

Report to The Congress on

Tax Benefits for Adoption



Department of the Treasury
October 2000



DEPARTMENT OF THE TREASURY
WASHINGTON

ASSISTANT SECRETARY

October 3, 2000

The Honorable Bill Archer
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Section 1807(d) of P.L. 104-188, the Small Business Job Protection Act of 1996, directs the Secretary of the Treasury Department to study the effect on adoptions of the tax credit and gross income exclusion for adoption provided in the Act, and to submit a report regarding the study to the Senate Committee on Finance and the House Committee on Ways and Means.

Pursuant to that directive, I hereby submit the "Report to the Congress on Tax Benefits for Adoption."

I am sending a similar letter to Senator William V. Roth, Jr., Chairman of the Committee on Finance, Senator Daniel P. Moynihan, and Representative Charles B. Rangel.

Sincerely,

Jonathan Talisman
Acting Assistant Secretary (Tax Policy)

Enclosure



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Chapter I

INTRODUCTION AND SUMMARY

MANDATE FOR THE STUDY

The Small Business Job Protection Act of 1996, P.L. 104-188, included two related tax provisions to assist families who adopt children, to be effective beginning in tax year 1997. The first provision is a tax credit of 100 percent of the first \$5,000 per adoption (\$6,000 for adoptions of children with special needs) of qualified expenses paid in the adoption process.¹ The second provision is an exclusion of up to \$5,000 per adoption (\$6,000 for adoptions of children with special needs) for certain employer-paid or employer-reimbursed adoption expenses.² Taxpayers may use both provisions for a single adoption, but not for the same expenses. Benefits are phased out above certain income levels. Neither the tax credit nor the exclusion applies to adoptions by stepparents. The tax credit generally sunsets after 2001, but is permanent with respect to adoptions of children with special needs. The employer exclusion sunsets after 2001.

The Small Business Job Protection Act also included a provision directing the Secretary of the Treasury to “study the effect on adoptions” of the tax credit and exclusion and to submit a report of the study to the House Ways and Means Committee and the Senate Finance Committee.³ This report is in response to the Congressional mandate and is based on data regarding taxpayers’ use of both adoption provisions during their first two years of availability, tax years 1997 and 1998.

DATA ON ADOPTIONS

The most recent comprehensive effort to collect adoption statistics reported that a total of 127,000 children were adopted in 1992 (including 53,000 stepparent adoptions).^{4, 5} However, this estimate slightly understates the total number of adoptions because it does not include adoptions of foreign children in States that do not use the State courts to report adoptions. Based on the limited data for 1997, there appear to have been about 130,000 adoptions in 1997. Assuming no further change in the total and no further change in the number of stepparent adoptions implies that about 77,000 adoptions completed were potentially eligible for the credit

¹ Section 1807 of the Act and section 23 of the Internal Revenue Code of 1986.

² Section 1807 of the Act and section 137 of the Internal Revenue Code of 1986.

³ Section 1807(d) of the Act.

⁴ Flango, Victor and Flango, Carol, “How Many Children Were Adopted in 1992,” *Child Welfare*, Vol. LXXIV #5, September/October 1995. pp. 1018-1031.

⁵ For ease of discussion and to avoid the appearance of undue precision, numbers of taxpayers and adoptions have been rounded in the text. Computed amounts, such as average expenses, have been calculated from the unrounded values.

or exclusion in 1998, the latest year for which tax return data are available.⁶ The number of adoptions that actually received benefits in 1998 was about 50,000. Two major factors account for the approximately 27,000 potentially eligible adoptions that did not receive tax benefits for 1998. First, the costs of adopting children with special needs are eligible for reimbursement through government expenditure programs, and, in many cases, these reimbursements appear to fully cover the costs of the adoptions. There were 31,000 adoptions of children with special needs in 1998, only 4,700 of which received tax benefits. Second, the tax benefits for adoption are available only to taxpayers with modified adjusted gross incomes below \$115,000.

SUMMARY OF UTILIZATION OF TAX BENEFITS ON 1998 RETURNS

All adoptions. For tax year 1998, 45,300 taxpayers received income tax benefits for \$297 million of adoption expenses paid or reimbursed in connection with 50,400 adoptions. 44,700 taxpayers received benefits from the tax credit. Thirty-nine hundred taxpayers received tax benefits from the exclusion, of whom only about 600 did not also benefit from the tax credit. Adoption expenses generated \$133.5 million of tax credits (99 percent of total tax benefits), and exclusions for employer reimbursements generated \$1.7 million of tax reduction (1 percent of total tax benefits), for a total of \$135.2 million. Including carry forwards of unused credits from 1997, taxpayers were able to use adoption tax credits of \$104.3 million in 1998.⁷ Taxpayers carried forward to 1999 unused 1997 and 1998 tax credits of \$53.4 million.

Adoption expenses reported on 1998 tax returns averaged \$5,890 per adoption. Fifty-one percent of returns reported adoption expenses (including employer reimbursements) of under \$5,000; 64 percent were under \$6,000; and 25 percent were over \$10,000.

Adoptions of children with special needs. Tax benefits were received in 1998 for expenses reported in connection with the adoptions of 4,700 children with special needs, or only about 15 percent of all adoptions of children with special needs. Apparently, the out-of-pocket costs of the other 85 percent of the adoptions of children with special needs (which otherwise would be eligible for the tax benefits) were covered by non-tax government programs. Only 8 percent of total adoption tax benefits generated were for adoptions of children with special needs.

The associated expenses for adoptions of children with special needs for whom tax benefits were received generated \$10.7 million of tax benefits, all but \$0.1 million of which were from the tax credit. Average adoption expenses were \$3,540 per adoption, which is 40 percent lower than for adoptions overall. Sixty-six percent of returns reported adoption expenses of under \$5,000; 71 percent were under \$6,000; and 12 percent were over \$10,000.

⁶ Because 1997 was the first year in which adoption tax benefits were available, some taxpayers may have failed to report adoption tax benefits on their initial 1997 returns. Even if such benefits were later claimed on amended tax returns, they are not included in the data used for this report. See Chapter IV for further discussion.

⁷ Tax credits generated in a year but which cannot be used because they exceed tax liability may be carried forward and used during the five subsequent years.

Adoptions of foreign children. The 14,300 adoptions of foreign children for 1998 generated \$50.4 million of tax benefits (37 percent of the total), all but \$0.6 million of which were from the tax credit. Average reported adoption expenses were \$9,876 per adoption, which is more than twice the average for non-foreign, non-special needs children. Twenty-three percent of taxpayers with adoptions of foreign children reported expenses of less than \$5,000, 37 percent reported expenses of under \$6,000, and 52 percent reported expenses of more than \$10,000. Families undertaking adoptions of foreign children tended to have higher average incomes than other adoptive families.

Distribution of benefits. Families need substantial income in order to use the benefits from the maximum possible tax credit. A family without any other dependents would need to have at least \$52,400 of income (in 2000) to fully utilize a \$5,000 adoption tax credit in one year. An annual income of \$24,650 would be required to use such a benefit over a six year period, although in that situation the tax benefit would not be able to offset adoption expenses as they were paid.⁸ Higher levels of income would be necessary if taxpayers itemize deductions, use other tax credits such as the child and dependent care credit, have additional children, or undertake additional adoptions.⁹

Families with incomes of less than \$25,000 undertook only about 7 percent of the adoptions in 1998 for which tax benefits were reported. Because of their low tax liability, such families must carry forward most of the adoption tax credits they do generate.

GENERAL OBSERVATIONS

Adopting families generally incur significant expenses related to the adoption. The adoption tax provisions help these families meet their adoption expenses. The provisions may also encourage additional families to consider adoption. The effect of the provisions on the number of adoptions is likely to vary by the type of adoptive child.

Adoptions of non-foreign, non-special needs children. There is substantial evidence that the number of healthy, non-foreign infants available for adoption is less than the number of families seeking to adopt such infants. Thus, tax benefits cannot be expected to increase the number of such adoptions. Even without changing the total number of adoptions of healthy non-foreign infants, tax benefits may increase the number of families, especially middle-income families, seeking to adopt and may change the mix of income levels of families that are successful.

Adoptions of foreign children. By lowering the net costs of adoption, the tax benefits for adoption may increase the number of adoptions of foreign children. The number of adoptions

⁸ To use the full \$6,000 credit for adoption of a special needs child in one year would require a minimum income of \$59,100. To use it over six years would require income of at least \$25,750. See Table 5-1.

⁹ Required incomes in future years would be higher due to the annual indexing of personal exemptions, the standard deduction, and tax bracket widths for the effects of inflation.

of foreign children has been increasing, although the annual increases began prior to enactment of the tax benefits.

Adoptions of children with special needs. The effect of the adoption tax benefits on the number of adoptions of children with special needs is uncertain. By lowering the costs to adopting families, the tax benefits provide an incentive to adopt a larger number of children with special needs in cases in which their adoption expenses would not be fully paid by direct expenditure programs. Conversely, the tax provisions lower the costs for adoptions of foreign children by a greater amount than for the adoptions of children with special needs. This decrease in the relative price of adopting foreign children compared to adopting children with special needs decreases the relative incentive to adopt children with special needs. Although the number of adoptions of children with special needs continues to increase, that increase may be related to private and other government efforts. Available data do not permit a determination of whether the adoption tax benefits have increased, decreased, or not affected the number of adoptions of children with special needs relative to the number of such adoptions that would have occurred in the absence of the tax benefits.

Effect of tax benefits on qualified adoption expenses. Because the adoption tax credit is 100 percent of qualified expenses (up to the statutory limits), adopting families whose total qualified adoption expenses are below the statutory limits and who can fully utilize the tax credit do not have a financial incentive to minimize expenses. The availability of tax benefits for adoption also might permit some charges to adopting families to be increased over the levels charged in the absence of such tax benefits. To the extent that occurs, not all of the benefits from the tax provisions for adoption accrue to adopting families.

Administrative burdens. Although obtaining benefits for adoption through the tax system may impose lower administrative burdens on taxpayers than would a direct expenditure program, the tax provisions are complex and do impose burdens. The tax form for claiming adoption benefits is one of the more complicated tax forms that lower- and middle-income taxpayers use, even though the requirements for the tax form are directly related to the statutory elements of the provisions and include the minimum information necessary to compute the benefits and alert the Internal Revenue Service that benefits are being claimed. IRS examinations of tax returns reporting adoption expense also add to the administrative burdens of adoptive families, and it is labor intensive for the IRS to verify the adoption expenses claimed on tax returns as the basis for the adoption tax credit. Taxpayers incur additional computational burdens if they wish to obtain the tax benefits earlier through reduced withholding on wages and salaries rather than obtaining them later through a tax refund.

OUTLINE OF THE STUDY

Chapter II provides detailed information on the Federal income tax provisions for adoption assistance. Chapter III provides background information on adoption. Chapter IV presents and summarizes data on taxpayers' use of the Federal income tax benefits for adoptions in 1997 and 1998. Chapter V contains observations about the tax benefits for adoption with emphasis on their structure, their beneficiaries, their complexity, and various administrative

issues. Appendix A includes a copy of the IRS tax form (Form 8839) and instructions that are used by taxpayers claiming the adoption tax benefits. Appendix B outlines the various Federal expenditure programs that facilitate and assist adoptions.

