/1			jfrantze 06/30/2005	_____	lemery 06/30/2005		

FE Sent For:

<END>

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1/2	mshovers	1 WJ 6/30	J 6/30	J/Pg 6/30			
11 MES 6/30/05							

FE Sent For:

<END>

2005 - 2006 LEGISLATURE

LRBb0794/1
MES.....
WIL
RMNR

LFB:.....Russell - Nonrefundable individual income tax credit for adoption expenses

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO 2005 ASSEMBLY BILL 100

now

1 At the locations indicated, amend the bill as follows:

2

tax imposed
(END)

↓

2005 BILL

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

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, 2005.

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 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 expenses are paid or incurred, and, if the expenses are paid or incurred during or

BILL

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:

Page 565, line 250 after that line insert (1)

(1) SECTION 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, 2006, 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)

page 579 line 17 (1) after that line insert (51)

1 SECTION ~~20~~ 71.07 ~~and~~ of the statutes is created to read:

2 71.07 ~~AD~~ 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.

7 (b) *Filing claims*. Subject to the limitations provided in this subsection, a
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
10 the extent that those expenses exceed the amount of the credit for which a claimant
11 is eligible, and claims, under the federal credit in the year to which the claim relates.

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

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

23 3. The provisions contained in section 23 of the Internal Revenue Code, to the
24 extent that they apply to the credit under that section, apply to the credit under this
25 subsection, unless this subsection explicitly provides otherwise.

BILL

1 (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit
2 under that subsection, applies to the credit under this subsection.

3 (e) *Carry-forward.* If a credit computed under this subsection is not entirely
4 offset against Wisconsin income taxes otherwise due, the unused balance may be
5 carried forward and credited against Wisconsin income taxes otherwise due for the
6 following 5 taxable years to the extent not offset by these taxes otherwise due in all
7 intervening years between the year in which the expense was incurred and the year
8 in which the carry-forward credit is claimed.

Page 583, line 90 after that line insert
SECTION 71.10 (4) (ce) of the statutes is created to read:

10 71.10 (4) (ce) The adoption expenses credit under s. 71.07 (5i).
Handwritten: (B) 13120 ← letter "o" 5i

11 SECTION 4. Initial applicability.
Page 1037, line 20 after that line insert
12 This act first applies to taxable years beginning on January 1, 2006.

13 (END)

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The treatment of sections 71.05 (b) (b) 220, 71.07 (5i) and 71.10 (4) (ce) of the statutes
CS ADOPTION EXPENSES CREDIT



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBb0794/1
MES:wlj:jf

LFB:.....Russell - Nonrefundable individual income tax credit for adoption expenses

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO 2005 ASSEMBLY BILL 100

1 At the locations indicated, amend the engrossed bill as follows:

2 1. Page 565, line 25: after that line insert:

3 "SECTION 1286Lm. 71.05 (6) (b) 22. of the statutes is amended to read:

4 71.05 (6) (b) 22. For taxable years beginning after December 31, 1995, and
5 before January 1, 2006, an amount up to \$5,000 that is expended during the period
6 that consists of the year to which the claim relates and the prior 2 taxable years, by
7 a full-year resident of this state who is an adoptive parent, for adoption fees, court
8 costs or legal fees relating to the adoption of a child, for whom a final order of adoption
9 has been entered under s. 48.91 (3) during the taxable year."

10 2. Page 579, line 17: after that line insert:

11 "SECTION 1311ia. 71.07 (5i) of the statutes is created to read:

1 71.07 (5i) ADOPTION EXPENSES CREDIT. (a) *Definitions*. In this subsection:

2 1. "Claimant" means an individual who is eligible for, and claims, the federal
3 credit.

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

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

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

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

22 3. The provisions contained in section 23 of the Internal Revenue Code, to the
23 extent that they apply to the credit under that section, apply to the credit under this
24 subsection, unless this subsection explicitly provides otherwise.

