



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: H. 3593 Introduced on January 10, 2023
Author: G.M. Smith
Subject: Adoption Tax Credit
Requestor: House Ways and Means
RFA Analyst(s): Jolliff and Boggs
Impact Date: January 18, 2023

Fiscal Impact Summary

This bill creates a new state individual income tax credit based on the federal tax credit for qualified adoption expenses related to a domestic adoption. The credit is equal to the total amount of the federal credit earned up to \$5,000 for each child adopted. It may be taken in the year in which the federal credit is first claimed or carried forward for the next five tax years.

This bill will not impact expenses for the Department of Revenue (DOR) to administer the credit, as this new credit can be administered with existing staff and resources.

The bill is expected to reduce General Fund individual income tax revenue by \$2,561,000 beginning in FY 2023-24. The impact will continue to grow as taxpayers claim carryforward amounts and additional taxpayers begin to claim the credit. The total General Fund impact will be realized in FY 2028-29 when the full five-year carryforward period is implemented. The table below outlines the estimated impact by fiscal year. The actual timing of the impact may vary depending on the tax liability of the individuals claiming the credit. When the credit is fully implemented, the total impact will be a General Fund individual income tax reduction of \$4,918,000. Please note, the estimates are based on the projected tax rates for tax year 2023 of 3 percent and 6.4 percent. The projected adjustment to the top marginal tax rate will not be finalized until February 2023. If the rate adjustment does not occur, these estimates would be impacted.

Fiscal Year	Initial Impact of Credit and Carryforward	Total General Fund Impact
FY 2023-24	(\$2,561,000)	(\$2,561,000)
FY 2024-25	(\$1,195,000)	(\$3,756,000)
FY 2025-26	(\$646,000)	(\$4,402,000)
FY 2026-27	(\$396,000)	(\$4,798,000)
FY 2027-28	(\$60,000)	(\$4,858,000)
FY 2028-29	(\$60,000)	(\$4,918,000)

Explanation of Fiscal Impact

Introduced on January 10, 2023

State Expenditure

This bill creates a new state individual income tax credit based on the federal tax credit for qualified adoption expenses related to a domestic adoption. The credit is equal to the total amount of the federal credit earned up to \$5,000 for each child adopted. This bill will not impact expenses for DOR to administer the credit, as this new credit can be administered with existing staff and resources.

State Revenue

This bill allows a resident taxpayer to claim a state individual income tax credit based on the federal tax credit for qualified adoption expenses related to a domestic adoption. The credit is equal to the total amount of the federal credit earned up to \$5,000 for each child adopted. It may be taken in the year in which the federal credit is first claimed or carried forward for the next five tax years. The credit is first available for tax year 2023.

According to the Internal Revenue Service (IRS), taxpayers are allowed to claim a federal tax credit for qualified adoption expenses paid to adopt an eligible child and an exclusion from income for employer-provided adoption assistance. The credit is nonrefundable. However, the credit may be carried forward for up to five years. The maximum amount of the federal credit for 2023 is \$15,950 per child.

Adoption expenses range widely, largely depending on whether the adoption is public or private. Public adoptions are much less expensive than private adoptions, and assistance is available to offset costs. According to AdoptUSKids.org, most public adoptions have few or no fees.¹ The Department of Social Services (DSS) will reimburse families adopting children from foster care up to \$1,500 per child for legal fees and other expenses related to the adoption.² Private adoptions, however, average from \$25,000 to \$48,500 according to Adoption.org.³ For private adoptions, only children who meet DSS's definition of special needs and have an adoption subsidy agreement signed prior to the finalization of their adoption are eligible for reimbursement up to \$1,500. Based on the cost of adoptions, we anticipate that the credit will largely apply to private adoptions.

In FY 2021-22, Judicial family court filings included 1,683 domestic adoptions and 19 foreign adoptions.⁴ Further, DSS reports 484 public adoptions in 2021 and 496 in 2022. Subtracting an average of 490 public adoptions from the total 1,683 domestic adoptions, we estimate that there are approximately 1,193 private domestic adoptions in a year.

¹ "What is the cost of adoption from foster care?" *AdoptUSKids.org*, <https://www.adoptuskids.org/adoption-and-foster-care/overview/what-does-it-cost> Accessed January 3, 2023

² "Adoption Assistance" *SC Department of Social Services*, <https://dss.sc.gov/child-well-being/adoption/adoption-assistance/> Accessed January 3, 2023

³ "How Much Does Private Adoption Cost?" *Adoption.org*, June 18, 2019, <https://adoption.org/much-private-adoption-cost>

⁴ https://www.sccourts.org/annualReports/2021-2022/FCNOA_F.pdf

The IRS publishes estimates of total tax credits for the U.S. based on a sample of tax returns. The estimated number of returns claiming the federal adoption expense credits and the total amount of the credits for tax years 2018 to 2020 are detailed below. Based on these figures, we determined an average credit for the U.S. over the period of \$4,942.