Chapter II

FEDERAL TAX BENEFITS FOR ADOPTION

Three major changes in tax benefits for adoption have been enacted since 1981. The Economic Recovery Tax Act of 1981 (ERTA) provided, beginning for 1981, an itemized deduction for up to \$1,500 per adoptee for qualified adoption expenses paid in connection with the adoption of a child with special needs. That deduction was repealed, effective in 1987, by the Tax Reform Act of 1986, which replaced the income tax benefit with a direct expenditure program to continue Federal support for families adopting children with special needs. In 1996, a tax credit and an exclusion for employer-paid benefits were enacted in the Small Business Job Protection Act of 1996, effective beginning in tax year 1997. The credit and the exclusion both provide benefits for adoption of children with special needs and other children.

The first section of this chapter reviews the history of the changes in the tax provisions for adoption since 1981. The second section explains the current provisions.

HISTORY

Economic Recovery Tax Act of 1981

The Economic Recovery Tax Act of 1981 (ERTA) added an itemized deduction for qualified adoption expenses paid by an adopting parent in connection with the adoption of a “child with special needs.”¹ The deduction was “intended to encourage, and reduce the financial burdens in connection with, the adoption of children who have special needs.”²

The aggregate amount that could be deducted with respect to the adoption of one child was limited to \$1,500. For purposes of the deduction, qualified adoption expenses were defined as reasonable and necessary adoption fees, court costs, attorney’s fees, and other expenses which are directly related to the legal adoption of a child with special needs. A “child with special needs” was defined as a child with respect to whom adoption assistance payments were made under section 473 of the Social Security Act.^{3, 4} In general, a child with special needs is one who: (1) the State has determined cannot or should not be returned to the home of the natural parents; and (2) unless adoption assistance is provided, cannot reasonably be expected to be adopted because of a specific factor or condition (such as ethnic background, age, membership in

¹ Section 125 of ERTA. Section 222 of the Internal Revenue Code of 1954.

² U.S. Congress, Joint Committee on Taxation, *General Explanation of the Economic Recovery Tax Act of 1981*. P. 57.

³ A refusal to accept adoption assistance payments by an individual to whom such payments were available did not preclude the tax deduction.

⁴ Adoption assistance under the Social Security Act provided ongoing maintenance payments but did not reimburse adoption expenses.

a minority group, being part of a group of siblings awaiting adoption together, medical condition, or physical, mental, or emotional handicap).

Tax Reform Act of 1986

In his State of the Union address in January 1984, President Reagan directed the Treasury Department to undertake a study of the entire tax system with a view to making reforms to promote fairness, simplicity, and incentives for growth. The November 1984 Treasury report to the President recommended that the deduction for qualified adoption expenses of a child with special needs be repealed and that a direct expenditure program be enacted in its place.⁵ The same recommendations were included in President Reagan's subsequent report to the Congress in May 1985.⁶

The Tax Reform Act of 1986 followed the recommendations of the Administration regarding adoptions of children with special needs. The itemized deduction for expenses incurred in such adoptions was repealed, effective after tax year 1986.⁷ The Act also amended the adoption assistance program in Title IV-E of the Social Security Act to provide matching funds for adoption expenses of any child with special needs who has been placed for adoption in accordance with applicable State and local law.⁸ Generally, States were required to reimburse families for eligible costs, and the Federal matching share was 50 percent up to a maximum Federal share of \$1,000.

CURRENT LAW

Current law includes two separate, but related, Federal income tax benefits for adoption: a 100 percent tax credit for qualified adoption expenses paid by the taxpayer; and an exclusion from income subject to tax for employer-paid or employer-reimbursed adoption expenses. Both programs provide tax benefits for adoptions of children with special needs and adoptions of other children, but adoptions of a spouse's child (i.e., stepchild adoptions) are not eligible. For each adoption, benefits are limited to the first \$5,000 of qualified adoption expenses paid by the taxpayer and the first \$5,000 of employer payments or reimbursements, whether in one year or over several years. The limit is increased to \$6,000 for each adoption of a child with special needs. The same expenses cannot qualify for tax benefits under both programs; however, a taxpayer may use the benefits of the exclusion and the tax credit for different expenditures. Tax benefits are not available for any expenses paid or reimbursed under any government or non-government program. Under both programs, benefits are phased out for higher-income

⁵ U.S. Department of the Treasury, *Tax Reform for Fairness, Simplicity, and Economic Growth: The Treasury Department Report to the President. Volume 2, General Explanation of the Treasury Department Proposals*. November 1984. P. 120.

⁶ *The President's Tax Proposals to the Congress for Fairness, Growth, and Simplicity*. May, 1985. P. 109.

⁷ Section 135 of the Act repealed section 222 of the Internal Revenue Code of 1954.

⁸ Section 1711 of the Act.

taxpayers. Both of the current tax benefits expire at the end of 2001, except that the tax credit for adoption expenses associated with adoptions of children with special needs is permanent.

Both provisions were enacted in the Small Business Job Protection Act of 1996 and became effective for expenses paid on or after January 1, 1997. The provisions were intended to address the fact that financial costs may be a barrier to adoption. The legislation also was intended to further encourage the adoption of children with special needs.

The remainder of this chapter provides greater detail about the tax credit and employer exclusion.

Tax Credit

A taxpayer may be entitled to a tax credit of 100 percent of the first \$5,000 (or \$6,000 for adoption of a child with special needs) of qualified adoption expenses paid in connection with an adoption.⁹ Qualified expenses do not include expenses covered by employer reimbursements, whether those reimbursements are excludable or taxable. Qualified expenses also do not include any expenses which are paid or reimbursed under any other government or non-government program. Taxpayers may take the credit for qualified expenses in more than one year, so long as the total does not exceed the appropriate limit per adoption. The amount of the tax credit otherwise allowable is phased out ratably over a \$40,000 modified adjusted gross income range, beginning at \$75,000 and ending at \$115,000.¹⁰ Unused tax credits may be carried forward and used during the five subsequent years.

Exclusion for Employer-Paid or Employer-Reimbursed Benefits

Employer payments or reimbursements for qualified adoption expenses are excludable from the employee's income if the expenses are paid under a non-discriminatory employer plan.^{11, 12} The amount of the excluded employer payments is limited to a cumulative amount of \$5,000 per adoption, except that the limit is \$6,000 in the case of an adoption of a child with special needs. Employer payments may be excluded in more than one year, but the total

⁹ The per adoption limit is cumulative for all years for the particular adoption and is the maximum amount that may be taken into account in connection with the taxpayer's effort to adopt an eligible child, including qualified expenses paid in any unsuccessful attempt to adopt an eligible child before successfully finalizing the adoption of another eligible child.

¹⁰ The phaseout range is the same for married taxpayers filing joint returns, for single taxpayers, and for unmarried heads of household.

¹¹ Employer benefits that are excludable for income tax purposes are still subject to Social Security and Medicare taxes.

¹² Employer-paid or -reimbursed benefits include those paid under salary reduction plans which do not represent an additional payment by the employer.

exclusion for a single adoption may not exceed \$5,000 (or \$6,000).¹³ The exclusion is phased out generally over the same income range as the adoption tax credit except that, for purposes of determining the phaseout of the employer exclusion, modified adjusted gross income includes all employer payments or reimbursements for adoption expenses, whether or not they are taxable to the employee.

Common Provisions of the Tax Credit and Employer Exclusion¹⁴

Eligible Children. An eligible child is an individual who has not attained age 18 or who is physically or mentally incapable of caring for himself or herself. An eligible child may not be the child of the taxpayer's spouse.

Qualified expenses. Qualified adoption expenses are reasonable and necessary adoption fees, court costs, attorneys' fees, and other expenses that are directly related to, and the principal purpose of which is for, the legal adoption of an eligible child.¹⁵ All reasonable and necessary expenses required by a State as a condition of adoption are qualified adoption expenses.¹⁶ For example, expenses may include the cost of construction, renovations, alterations or purchases specifically required by the State to meet the needs of the child. Eligible expenses do not include expenses (1) for which a deduction or credit is allowed under any other provision of the Internal Revenue Code, (2) to the extent the funds for the expenses are received under any Federal, State, or local program, (3) incurred in violation of State or Federal law, (4) incurred in carrying out any surrogate parenting arrangement, (5) incurred in connection with the adoption of a child of the taxpayer's spouse, or (6) that are reimbursed under an employer adoption assistance program (for purposes of the tax credit) or other payment or reimbursement program. In addition, expenses paid or reimbursements received prior to January 1, 1997 are not eligible for the exclusion for employer benefits or the tax credit. The denial of a double benefit for the same expenditure does not prevent the taxpayer from obtaining benefits under different tax or expenditure programs for different qualified adoption expenses.

Adoption of a child with special needs. The higher expense limits in connection with the adoption of a child with special needs are available only when a State has made a determination that the adoptee is a child with special needs. The higher \$6,000 expense limit for

¹³ Excess employer adoption payments and all employer adoption payments made under plans which are not non-discriminatory are not eligible for the exclusion of employer-paid or employer-reimbursed benefits, nor are they qualified expenses for purposes of the tax credit.

¹⁴ See Notice 97-9, 1997-2 C.B. 365.

¹⁵ In Notice 97-9, the IRS amplified the list of qualified adoption expenses to include "traveling expenses (including amounts expended for meals and lodging)." See 1997-2 C.B. 365, 366, at Part I, C.

¹⁶ The statutory definition of qualified adoption expenses may be narrower than the adoption-related expenses paid by some families seeking to adopt, especially for adoptions of children with special needs. The legislative history states that all reasonable and necessary expenses *required* by a State as a condition of adoption are qualified adoption expenses. However, adoption agency personnel have indicated to the IRS that States do not *require* adopting parents to make such expenditures.

a child with special needs is not applicable for adoptions of foreign children with special needs. For purposes of eligibility for the \$6,000 expense limit, a child with special needs is a child who the State has determined: (1) cannot or should not be returned to the home of the birth parents, and (2) has a specific factor or condition because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without adoption assistance. Examples of such factors or conditions are the child's ethnic background, age, membership in a minority group, being one of a group of siblings awaiting adoption together, medical condition, or physical, mental, or emotional handicap.

Income limits and phaseouts. For purposes of calculating the income phaseout for the tax credit and the employer exclusion, modified AGI is computed by increasing the taxpayer's AGI by the amount otherwise excluded from gross income under Internal Revenue Code sections 911, 931, or 933 (relating to the exclusion of income of U.S. citizens or residents living abroad; residents of Guam, American Samoa, and the Northern Mariana Islands, and residents of Puerto Rico, respectively). In addition, for purposes of the exclusion for employer adoption benefits, modified AGI is determined without applying the exclusion for such benefits.

Timing of tax benefits. The year in which a taxpayer's qualified adoption expenses are considered for the tax credit and the year in which employer payments or reimbursements are excluded from the employee's income depends on the year in which the adoption becomes finalized and whether the expenses are for the adoption of a non-foreign or a foreign child.

Adoption of a non-foreign child. A non-foreign child is one who is a citizen or resident of the United States at the time the adoption effort is commenced. The credit for qualified adoption expenses paid or incurred (including such amounts paid or incurred in an unsuccessful effort to adopt such a child) is generally allowed in the next taxable year. However, the credit for expenses paid or incurred in or after the taxable year an adoption becomes final is allowed in the year that they are paid or incurred. Employer payments or reimbursements are excluded from the employee's income in the year in which the payments or reimbursements are made.

Adoption of a foreign child. Special rules apply for the adoption of an eligible child who is not a citizen or resident of the United States at the time the adoption effort commenced. Qualified adoption expenses for the purposes of the tax credit and employer payments or reimbursements are treated as if they are paid in the year in which the adoption becomes final. Thus, employer payments or reimbursements made in a prior year are taxable income to the employee in the year in which made, but then are deducted from the employee's income in the year in which the adoption becomes final. For expenses paid or incurred after the taxable year an adoption becomes final, a tax credit or exclusion from income is allowed in the year in which the payments or reimbursements are made.

Expiration of adoption tax benefits. The adoption tax credit for expenses incurred in connection with the adoption of a child with special needs is permanent. The adoption tax credit with respect to the adoption of children other than children with special needs and the exclusion for employer-paid or employer-reimbursed adoption expenses expire at the end of tax year 2001.

Chapter III

BACKGROUND ON ADOPTION

DATA ON THE NUMBER OF ADOPTIONS

Primary data on adoptions come from State court systems, bureaus of vital statistics, and social service agencies. Although there have been sporadic efforts to collect data over the past fifty years, complete data on the number of adoptions currently are available only for adoptions of foreign children and children for whom a State welfare agency has responsibility. The most comprehensive effort to collect adoption statistics was conducted by Victor and Carol Flango of the National Center for State Courts, who estimated there were a total of 127,000 children adopted in 1992.¹ Their estimate, however, slightly understates the total number of adoptions because it does not include foreign adoptions in States that do not use the State courts to report adoptions.

Adoptions of foreign children. Data on the number of adoptions of foreign children are available both from the Immigration and Naturalization Service and the State Department. Adoptions of foreign children have been increasing, even prior to the enactment of tax benefits for adoption. There were 6,500 adoptions of foreign children in 1992, 9,700 in 1995, 13,620 in 1997, 15,800 in 1998, and 16,400 in 1999 according to data reported by the Evan B. Donaldson Adoption Institute.²

Adoptions with public agency involvement. Section 479 of the Social Security Act requires States to report adoptions from foster care. To implement this requirement, the U.S. Department of Health and Human Services has set up the Adoption and Foster Care Analysis and Reporting System (AFCARS). Although the only involvement with a public agency of some of these children occurs during the process of determining that the child has special needs, the term “children adopted from the public foster care system” is used in the AFCARS reports. That term will be used here.

The number of children estimated to be adopted from the public foster care system has increased substantially in recent years, from 19,000 in 1992 to 26,000 in 1995 and to 36,000 in

¹ Flango, Victor and Flango, Carol, “How Many Children Were Adopted in 1992,” *Child Welfare*, Vol. LXXIV #5, September/October 1995, pp. 1018-1031.

² These data generally represent visas issued by the United States Department of State for children adopted in foreign countries and children to be brought to the United States and adopted here in the fiscal year. These data are frequently used to represent the number of adoptions of foreign children. However, not all visas are used in the year of issue and some visas may never be used. As reported in the *Adoption Factbook III*, Immigration and Naturalization Service (INS) figures are somewhat lower (the difference is only 24 in 1996 but about 1,000 in 1997, the most recent year for which INS figures are available). The Evan B. Donaldson Adoption Institute web site, <http://www.adoptioninstitute.org/>. Accessed September 22, 2000.

1998.^{3,4} Administrative factors including increased emphasis on moving children to permanent placement and recruitment of potential adoptive parents have played a role in these increases.⁵

Children with special needs. Most children adopted from the public foster care system are children with special needs. Children with special needs are those who because of age, race, disability, or other characteristics would be unlikely to find a permanent home without special assistance. Determinations of special needs status are made by State child welfare agencies based on their own State's standards. Federal and State matching funds are available to pay non-recurring costs directly related to the legal costs of adoption for all children with special needs (up to a maximum of \$2,000).⁶ Funds for on-going, post-adoption care are available for all children with special needs eligible for Federal assistance under Title IV-E (the majority of all children with special needs) and for children funded through State-only programs. Children in the public foster care system not determined to have special needs are not eligible for Federal funding for continuing support or for non-recurring adoption cost reimbursement.⁷ Of the 36,000 children adopted in fiscal 1998 with public agency involvement, 31,000 received a continuing special needs adoption subsidy.⁸ A few additional children for whom reimbursements may have been received for only non-recurring adoption costs are not included in the 31,000. Therefore, 31,000 represents the minimum number of children adopted in fiscal year 1998 who were determined to have special needs.

A description of Federal expenditure programs for adoptions is included in Appendix B at the end of this report.

Stepparent adoptions. Adoptions by stepparents accounted for an estimated 42 percent, or 53,000, of 1992 adoptions.⁹ Adoptions by stepparents are not eligible for the Federal adoption tax credit or employer exclusion.

³ Penelope L. Maza, "Recent Data on the Number of Adoptions of Foster Children," *Adoption Quarterly*, Vol. 3(2) 1999, pp. 71-81. Estimates for 1992 and 1995 are the figures reported as "FY 1995 Adoption Incentive Program Baselines," on p.76. The 1998 total was reported in the U.S. Department of Health and Human Services, *The AFCARS Report, Interim Estimates for Fiscal Year 1998—April 2000 (3)*. Improvements in reporting make precise comparisons over time uncertain.

⁴ The Department of Human Services recently reported that adoptions with a public agency involvement increased to 46,000 in fiscal year 1999.

⁵ National Adoption Information Clearinghouse citing *Adoptalk*, Winter 1999 (publication of the North American Council on Adoptable Children).

⁶ States may set a lower limit on reimbursable non-recurring expenses.

⁷ A description of Title IV-E is included in Appendix B, Federal Expenditure Programs for Adoption.

⁸ United States Department of Health and Human Services, Administration for Children and Families, *The AFCARS Report, Interim Estimates for Fiscal Year 1998—April 2000 (3)*.

⁹ The estimated number of stepparent adoptions was computed from the total number of adoptions and the percentage that are stepparent adoptions as reported for 1992 by Flango and Flango, p. 1018.

Adoptions eligible for the tax credit or exclusion of employer reimbursement. Using the estimate of 130,000 adoptions described in Chapter I and subtracting the estimated 53,000 stepparent adoptions implies that approximately 77,000 adoptions potentially would be eligible for a tax credit or exclusion. However, some of these adoptions would not be eligible because the income level of the adoptive parents is above the maximum for the credit or exclusion. Further, for many adoptions of children with special needs, adoptive parents appear not to have any unreimbursed qualified expenses.

FAMILIES SEEKING TO ADOPT A CHILD

At least since the mid-1950s, the number of parents seeking to adopt healthy non-foreign infants has exceeded the number of such infants available for adoption, as evidenced by long waiting lists.¹⁰ According to data reported in the 1988 and the 1995 National Surveys of Family Growth (NSFG), the number of ever-married women age 18-44 seeking to adopt who have also taken steps to adopt has remained approximately constant in recent years: 204,000 in 1988; and 232,000 in 1995. Due to the relatively low frequency of adoption seeking in the total population, the difference is not statistically significant.¹¹ Because success in the adoption of healthy non-foreign infants is relatively low, there may be additional, discouraged families who would take steps to adopt if the chances of success seemed higher or the financial and other costs were lower.¹² The number of families seeking to adopt is further understated since the NSFGs have not surveyed men or never-married women regarding the desire for adoption.

Data from the NSFGs indicate that ever-married women seeking to adopt prefer children of their own race, female gender, under age two, and without disabilities.¹³ According to the *Adoption Factbook III*, 23,500 children under age two were adopted in 1996.¹⁴

While preferring infants, the majority of women (in the NSFG) currently seeking to adopt express a willingness to accept older children and children of a different gender, race, or with a

¹⁰ *The Future of Children*, Published by the Center for the Future of Children, The David and Lucille Packard Foundation, Spring 1993, p. 23.

¹¹ A. Chandra *et al*, Center for Disease Control and Prevention, *Advance Data No. 306*, *Adoption, Adoption Seeking, and Relinquishment for Adoption in the United States*, May 11, 1999, p. 7.

¹² It is not possible to estimate success in adoption for all persons seeking adoption from the published data in the *Advance Data* report cited above. In the 1988 and 1995 NSFG, 31 percent of the women who had ever “sought to adopt” or “took steps to adopt” reported actually adopting a child, *Advance Data No. 306*, p. 10. This estimate of adoption success includes only success for ever-married women. Furthermore, since it includes women who sought to adopt stepchildren and other related children, the estimate may not be entirely representative of the success ratio of ever-married women who have sought to adopt unrelated children.

¹³ *Op.cit.*, p. 8.

¹⁴ National Council for Adoption, *Adoption Factbook III*, 1999.

disability. Among children adopted from the public foster care system, 53 percent were age six or older.¹⁵

CHILDREN AVAILABLE FOR ADOPTION

Relinquishment of children at birth. Historically, children of young unwed mothers were the most important source of adoptive infant children for adoptive parents. In a 1982 survey, 88 percent of infants placed for adoption were born to never-married mothers, 6 percent of placements were by previously married women, and the remaining 6 percent were by currently married women.¹⁶

Based on data reported in various NSFGs, Anjani Chandra *et al* estimated that the percentage of children of never-married white mothers relinquished for adoption dropped from 19.3 percent in the 1950s to 7.5 percent in 1973 and to 1.7 percent in the 1989-95 period.¹⁷ Although the number of never-married white women giving birth has increased from 175,000 in 1970¹⁸ to 825,000 in 1998,¹⁹ the decline in relinquishment rates sharply reduced the potential number of infants available for adoption. Relinquishment rates among never-married black mothers have apparently been low for decades; the rate was under 2 percent before 1973.²⁰

Children available in the public foster care system. A major source of adoptive children currently is the foster care system. As of March 31, 1999, 560,000 children were in foster care. Of these, 122,000 were waiting to be adopted. Children waiting to be adopted are defined in the AFCARS system as children whose goal is adoption and/or children of parents whose parental rights have been terminated.²¹

The number of waiting children who would qualify as children with special needs is unknown. Most likely many of the waiting children in foster care would qualify as children with special needs. For example, 54 percent of the waiting children on March 31, 1998, had been in continuous foster care for three years or more.²²

¹⁵ *The AFCARS Report, Interim Estimates for Fiscal Year 1998—April 2000 (3)*.

¹⁶ Packard, p. 34.

¹⁷ A. Chandra et al, Center for Disease Control and Prevention, *Advance Data No. 306, Adoption, Adoption Seeking, and Relinquishment for Adoption in the United States*, May 11, 1999, p. 9.

¹⁸ United States Department of Commerce, *1995 Statistical Abstract*, p. 77.