U.S. Federal Adoption Expense Tax Credits by Tax Year

	2018	2019	2020	Average
Returns with Adoption Credit	76,127	63,531	64,773	68,259
Total Credits	\$386,390,000	\$303,894,000	\$321,764,000	\$337,349,333
Average Credit	\$5,076	\$4,783	\$4,968	\$4,942

Source: Internal Revenue Service, Statistics of Income, Table 1.3

In total for 2019, 115,353 children were adopted in the U.S.⁵ Based on the total number of adoptions in S.C. of 1,683, approximately 1.5 percent of adoptions occurred in our state, which is comparable to our percentage of national population. By then applying the 1.5 percent rate to the number of returns claiming the federal adoption credit, we would expect that approximately 1,023 returns will claim the credit, or 86 percent of the estimated 1,193 private adoptions. Further, the IRS also publishes the distribution of the returns claiming the credit by federal adjusted gross income range. For this analysis we have assumed that the distribution of state returns will follow a similar pattern. And have used these data to estimate the income ranges for these taxpayers and their tax liabilities.

To estimate the potential impact of the credit, we calculated the average tax liability for resident taxpayers based on the anticipated tax rates for tax year 2023. These estimates are detailed in the table below.

⁵ Koh, Eun, et. al., "Adoption by the Numbers" 2019-2020, *National Council for Adoption*, <https://adoptioncouncil.org/research/adoption-by-the-numbers/>

Estimated Distribution of Taxpayers Claiming the Adoption Credit

Federal Adjusted Gross Income Range	Federal Statistics (Tax Year 2021)		SC Estimates (Tax Year 2023)	
	Number of Returns	Amount (1000s)	Estimated Returns	Projected Average State Tax Liability for Resident Taxpayers
No adjusted gross income	0	0	0	\$66
\$1 under \$10,000	0	0	0	\$2
\$10,000 under \$20,000	0	0	0	\$9
\$20,000 under \$30,000	**	**	0	\$133
\$30,000 under \$40,000**	4,015	3,829	63	\$382
\$40,000 under \$50,000*	3,014	3,454	48	\$748
\$50,000 under \$75,000	22,115	60,459	349	\$1,346
\$75,000 under \$100,000	13,071	60,299	206	\$2,217
\$100,000 under \$200,000	21,229	176,882	335	\$4,381
\$200,000 under \$500,000**	1,328	16,841	21	\$11,275
\$500,000 under \$1,000,000	**	**	0	\$25,618
\$1,000,000 or more	**	**	0	\$83,411
All returns, total	64,773	321,764	1,023	\$2,010

*Estimate should be used with caution due to the small number of sample returns on which it is based.

** Data combined to avoid disclosure of information for specific taxpayers.

Returns may have no federal adjusted gross income but a state tax liability due to federal provisions not adopted by South Carolina.

Source: Federal Statistics - IRS, Statistics of Income Division, Publication 1304. November 2022.

S.C. Estimates - S.C. Revenue and Fiscal Affairs, 2021 federal and state individual income tax return matched sample.

Not all taxpayers will have a sufficient state tax liability to claim the full credit in the first year. For each year, the impact will continue to grow as taxpayers claim carryforward amounts and additional taxpayers begin to claim the credit. The total General Fund impact will be realized in FY 2028-29 when the full five-year carryforward period is implemented. The table below outlines the estimated impact by fiscal year based on these calculations. The actual timing of the impact may vary depending on the tax liability of the individuals claiming the credit. When the credit is fully implemented, the total impact will be a General Fund individual income tax reduction of \$4,918,000.

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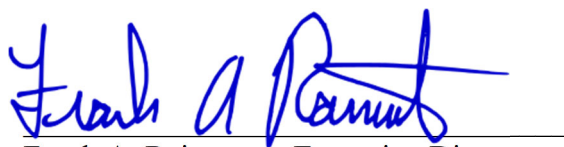
Please note, the estimates are based on the projected tax rates for tax year 2023 of 3 percent and 6.4 percent. The projected adjustment to the top marginal tax rate will not be finalized until February 2023. If the rate adjustment does not occur, these estimates would be impacted.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director