¹⁹ United States National Center for Health Statistics, *National Vital Statistics Report*, Vol.48, No.3 March 28, 2000, p. 44.

²⁰ *Op.cit.*, p. 9.

²¹ Communication September 22, 2000 from the United States Department of Health and Human Services. Children age 16 and over whose goal is emancipation are excluded from the 122,000 available children.

²² U.S. Department of Health and Human Services, *The AFCARS Report, Interim Estimates for Fiscal Year 1998—April 2000 (3)*, p. 4.

Foreign children. Several additional sources of children available for adoption have arisen since the mid-1950s. Children orphaned in the Korean War began to be adopted by families in the United States beginning in the 1950s. Latin America, China, and the countries of the former Soviet Union have been important countries of origin at one time or another in the 1990s.²³ The number of these children available for adoption by U.S. families and, to a certain extent, the cost of the adoptions, is determined by the conditions and policies in the countries of origin.

COSTS OF ADOPTION

Out-of-pocket costs of adoption vary widely. According to estimates provided by the National Adoption Clearinghouse (Clearinghouse) at its web site, costs for a non-foreign public agency adoption, including travel costs, range from zero to \$2,500.²⁴ The Clearinghouse reports that children placed by public agencies usually have been determined by the State to have special needs, and adoption expenses up to a set limit (not to exceed \$2,000) for these children are eligible for reimbursement. Hence, unreimbursed adoption expenses for these children often are very low. That may account for the fact that only about 4,600 adoptions of children with special needs claimed tax benefits for 1998.²⁵

The Clearinghouse reports that domestic private agency fees range from \$4,000 to \$30,000 and more, and that some agencies provide sliding fees based on family income. Expenses for independent (without an agency) non-foreign adoptions are reported to range from \$8,000 to \$30,000 and more. One of the reasons that independent adoption might cost more than an adoption through a private agency is that independent adoptions may require advertising for birth parents at a cost of as much as \$5,000. Expenses for non-foreign private and independent adoptions can include substantial medical and living expenses and legal costs. International adoption costs are reported at \$10,000 to \$30,000 and more.

The Clearinghouse report also provides ranges of costs for specific types of expenses but does not include estimates of average cost or other cost information that would provide a basis for determining the number of adoptions that exceed the limits for adoption tax benefits. For adoptions at the lower end of the cost ranges for non-special needs adoptions, the tax benefits will substantially reduce the after-tax cost of adoption. In the relatively few cases where the adoption costs of children with special needs exceed reimbursements through Federal and State programs, the adoption credit usually seems sufficient to cover remaining qualified expenses.

²³ *Adoption Factbook III*, pp. 44-45.

²⁴ No reference year or data source for the cost data cited above is provided by the National Adoption Information Clearinghouse web site, <http://www.calib.com/naic/>. Accessed June 6 2000.

²⁵ Taxpayers adopting children with special needs and having unreimbursed expenses below \$5,000 do not have a financial incentive to check the special needs box, and some may not. In other cases, the special needs box may have been checked incorrectly. For example, in both 1997 and 1998 about 300 taxpayers report adoptions as being both special needs and foreign on Form 8839 despite instructions on the form explaining that a child with special needs must be a citizen or resident of the United States or its possessions at the time the adoption process began.

Chapter IV

USE OF ADOPTION TAX BENEFITS FOR 1997 AND 1998

This chapter presents data from tax returns about the utilization of the two Federal income tax benefits for adoption in the first two years that they were available to taxpayers, 1997 and 1998. The data are classified by income, marital status, and the type of adoption.

The first section of this chapter presents highlights about the use of the tax benefits at various income levels. The second section describes the detailed tables that appear at the end of the chapter and explains the concepts used in the tables and the limitations of the data. The primary limitation is that tax information generally is presented as it was reported by taxpayers on their original tax returns, and does not reflect amended returns or administrative actions by the Internal Revenue Service. There are separate detailed tables for 1997 and for 1998.

HIGHLIGHTS OF FEDERAL INCOME TAX BENEFITS FOR ADOPTION, 1997 AND 1998

The basic facts about aggregate use of adoption tax benefits in 1998 were presented in Chapter I. For the convenience of the reader, summary information on 1997 and 1998 is consolidated in Table 4-1. Summary data are presented for the two tax benefits combined and separately, for all adoptions as well as separately for adoptions of non-foreign non-special needs children, children with special needs, and foreign children. The statistics in Table 4-1 have been calculated from the detailed tables included at the end of the chapter.

Generally the patterns of adoptions by type, income class and expense and tax benefits earned are similar in 1997 and 1998 but the number of returns, the number of adoptions and the amounts of tax benefits are larger in 1998 due in part to the fact that returns for 1997 include only adoptions finalized in 1997 for which expenses were paid in 1997. 1998 returns include adoptions finalized in 1997 for which expenses were paid in 1998, adoptions finalized in 1998 for which expenses were paid in 1997 or 1998, and 1997 expenses of adoptions of non-foreign children which were still in process at the end of 1998. In 1997, 36,661 taxpayers reported a tax benefit from the tax credit or employer exclusion. In 1998, the comparable figure is 45,349.¹

¹ As discussed below, some 1998 returns include only carryover of 1997 credit.

**Table 4 - 1
Summary of the Use of Tax Benefits for Adoptions, 1997 and 1998**

	All Adoptions		Children with Special Needs (domestic)		Foreign Children		Non-Foreign, Non-Special Needs Children	
	1997	1998 Change (%)	1997	1998 Change (%)	1997	1998 Change (%)	1997	1998 Change (%)
Tax Credit and Employer Exclusion Combined¹								
Number of Returns	36,661	45,349	3,194	3,915	10,438	12,705	23,029	28,729
Number of Adoptions	40,755	50,353	3,895	4,721	11,632	14,264	25,228	31,368
Average Qualified Expenses Per Return	6,227	6,540	3,917	4,271	10,897	14,264	4,431	4,839
Average Qualified Expenses Per Adoption	5,601	5,890	3,212	3,542	9,779	14,264	4,044	4,432
Percentage of Returns with Expenses Under \$5,000	54	51	70	66	24	23	65	62
Percentage of Returns with Expenses Under \$6,000	64	64	75	71	35	37	76	75
Percentage of Returns with Expenses Over \$10,000	23	25	10	12	51	52	12	14
Combined Tax Benefits in Year (\$ in millions)	70.4	101.5	4.8	7.1	24.8	38.0	40.8	56.4
Tax Credit for Adoption								
Number of Returns ²	36,375	44,718	3,171	3,857	10,382	12,561	22,822	28,300
Number of Adoptions ²	40,440	49,644	3,865	4,653	11,569	14,094	25,006	30,897
Average Qualified Expenses Per Return	6,058	6,411	3,719	4,107	10,729	10,980	4,258	4,697
Average Qualified Expenses Per Adoption	5,449	5,775	3,051	3,404	9,628	9,785	3,886	4,301
Percentage of Adoptions with Expenses Under \$5,000	57	54	76	72	25	24	69	65
Percentage of Adoptions with Expenses Under \$6,000	68	68	80	76	38	42	80	78
Percentage of Adoptions with Expenses Over \$10,000	20	21	7	8	45	47	10	12
Tax Credit for In-year Expenses (\$ in millions)	99.1	133.5	7.4	10.6	38.0	49.9	53.6	73.0
Tax Credit Taken in Year (\$ in millions) ²	69.1	99.9	4.7	7.0	24.4	37.5	40.0	55.4
Employer Adoption Benefits¹								
Number of Returns	2,937	3,892	291	369	785	1,073	1,861	2,450
Number of Adoptions	3,270	4,309	350	427	886	1,206	2,034	2,676
Average Total Reimbursements Per Return	2,700	2,779	2,471	2,463	2,998	3,182	2,611	2,650
Average Total Reimbursements Per Adoption	2,425	2,510	2,054	2,128	2,656	2,831	2,389	2,427
Percentage of Returns with Reimbursements Under \$5,000	87	86	90	92	82	80	89	88
Percentage of Returns with Reimbursements Under \$6,000	95	96	95	97	94	94	96	97
Percentage of Returns with Reimbursements Over \$10,000	1	1	1	0	1	2	1	1
Tax Benefits for Employer Adoption Benefits (\$ in millions)	1.3	1.7	0.1	0.1	0.4	0.6	0.8	1.0
Taxpayers Using Both Benefits¹								
Number of Returns	2,651	3,261	268	311	729	929	1,654	2,021
Number of Adoptions	2,955	3,600	320	359	823	1,036	1,812	2,205
Average Qualified Expenses Per Return	8,840	9,822	5,914	6,859	14,974	15,968	6,611	7,452
Average Qualified Expenses Per Adoption	7,931	8,897	4,953	5,942	13,263	14,319	6,035	6,830
Percentage of Returns with Expenses Under \$5,000	40	37	58	52	12	9	49	46
Percentage of Returns with Expenses Under \$6,000	47	43	66	59	14	10	59	55
Percentage of Returns with Expenses Over \$10,000	33	38	14	22	71	76	20	24
Combined Tax Benefits in Year (\$ in millions)	6.4	9.0	0.5	0.7	2.3	3.5	3.6	4.8

US Treasury Department
Office of Tax Analysis
September 2000

¹ Does not include returns with only taxable employer benefits.

² For 1998, the amounts shown do not include returns or the tax credit for those returns with only 1997 carry forwards. Including these carry forwards leads to credit amounts of 104.3, 7.3, 39.2, and 57.9 for All Adoptions, Children with Special Needs, Foreign Children, and Non-Foreign, Non-Special Needs Children, respectively. See the "Credit Taken in 1998" column in Table 98-3.

Adoption Expenses and Benefits by Income

As noted in Chapter III, non-tax data show a wide variation in adoption expenses between and within adoption types. The tax return data also show considerable variation in adoption expenses between and within adoption types. Furthermore, the tax data show that average adoption expenses consistently rise with income, although there is considerable diversity in adoption expenses within each income class. These relationships can be illustrated by the tax credit for 1997.

As shown in Table 4-2, the average qualified expense per adoption for returns claiming an adoption tax credit in 1997 rises with income for all types of adoptions, although the relative change is largest for adoptions of non-foreign non-special needs children. For that type of adoption, the average reported expense for the \$100,000 and over income class is over two and one-half times as large as for the under \$25,000 income class (\$6,351 versus \$2,496). For adoptions of children with special needs, both the percentage and dollar variations are lower, \$5,012 versus \$2,252, or about a 125 percent difference. For adoptions of foreign children, the overall level of expenses is much higher, but there is less variation in average expense. There is only a 27 percent difference between the lowest and the highest income classes.

Within each income class, adoption type group, there is considerable variation in reported expenses. For example, although 31 percent of taxpayers with adjusted gross incomes between \$50,000 and \$75,000 reported expenses under \$1,000 for the adoption of a non-foreign non-special needs child, another 23 percent had expenses of more than \$6,000, including 11 percent whose spending exceeded \$10,000 (see Table 4-3). Although average expenses rise with income for adoptions of foreign children, reported expenses were typically over \$5,000 at all income levels.

The combination of increasing average qualified expenses and the phaseout of tax benefits as income increases means that the average tax benefit from the adoption tax credit increases and then decreases with income. Table 4-2 shows, for example, that for non-foreign non-special needs adoptions the average tax credit is \$1,626 per adoption for taxpayers with AGIs below \$25,000, \$2,607 for taxpayers with AGIs between \$50,000 and \$75,000, and \$702 for taxpayers with AGIs of \$100,000 and over.

The credit that can be used is limited to tax liability, although unused credit can be carried forward. The last column of Table 4-2 shows the percentage of the tax credit that each group was able to use to offset 1997 tax liability. The remainder of the credit was carried forward for use against tax liability in tax years 1998 through 2002. The percentage of the tax credit that could be used in 1997 varied much more by income level than by the type of adoption. On average, despite their lower average adoption expenses and credits generated by those expenses, adopting families with incomes under \$25,000 were able to use only a small portion of their tax credits in 1997 (12 percent to 23 percent, depending on the type of adoption).

Table 4 - 2
Adoption Tax Credit, 1997:
Average Qualified Expenses, Tax Credit, and Carryforward per Adoption

	Number of Adoptions	Average Qualified Expenses (\$)	Average Tax Benefits (\$) Per Adoption			Benefits Used in 1997 (%)
			Total	Used in 1997	Carried Forward	
<u>Non-Foreign, Non-Special Needs Adoptions</u>						
Total	25,006	\$3,886	\$2,145	\$1,602	\$543	70%
By Adjusted Gross Income						
Under \$15,000	2,534	2,496	1,626	375	1,250	23
\$ 15,000 - \$ 24,999	8,712	2,873	2,006	1,472	534	67
\$ 25,000 - \$ 49,999	8,383	4,197	2,607	2,124	483	75
\$ 50,000 - \$ 74,999	4,171	5,508	2,242	1,850	392	78
\$ 75,000 - \$ 99,999	1,206	6,351	702	642	60	89
\$100,000 and over						
By Filing Status						
Married Filing Jointly	22,800	3,955	2,164	1,641	523	71
Other	2,206	3,175	1,955	1,208	747	57
<u>Children with Special Needs (domestic)</u>						
Total	3,865	\$3,051	\$1,928	\$1,205	\$722	63%
By Adjusted Gross Income						
Under \$15,000	473	2,252	1,590	305	1,285	19
\$ 15,000 - \$ 24,999	1,533	2,564	1,829	1,144	685	63
\$ 25,000 - \$ 49,999	1,231	3,414	2,298	1,625	673	71
\$ 50,000 - \$ 74,999	514	3,934	1,907	1,342	565	70
\$ 75,000 - \$ 99,999	114	5,012	751	607	144	81
\$100,000 and over						
By Filing Status						
Married Filing Jointly	3,330	3,111	1,935	1,237	698	64
Other	535	2,677	1,882	1,005	877	53
<u>Foreign Children¹</u>						
Total	11,569	\$9,628	\$3,287	\$2,105	\$1,182	64%
By Adjusted Gross Income						
Under \$15,000	529	8,487	3,594	448	3,146	12
\$ 15,000 - \$ 24,999	2,910	8,521	3,632	2,133	1,499	59
\$ 25,000 - \$ 49,999	4,307	9,561	3,786	2,550	1,236	67
\$ 50,000 - \$ 74,999	2,880	10,675	2,911	2,144	768	74
\$ 75,000 - \$ 99,999	943	10,799	920	802	118	87
\$100,000 and over						
By Filing Status						
Married Filing Jointly	9,767	9,626	3,210	2,119	1,091	66
Other	1,802	9,643	3,704	2,031	1,673	55

Table 4 - 3

Adoption Tax Credit, 1997:
Percentage of Adoptions with Selected Levels of Qualified Adoption Expenses

	Number of Adoptions ¹	Percentage of Adoptions With Qualified Expenses per Adoption			
		Less Than \$1,000	\$5,000 And Over	\$6,000 And Over	\$10,000 And Over
<u>Non-Foreign, Non-Special Needs Adoptions</u>					
Total	24,664	34%	31%	20%	10%
By Adjusted Gross Income					
Under \$15,000	2,492	46	20	9	4
\$ 15,000 - \$ 24,999	8,576	41	22	13	5
\$ 25,000 - \$ 49,999	8,235	31	35	23	11
\$ 50,000 - \$ 74,999	4,155	24	45	32	17
\$ 75,000 - \$ 99,999	1,206	21	50	37	21
\$100,000 and over					
By Filing Status					
Married Filing Jointly	22,498	34	32	21	10
Other	2,166	35	23	14	7
<u>Children with Special Needs (domestic)</u>					
Total	3,709	44%	24%	20%	7%
By Adjusted Gross Income					
Under \$15,000	447	50	19	14	4
\$ 15,000 - \$ 24,999	1,461	50	19	16	5
\$ 25,000 - \$ 49,999	1,185	41	28	24	8
\$ 50,000 - \$ 74,999	502	36	32	28	10
\$ 75,000 - \$ 99,999	114	30	42	37	12
\$100,000 and over					
By Filing Status					
Married Filing Jointly	3,206	45	25	21	7
Other	503	42	21	17	5
<u>Foreign Children¹</u>					
Total	11,425	14%	75%	62%	45%
By Adjusted Gross Income					
Under \$15,000	523	14	68	54	37
\$ 15,000 - \$ 24,999	2,878	16	69	56	38
\$ 25,000 - \$ 49,999	4,213	14	75	63	45
\$ 50,000 - \$ 74,999	2,870	12	79	68	52
\$ 75,000 - \$ 99,999	941	12	79	67	51
\$100,000 and over					
By Filing Status					
Married Filing Jointly	9,635	14	74	62	46
Other	1,790	12	79	65	43

Families with moderate incomes and whose incomes were lower than usual in 1997, perhaps because one or both spouses took time away from work to attend to the details of adoption or to provide care for the newly adopted child, may be expected to have higher tax liability in future years which may be sufficient to permit the family to obtain most or all of the financial benefit of the tax credit during the five-year carryover period. However, low- and moderate-income families that do not expect to have substantially greater tax liability in future years may not be able to fully utilize the benefits of their tax credits during the carryover period. In both situations, the families do not have the immediate benefit from the tax credit to pay for the costs of the adoption as they are incurred. Even in the highest income class for which the adoption tax credit is available, not all of the adoption tax credits generated in 1997 could be used in 1997.¹ Depending on the type of adoption, 81 percent to 89 percent of tax credits were used in 1997.

Adoptions by Type of Adoption, Income, and Marital Status

The income levels of taxpayers reporting the different types of adoptions varied somewhat. For example, in 1997 only 30 percent of the taxpayers claiming a credit for adoptions of foreign children reported AGI of less than \$50,000, whereas for adoptions of non-foreign non-special needs children, the comparable figure is 44 percent (calculated from Table 97-1). About 8 percent of taxpayers reporting adoptions of foreign children had AGIs of \$100,000 or above versus 5 percent of taxpayers reporting non-foreign non-special needs adoptions.²

Taxpayers claiming the adoption credit have somewhat higher incomes than all families with young children. Among taxpayers filing joint returns with children under age 6 and adjusted gross incomes (AGIs) below \$115,000, 38 percent reported AGIs above \$50,000, and 12 percent had AGIs between \$75,000 and \$115,000.³ In contrast, 59 percent of taxpayers claiming an adoption credit had AGIs above \$50,000, and 25 percent had AGIs between \$75,000 and \$115,000.

Overall 89 percent of adopting taxpayers were married and filed a joint return. Taxpayers reporting adoptions of children with special needs or adoptions of foreign children were more likely than other adoptive parents to be unmarried.

Use of Adoption Benefits in Two Successive Years

Because adoptions are initiated at various times during a calendar year and expenses may be incurred throughout the adoption process (and even after an adoption has been finalized), the adoption expenses reported for a single calendar year may not represent the total qualified expenses for the adoption. While data reported for a single tax year do provide reasonable

¹ Adoption tax benefits are not available to taxpayers with modified adjust gross incomes of \$115,000 or more.

² Since the adoption tax credit is not available to taxpayers with modified AGIs over \$115,000, the number of adoptions by families with incomes above that level cannot be determined from tax data.

³ Computations by the Department of the Treasury, Office of Tax Analysis from unpublished data.

information about the budgetary costs of providing adoption benefits and the aggregate amounts of qualified adoption expenses incurred by taxpayers, for some adoptions a single year's data may not provide complete information about qualified expenses incurred and the tax benefits received. Much of that information should be obtainable by combining the tax return information about an adoption for every year in which adoption benefits for that child were reported. In practice, however, the information obtainable from linking tax return data as reported by taxpayers for 1997 and 1998 is quite limited.

Additional tax benefits were reported in 1998 for at least 5,700 adoptions, or 14 percent, of the 40,755 adoptions for which some tax benefit was reported in 1997. Benefits may have been claimed in 1998 for some additional adoptions, although omitted identifying information precludes an exact tally. Similarly, additional qualified expenses for the tax credit were reported in 1998 for 14 percent of the adoptions for which the adoption tax credit was reported in 1997. Only 5 percent of the tax returns reporting employer reimbursements in 1997 also reported employer reimbursements for the same adoption in 1998. Review of the data for adoptions for which benefits were reported in both years showed that at least 20 percent had important inconsistencies. These discrepancies may be from errors in data processing or due to taxpayer reporting errors, and may have been resolved subsequently. Nevertheless, because of the inconsistent data, tables showing combined 1997 and 1998 qualified adoption expenses and tax benefits have not been developed.

DETAILED TAX RETURN DATA, 1997 AND 1998

This section describes the detailed tables that appear at the end of this chapter, and the sources and limitations of the data. The table numbers indicate the year from which the data were derived. For example, Table 97-1 contains data for 1997, and Table 98-1 contains similar information for 1998.

Tax Return Data for 1997

There are eight tables of detailed data from 1997 income tax returns. Tables 97-1 and 97-2 show combined information about the adoption tax credit and the exclusion for employer-paid or -reimbursed adoption expenses. Qualified adoption expenses include all amounts reported for the credit (including those amounts in excess of the maximum credit) plus the total amount of employer reimbursements, both taxable and non-taxable. However, tax returns with employer reimbursements are not included if the entire reimbursement was taxable due to a full income related phaseout of the tax exclusion.

As in all of the detailed tables, the information is shown by type of adoption: for all adoptions; for adoptions of children with special needs; and for foreign adoptions. Any adoption which was reported by the taxpayer as being both "a foreign child" and "a child with special needs" has been included under the foreign child adoption category, since adoptions of foreign children are not eligible for the higher levels of maximum benefits available for adoptions of children with special needs. Information about adoptions of non-foreign non-special needs

children is not presented separately, but can be obtained by subtraction.⁴ Within each type of adoption, data are presented by adjusted gross income class and by marital status.

Table 97-1 shows the number of adoptions for which tax benefits were reported, amount of qualified adoption expenses reported, and total adoption tax benefits used in 1997 or carried forward for use in later years. Table 97-2 categorizes the family's combined qualified adoption expenses reported for the tax credit and employer reimbursements by the size of the total reported expenses per return. The tax return records used for this analysis only provide the amount of employer reimbursements on a per return basis. Therefore, distributions of expenses combining the credit and the exclusion cannot be shown on a per adoption basis.

Tables 97-3 and 97-4 contain information about tax returns claiming the adoption tax credit. Table 97-3 shows the number of adoptions and the amounts of qualified adoption expenses and the amount of adoption tax credit generated by those adoption expenses. Qualified expenses are the amounts reported by taxpayers and are not limited to amounts for which the tax credit is available. Table 97-4 reports the distribution of qualified expenses per adoption by size of expenses.

Tables 97-5 and 97-6 present information about employer payments or reimbursements for employees' adoption costs. The tables do not include data for employer reimbursements if the entire reimbursement was taxable due to a full income related phaseout of the exclusion. Employee tax benefits have been estimated by multiplying the non-taxable employer benefits by the appropriate marginal tax rate or rates applicable to the employee's filing status and taxable income (as adjusted for excluded adoption benefits). Depending on the employee's taxable income, more than one tax rate might apply. For lower-income employees, the applicable tax rate for some or all of the excluded benefits might be zero. The tax effects of interactions from changes in the worker's taxable income with other tax provisions (such as "floors" on itemized deductions) have not been included. Table 97-6 shows the distribution of qualified adoption reimbursements reported on each tax return by the size of benefits.

Tables 97-7 and 97-8 are similar to Tables 97-1 and 97-2 but only include information about families that used both the tax credit and the employer exclusion.

Tax Return Data for 1998

Tables 98-1 through 98-8 for 1998 are similar to the 1997 tables described above. However, Table 98-3 reflects the fact that some of the adoption tax credit used in 1998 represents unused credits carried forward from 1997. Also, the credits carried forward from 1998 to 1999 include tax credits that were generated by qualified expenses in 1997. In addition, Tables 98-1 and 98-7 do not include taxpayers with carryovers from 1997 but without any qualified expenses in 1998.

⁴ Information about adoptions of non-foreign non-special needs adoptions can be obtained by subtracting the entries under adoptions of special needs children and adoptions of foreign children from the comparable entry for all adoptions.

There are some inconsistencies between the carryforwards shown in the 1997 data (Table 97-3) and the carryforwards shown in the 1998 data as having been carried forward from 1997 (Table 98-3). Table 98-3 shows that adoption tax credits of \$24.3 million were carried forward from 1997 to 1998 on 11,257 tax returns. However, Table 97-3 shows that \$30.0 million of unused tax credits were carried forward from 1997 on 14,923 tax returns. Thus, it appears that nearly 3,700 taxpayers did not report about \$5.7 million of tax credits that, based on 1997 returns, were carried forward from 1997. Given that some of the carryovers from 1997 that were reported on 1998 tax returns may have originated on amended tax returns for 1997 (which are not included in the data used for this report), the amount of unclaimed carry forwards may be even larger. The apparent failure to claim 1997 credits carried forward may have several explanations. For example, some taxpayers may not have had sufficient tax liability for 1998 but may use the tax credits in future years. Some unreported carryforwards of credits from 1997 may have been reported subsequently on amended 1998 returns.

Data Sources And Limitations

The data presented in this chapter are based on qualified adoption expenses for the tax credit, employer payments and reimbursements, and the resulting tax benefits, as reported on the tax returns of taxpayers who used either the tax credit or the employer exclusion, or both, in 1997 and 1998. Generally, the information is as reported by taxpayers, and thus reflects most of the errors, omissions, and internal inconsistencies, as shown on the tax returns, and does not reflect administrative actions by the Internal Revenue Service (IRS). However, as explained below, some adjustments to the tax return data were made for obvious errors. For this report, the IRS prepared from its administrative files a special data extract for each year containing data from every tax return in which one or both of the adoption benefits was reported or which included a Form 8839. The data on these extracts were processed and tabulated by the Office of Tax Analysis in the Treasury Department.⁵

Six limitations of the data from these tax returns have implications for interpreting the material presented in this report.

The data used for this report do not include information from amended tax returns. If a taxpayer did not claim any adoption tax benefits on his or her tax return as originally filed but subsequently claimed such benefits on an amended return, the taxpayer is not included in the data used for this report. Because the adoption benefits were first available for tax year 1997, some taxpayers might not have been aware of the benefits and, hence, did not claim them on the tax return as initially filed, but later became aware of the omission and claimed the benefits by filing an amended return. Hence, it is possible that the tabulated 1997 data would understate use of the tax benefits for adoption. Comparison of 1997 and 1998 tax return data suggest that there were some omissions on originally-filed 1997 tax returns. For example, about 3,000 1998 returns

⁵ The numbers of tax returns reporting tax benefits for adoption shown in this report may differ slightly from the numbers reported by the Internal Revenue Services in its various publications. The numbers in this report exclude a small percentage of tax returns with apparently inconsistent information.

show carryovers of unused 1997 adoption tax credits even though the originally filed 1997 returns do not report any adoption expenses. However, some of this difference could be attributable to processing or other errors.

The tax return data upon which this report is based were transcribed for IRS's administrative requirements, and certain items were omitted. In many instances, the items that were not transcribed should be obtainable by arithmetic calculation from the transcribed data. However, when there are other errors, the lack of some items can lead to uncertainty about the available information. In other instances, the lack of some items limits the information about the use of the adoption tax benefits. For example, when an employer provides benefits to a taxpayer for the adoption of two children in a single year, the amount of the benefits paid for each child cannot be determined. Similarly, for carryforwards from 1998 to 1999, the year (1997 or 1998) in which the carryforwards originated was not available from IRS administrative data.

The data have been checked for many types of inconsistencies and errors, but the data have been adjusted to correct only the most obvious errors. When review of the taxpayer's record indicated that the inconsistency was due to simple errors such as misplacing a decimal point or making an entry one line above or below its proper location, the data were adjusted. Where the amount of qualified expenses reported on Form 8839, Qualified Adoption Expenses, was not shown or was inconsistent with the amount of the adoption tax credit as shown on Form 1040, it was assumed that the adoption tax credit on Form 1040 was correct and the amount of qualified expenses was adjusted. Where remaining discrepancies did not seem to be significant, the inconsistent record was used. However, the small percentage of tax return records with significant unresolved discrepancies was omitted from some or all of the tables used in this report. For example, where the amount of qualified expenses was adjusted, as described above, and the taxpayer had qualified expenses in the same year for two adoptions, it was not possible to allocate the expenses between adoptions. In such instances, information about both adoptions was included in the totals but excluded from the table which distributes adoptions by the size of the qualified expenses for that adoption (Table 97-4 for 1997 and Table 98-4 for 1998). The proportion of omitted adoptions or tax returns is so small that it does not have an appreciable impact on the implications that can be drawn from the data.

The data are from tax returns as filed and do not include the results of any modifications that have been made, or which may be made in the future, as the result of IRS activities beyond the initial posting of the tax return data or of IRS examination of the tax return. For example, the data received from the IRS do not include any changes from corrections of mathematical errors or inconsistencies that may follow communication with, or submission of missing data or forms by, the taxpayer, or any data from amended returns filed subsequently by the taxpayer. In particular, it is not possible to determine the extent to which the adoption-related data might change following examination, although in a few instances the data seem to indicate results which do not conform to the adoption tax provisions. For example, the provisions do not permit adoptions of foreign children with serious medical conditions to receive the higher benefit levels that are available for special needs adoptions. Nevertheless, in each of the two years several hundred adoptions were reported to be foreign children with special needs. While some of those cases may be attributable to errors in transcribing the data on tax returns, some may also be due

to errors or misunderstanding by taxpayers. Throughout the report, adoptions that were reported by the taxpayer as being foreign children with special needs are classified and included in the tables as adoptions of foreign children.

In order to provide some information about the costs of adoptions, as reported, qualified adoption expenses and employer payments or reimbursements have been tabulated without regard to the statutory limits for which tax benefits may have been available. It should be recognized, however, that for purposes of the tax credit, taxpayers do not have a financial incentive to include qualified expenses in excess of the levels for which the tax credit may be available. The data indicate that many taxpayers do show such information on their tax returns, but the extent, if any, of non-reporting of excess expenses cannot be determined from the tax return data. In addition, where reported expenses were adjusted because they were either missing or were smaller than would be consistent with the reported adoption tax credit, the adjusted qualified expenses were limited to the maximum amounts which would produce tax benefits.

The tables do not include information about taxpayers who received employer-paid adoption benefits if, because of the employee's income level, all of the employer benefits were fully taxable. Employer benefits are not included in the taxable wages of employees as reported to the employee and to IRS on the employee's Wage and Tax Statement (Form W-2), but the amount of such benefits is reported as a separate item on Form W-2. The taxable amount, if any, of such benefits is reported by the employee on Form 8839. In 1997 and 1998, several hundred higher-income taxpayers used Form 8839 to include in income the entire amount of the adoption benefits received from the employer. When the entire amount was taxable, the taxpayer was excluded from the tables for employer-provided adoption benefits. If the entire amount of employer benefits was taxable and the taxpayer did not report any qualified expenses for purposes of the adoption tax credit, the taxpayer was not included in any of the tables.

Table 97 - 1

**Adoption Expenses and Tax Benefits, 1997:
Adoption Tax Credit and Exclusion for Employer Benefits Combined**

	Number of Returns ²	Number of Adoptions	Qualified Adoption Expenses ³ (\$ in 000s)	Value of Tax Benefits in 1997			Tax Credit Carried Forward (\$ in 000s)
				Employer Exclusion (\$ in 000s)	Tax Credit (\$ in 000s)	Total (\$ in 000s)	
All Adoptions							
Total	36,661	40,755	228,286	1,308	69,084	70,392	30,046
By Adjusted Gross Income							
Under \$15,000	846	971	3,941	14	49	63	2,113
\$ 15,000 - \$ 24,999	2,295	2,581	8,580	69	1,283	1,352	3,327
\$ 25,000 - \$ 49,999	11,844	13,237	56,122	323	20,782	21,105	10,068
\$ 50,000 - \$ 74,999	12,632	14,024	83,337	538	30,792	31,331	10,200
\$ 75,000 - \$ 99,999	6,934	7,647	57,392	323	14,578	14,902	4,138
\$100,000 and over	2,110	2,295	18,915	40	1,600	1,640	200
By Filing Status							
Married Filing Jointly	32,455	36,179	201,717	1,179	62,222	63,401	24,915
Other	4,206	4,576	26,569	129	6,862	6,991	5,131
Children with Special Needs (domestic)							
Total	3,194	3,895	12,511	116	4,658	4,773	2,792
By Adjusted Gross Income							
Under \$15,000	100	130	321	2	5	6	214
\$ 15,000 - \$ 24,999	281	345	821	10	140	149	394
\$ 25,000 - \$ 49,999	1,257	1,545	4,221	39	1,754	1,793	1,049
\$ 50,000 - \$ 74,999	1,036	1,240	4,456	45	2,001	2,046	828
\$ 75,000 - \$ 99,999	422	521	2,108	19	690	709	290
\$100,000 and over	98	114	584	1	69	70	16
By Filing Status							
Married Filing Jointly	2,729	3,355	10,991	102	4,120	4,222	2,323
Other	465	540	1,520	14	538	552	469
Foreign Children¹							
Total	10,438	11,632	113,744	408	24,357	24,764	13,673
By Adjusted Gross Income							
Under \$15,000	156	181	1,694	1	10	11	724
\$ 15,000 - \$ 24,999	321	348	2,842	5	227	231	941
\$ 25,000 - \$ 49,999	2,636	2,921	25,190	59	6,207	6,266	4,363
\$ 50,000 - \$ 74,999	3,858	4,325	42,128	191	10,982	11,173	5,324
\$ 75,000 - \$ 99,999	2,613	2,905	31,479	137	6,173	6,310	2,212
\$100,000 and over	854	952	10,410	16	756	772	111
By Filing Status							
Married Filing Jointly	8,736	9,828	96,113	358	20,697	21,054	10,659
Other	1,702	1,804	17,630	50	3,660	3,710	3,014

Table 97 - 2

Percentage of Returns By Size of Expenses Including Total Employer Payments and Reimbursements, 1997

Percentage of Returns with Expenses (including Employer Reimbursements) per Return (%)										
All Returns ²	Less Than \$1,000	Less Than \$2,000	Less Than \$3,000	Less Than \$4,000	Less Than \$5,000	Less Than \$6,000	Less Than \$10,000	Less Than \$15,000	Less Than \$15,000	\$15,000 And Over
All Adoptions										
Total	36,661	24%	37%	44%	49%	54%	64%	77%	88%	12%
By Adjusted Gross Income										
Under \$15,000	846	31	48	56	61	66	76	86	93	7
\$ 15,000 - \$ 24,999	2,295	35	52	62	67	71	81	90	96	4
\$ 25,000 - \$ 49,999	11,844	30	45	54	60	65	74	85	93	7
\$ 50,000 - \$ 74,999	12,632	21	33	40	46	50	61	75	87	13
\$ 75,000 - \$ 99,999	6,934	16	26	32	36	40	51	66	81	19
\$100,000 and over	2,110	15	23	29	32	36	47	63	78	22
By Filing Status										
Married Filing Jointly	32,455	24	37	44	50	54	64	77	88	12
Other	4,206	22	36	44	48	52	62	76	87	13
Children with Special Needs (domestic)										
Total	3,194	34%	50%	58%	65%	70%	75%	90%	96%	4%
By Adjusted Gross Income										
Under \$15,000	100	45	59	65	71	76	81	91	97	3
\$ 15,000 - \$ 24,999	281	38	57	64	73	77	81	95	98	2
\$ 25,000 - \$ 49,999	1,257	37	54	63	71	76	81	93	97	3
\$ 50,000 - \$ 74,999	1,036	31	46	55	61	67	72	88	95	5
\$ 75,000 - \$ 99,999	422	26	42	51	57	62	66	84	93	7
\$100,000 and over	98	28	38	[-----44-----]		51	57	82	90	10
By Filing Status										
Married Filing Jointly	2,729	33	49	58	65	70	75	89	96	4
Other	465	36	52	61	69	74	79	94	98	2
Foreign Children¹										
Total	10,438	12%	17%	20%	22%	24%	35%	49%	70%	30%
By Adjusted Gross Income										
Under \$15,000	156	8	12	19	22	25	37	53	72	28
\$ 15,000 - \$ 24,999	321	14	21	26	30	32	45	61	79	21
\$ 25,000 - \$ 49,999	2,636	14	20	24	27	29	41	57	76	24
\$ 50,000 - \$ 74,999	3,858	13	17	20	22	24	34	49	70	30
\$ 75,000 - \$ 99,999	2,613	11	15	17	19	20	29	43	64	36
\$100,000 and over	854	10	14	16	18	20	30	43	64	36
By Filing Status										
Married Filing Jointly	8,736	13	18	21	23	25	35	49	70	30
Other	1,702	10	14	17	18	20	32	53	73	27

Footnotes follow Table 98-8, at the end of this chapter.

Table 97 - 3

Adoption Tax Credit, 1997:
Covered Adoptions, Expenses, and Tax Credit

	Number of Returns ⁴	Number of Adoptions	Qualified Adoption Expenses (\$ in 000s)	Adoption Credit				
				Total (\$ in 000s)	Allowed for 1997		Carried Forward	
					(number)	(\$ in 000s)	(number)	(\$ in 000s)
All Adoptions								
Total	36,375	40,440	220,355	99,130	34,868	69,084	14,923	30,046
By Adjusted Gross Income								
Under \$15,000	842	967	3,841	2,162	132	49	801	2,113
\$ 15,000 - \$ 24,999	2,285	2,569	8,038	4,610	1,894	1,283	1,428	3,327
\$ 25,000 - \$ 49,999	11,773	13,155	53,754	30,849	11,606	20,782	4,638	10,068
\$ 50,000 - \$ 74,999	12,535	13,921	80,565	40,992	12,468	30,792	5,414	10,200
\$ 75,000 - \$ 99,999	6,860	7,565	55,743	18,716	6,747	14,578	2,467	4,138
\$100,000 and over	2,080	2,263	18,414	1,800	2,021	1,600	175	200
By Filing Status								
Married Filing Jointly	32,199	35,897	194,543	87,137	30,937	62,222	12,724	24,915
Other	4,176	4,543	25,812	11,993	3,931	6,862	2,199	5,131
Children with Special Needs (domestic)								
Total	3,171	3,865	11,792	7,450	2,979	4,658	1,155	2,792
By Adjusted Gross Income								
Under \$15,000	100	130	311	218	17	5	91	214
\$ 15,000 - \$ 24,999	280	343	755	533	222	140	171	394
\$ 25,000 - \$ 49,999	1,249	1,533	3,931	2,803	1,222	1,754	415	1,049
\$ 50,000 - \$ 74,999	1,028	1,231	4,202	2,829	1,017	2,001	335	828
\$ 75,000 - \$ 99,999	416	514	2,022	980	405	690	135	290
\$100,000 and over	98	114	571	86	96	69	8	16
By Filing Status								
Married Filing Jointly	2,710	3,330	10,360	6,443	2,557	4,120	957	2,323
Other	461	535	1,432	1,007	422	538	198	469
Foreign Children¹								
Total	10,382	11,569	111,390	38,030	10,065	24,357	5,767	13,673
By Adjusted Gross Income								
Under \$15,000	156	181	1,689	734	26	10	154	724
\$ 15,000 - \$ 24,999	321	348	2,801	1,167	264	227	244	941
\$ 25,000 - \$ 49,999	2,627	2,910	24,795	10,570	2,580	6,207	1,715	4,363
\$ 50,000 - \$ 74,999	3,840	4,307	41,178	16,306	3,815	10,982	2,395	5,324
\$ 75,000 - \$ 99,999	2,592	2,880	30,745	8,385	2,557	6,173	1,174	2,212
\$100,000 and over	846	943	10,183	867	823	756	85	111
By Filing Status								
Married Filing Jointly	8,682	9,767	94,014	31,356	8,427	20,697	4,625	10,659
Other	1,700	1,802	17,376	6,674	1,638	3,660	1,142	3,014

Table 97 - 4
Adoption Tax Credit, 1997:
Percentage of Adoptions by Size of Qualified Adoption Expenses

Percentage of Adoptions with Qualified Adoption Expenses per Adoption (%)										
All ^{4,11}	Less Than \$1,000	Less Than \$2,000	Less Than \$3,000	Less Than \$4,000	Less Than \$5,000	Less Than \$6,000	Less Than \$10,000	Less Than \$15,000	\$15,000 And Over	
All Adoptions										
Total	39,798	29%	42%	48%	53%	57%	68%	80%	90%	10%
By Adjusted Gross Income										
Under \$15,000	941	37	52	60	64	69	80	88	94	6
\$ 15,000 - \$ 24,999	2,521	44	60	67	72	75	85	93	96	4
\$ 25,000 - \$ 49,999	12,915	37	51	59	64	68	77	88	94	6
\$ 50,000 - \$ 74,999	13,633	26	39	45	49	53	65	79	90	10
\$ 75,000 - \$ 99,999	7,527	20	29	35	39	43	54	70	84	16
\$100,000 and over	2,261	18	26	31	34	38	50	67	82	18
By Filing Status										
Married Filing Jointly	35,339	30	42	49	53	57	68	81	90	10
Other	4,459	27	40	47	51	55	65	79	89	11
Children with Special Needs (domestic)										
Total	3,709	44%	59%	66%	72%	76%	80%	93%	97%	3%
By Adjusted Gross Income										
Under \$15,000	120	49	60	67	73	77	84	95	98	3
\$ 15,000 - \$ 24,999	327	50	67	73	80	83	86	97	98	2
\$ 25,000 - \$ 49,999	1,461	50	64	72	77	81	84	95	98	2
\$ 50,000 - \$ 74,999	1,185	41	56	63	67	72	76	92	97	3
\$ 75,000 - \$ 99,999	502	36	52	59	63	68	72	90	95	5
\$100,000 and over	114	30	41	45	54	58	63	88	93	7
By Filing Status										
Married Filing Jointly	3,206	45	59	66	71	75	79	93	97	3
Other	503	42	58	68	74	79	83	95	98	2
Foreign Children¹										
Total	11,425	14%	19%	21%	24%	25%	38%	55%	76%	24%
By Adjusted Gross Income										
Under \$15,000	179	8	13	19	23	27	41	59	78	22
\$ 15,000 - \$ 24,999	344	17	24	27	32	34	49	65	83	17
\$ 25,000 - \$ 49,999	2,878	16	22	26	29	31	44	62	81	19
\$ 50,000 - \$ 74,999	4,213	14	19	22	23	25	37	55	76	24
\$ 75,000 - \$ 99,999	2,870	12	16	18	19	21	32	48	71	29
\$100,000 and over	941	12	16	17	19	21	33	49	71	29
By Filing Status										
Married Filing Jointly	9,635	14	19	22	24	26	38	54	76	24
Other	1,790	12	16	18	20	21	35	57	76	24

Table 97 - 5

**Employer-Provided Adoption Benefits, 1997:
Total and Excluded Employer Payments and Reimbursements and Tax Benefits**

	Number of Returns ^c	Number of Adoptions	Employer Payments and Reimbursements			Tax Benefit ^e
			Total ^a	Taxable	Non-Taxable Employer Exclusion	
			(\$ in 000s)	(\$ in 000s)	(\$ in 000s)	(\$ in 000s)
All Adoptions						
Total	2,937	3,270	7,931	1,480	6,451	1,308
By Adjusted Gross Income						
Under \$15,000	46	50	101	7	94	14
\$ 15,000 - \$ 24,999	198	225	541	83	458	69
\$ 25,000 - \$ 49,999	944	1,058	2,368	282	2,086	323
\$ 50,000 - \$ 74,999	1,021	1,137	2,772	267	2,505	538
\$ 75,000 - \$ 99,999	563	622	1,649	485	1,164	323
\$100,000 and over	165	178	501	357	144	40
By Filing Status						
Married Filing Jointly	2,635	2,940	7,175	1,380	5,794	1,179
Other	302	330	757	100	656	129
Children with Special Needs (domestic)						
Total	291	350	719	85	634	116
By Adjusted Gross Income						
Under \$15,000	5	6	11	0	10	2
\$ 15,000 - \$ 24,999	25	33	66	1	65	10
\$ 25,000 - \$ 49,999	124	153	290	31	259	39
\$ 50,000 - \$ 74,999	96	108	254	26	228	45
\$ 75,000 - \$ 99,999	37	46	85	17	68	19
\$100,000 and over	4	4	13	9	4	1
By Filing Status						
Married Filing Jointly	254	308	631	82	549	102
Other	37	42	88	3	85	14
Foreign Children¹						
Total	785	886	2,353	540	1,813	408
By Adjusted Gross Income						
Under \$15,000	20	23	46	10	36	6
\$ 15,000 - \$ 24,999	161	176	395	34	361	59
\$ 25,000 - \$ 49,999	304	349	951	85	866	191
\$ 50,000 - \$ 74,999	229	261	735	242	493	137
\$ 75,000 - \$ 99,999	71	77	227	170	58	16
By Filing Status						
Married Filing Jointly	686	782	2,099	503	1,596	358
Other	99	104	254	37	217	50

Table 97 - 6

Employer-Provided Adoption Benefits, 1997:
Percentage of Returns by Size of Total Employer Payments or Reimbursements

Percentage of Returns with Employer Payments or Reimbursements per Return (%)										
All Returns ²	Less Than \$1,000	Less Than \$2,000	Less Than \$3,000	Less Than \$4,000	Less Than \$5,000	Less Than \$6,000	Less Than \$10,000	Less Than \$15,000	\$15,000 And Over	
All Adoptions										
Total	2,937	12%	26%	61%	79%	87%	95%	99%	100%	0%
By Adjusted Gross Income										
Under \$15,000	46	20	35	67	89	93	98	100	100	0
\$ 15,000 - \$ 24,999	198	17	30	64	77	85	92	98	100	0
\$ 25,000 - \$ 49,999	944	15	30	65	80	89	97	99	100	0
\$ 50,000 - \$ 74,999	1,021	11	24	61	79	88	95	99	100	0
\$ 75,000 - \$ 99,999	563	8	21	56	78	85	94	99	100	0
\$100,000 and over	165	6	12	46	78	85	95	99	100	0
By Filing Status										
Married Filing Jointly	2,635	12	25	60	79	87	95	99	100	0
Other	302	13	30	67	82	89	96	99	100	0
Children with Special Needs (domestic)										
Total	291	19%	35%	66%	81%	90%	95%	99%	100%	0%
By Adjusted Gross Income										
Under \$15,000	30	20	37	63	[-----87-----]	87	100	100	100	0
\$ 15,000 - \$ 24,999	124	18	35	70	83	91	98	99	100	0
\$ 25,000 - \$ 49,999	96	17	30	63	78	89	95	98	100	0
\$ 50,000 - \$ 74,999	41	27	41	66	80	90	[-----100-----]	100	100	0
\$ 75,000 - \$ 99,999										
\$100,000 and over										
By Filing Status										
Married Filing Jointly	254	20	34	66	80	90	95	99	100	0
Other	37	14	38	68	86	[-----100-----]	100	100	100	0
Foreign Children¹										
Total	785	7%	18%	54%	74%	82%	94%	99%	100%	0%
By Adjusted Gross Income										
Under \$15,000	20	[-----20-----]		80	[-----100-----]		100	100	100	0
\$ 15,000 - \$ 24,999	161	15	28	68	81	86	98	100	100	0
\$ 25,000 - \$ 49,999	304	5	15	52	72	81	93	99	100	0
\$ 50,000 - \$ 74,999	229	4	17	50	73	80	92	98	100	0
\$ 75,000 - \$ 99,999	71	7	11	41	72	80	93	100	100	0
\$100,000 and over										
By Filing Status										
Married Filing Jointly	686	7	18	53	73	81	93	99	100	0
Other	99	8	18	66	83	88	[-----100-----]	100	100	0

Footnotes follow Table 98-8, at the end of this chapter.

Table 97 - 7

Adoption Expenses and Tax Benefits for Taxpayers Using Both Adoption Benefits, 1997:
Adoption Tax Credit and Employer Exclusion Combined

	Number of Returns	Number of Adoptions	Qualified Adoption Expenses ^a (\$ in 000s)	Value of Tax Benefits in 1997			Tax Credit Carry Forward (\$ in 000s)
				Employer Exclusion (\$ in 000s)	Tax Credit (\$ in 000s)	Total (\$ in 000s)	
All Adoptions							
Total	2,651	2,955	23,435	1,185	5,243	6,427	2,121
By Adjusted Gross Income							
Under \$15,000	42	46	157	13	2	15	59
\$ 15,000 - \$ 24,999	188	213	1,047	65	103	168	273
\$ 25,000 - \$ 49,999	873	976	5,628	297	1,471	1,769	648
\$ 50,000 - \$ 74,999	924	1,034	8,768	489	2,395	2,884	797
\$ 75,000 - \$ 99,999	489	540	6,102	286	1,144	1,430	339
\$100,000 and over	135	146	1,734	35	127	162	5
By Filing Status							
Married Filing Jointly	2,379	2,658	21,192	1,071	4,821	5,891	1,783
Other	272	297	2,244	114	422	536	338
Children with Special Needs (domestic)							
Total	268	320	1,585	105	405	510	233
By Adjusted Gross Income							
Under \$15,000	5	6	21	2	1	2	10
\$ 15,000 - \$ 24,999	24	31	114	9	13	22	41
\$ 25,000 - \$ 49,999	116	141	604	37	160	196	93
\$ 50,000 - \$ 74,999	88	99	614	41	179	220	65
\$ 75,000 - \$ 99,999	31	39	209	16	51	67	23
\$100,000 and over	4	4	21	1	2	3	0
By Filing Status							
Married Filing Jointly	235	283	1,434	94	367	461	199
Other	33	37	150	11	38	49	34
Foreign Children^b							
Total	729	823	10,916	377	1,901	2,278	1,006
By Adjusted Gross Income							
Under \$15,000	20	23	244	6	15	21	79
\$ 15,000 - \$ 24,999	152	165	1,861	54	381	435	245
\$ 25,000 - \$ 49,999	286	331	4,306	180	916	1,096	471
\$ 50,000 - \$ 74,999	208	236	3,538	122	530	652	210
\$ 75,000 - \$ 99,999	63	68	967	15	60	75	2
\$100,000 and over							
By Filing Status							
Married Filing Jointly	632	721	9,575	329	1,680	2,009	832
Other	97	102	1,340	48	222	270	174

Table 97 - 8

Percentage of Returns by Size of Expenses Including Total Employer Payments and Reimbursements for Taxpayers Using Both Adoption Benefits, 1997

	Amount of Qualified Adoption Expenses per Return									
	All Returns	Less Than \$1,000	Less Than \$2,000	Less Than \$3,000	Less Than \$4,000	Less Than \$5,000	Less Than \$6,000	Less Than \$10,000	Less Than \$15,000	\$15,000 And Over
All Adoptions										
Total	2,651	2%	9%	19%	31%	40%	47%	67%	81%	19%
By Adjusted Gross Income										
Under \$15,000	42	[-----24-----]		52	69	79	86	[-----100-----]		0
\$ 15,000 - \$ 24,999	188	3	12	34	52	64	71	87	92	8
\$ 25,000 - \$ 49,999	873	3	13	27	42	55	64	82	91	9
\$ 50,000 - \$ 74,999	924	2	6	14	27	34	40	62	80	20
\$ 75,000 - \$ 99,999	489	1	4	7	12	18	25	45	66	34
\$100,000 and over	135	[-----2-----]		4	8	14	19	41	63	37
By Filing Status										
Married Filing Jointly	2,379	2	9	18	30	39	47	66	81	19
Other	272	2	10	24	35	43	51	69	82	18
Children with Special Needs (domestic)										
Total	268	4%	15%	27%	46%	58%	66%	86%	95%	5%
By Adjusted Gross Income										
Under \$15,000	29	[-----14-----]		31	55	69	[-----97-----]			3
\$ 15,000 - \$ 24,999	116	4	16	31	50	62	71	90	96	4
\$ 25,000 - \$ 49,999	88	5	9	22	42	53	60	80	93	7
\$ 50,000 - \$ 74,999	35	0	26	26	37	46	57	83	94	6
\$ 75,000 - \$ 99,999										
\$100,000 and over										
By Filing Status										
Married Filing Jointly	235	4	15	28	47	57	65	84	94	6
Other	33	0	12	24	42	64	76	100	100	0
Foreign Children¹										
Total	729	0%	2%	6%	9%	12%	14%	29%	51%	49%
By Adjusted Gross Income										
Under \$15,000	20	0	0	[-----25-----]		25	25	40	60	40
\$ 15,000 - \$ 24,999	152	0	7	14	18	22	26	45	61	39
\$ 25,000 - \$ 49,999	286	1	1	4	8	10	12	27	53	47
\$ 50,000 - \$ 74,999										
\$ 75,000 - \$ 99,999	271	0	1	3	4	7	10	21	42	58
\$100,000 and over										
By Filing Status										
Married Filing Jointly	632	0	2	6	9	12	14	28	50	50
Other	97	0	3	[-----9-----]		[-----14-----]		34	55	45

Footnotes follow Table 98-8, at the end of this chapter.

Table 98 - 1

**Adoption Expenses and Tax Benefits, 1998:
Adoption Tax Credit and Exclusion for Employer Benefits Combined**

Number of Returns ^{2,4}	Number of Adoptions	Qualified Adoption Expenses ³ (\$ in 000s)	Value of Tax Benefits in 1998			Tax Credit Carried Forward (\$ in 000s)
			Employer Exclusion (\$ in 000s)	Tax Credit (\$ in 000s)	Total (\$ in 000s)	

All Adoptions

Total	45,349	50,353	296,601	1,691	99,851	101,542	47,826
By Adjusted Gross Income							
Under \$15,000	1,051	1,220	5,069	29	50	79	3,651
\$ 15,000 - \$ 24,999	2,266	2,543	9,208	80	818	897	6,287
\$ 25,000 - \$ 49,999	13,985	15,589	68,326	361	22,526	22,887	23,600
\$ 50,000 - \$ 74,999	15,947	17,654	106,552	703	47,691	48,394	11,692
\$ 75,000 - \$ 99,999	9,122	10,050	77,855	454	25,666	26,119	2,254
\$100,000 and over	2,978	3,297	29,590	64	3,101	3,166	342
By Filing Status							
Married Filing Jointly	39,722	44,267	260,115	1,511	87,805	89,315	39,769
Other	5,627	6,086	36,485	180	12,046	12,226	8,057

Children with Special Needs (domestic)

Total	3,915	4,721	16,723	128	6,969	7,097	5,040
By Adjusted Gross Income							
Under \$15,000	113	145	420	5	6	11	362
\$ 15,000 - \$ 24,999	245	289	692	12	68	79	596
\$ 25,000 - \$ 49,999	1,418	1,720	4,942	36	1,807	1,843	2,460
\$ 50,000 - \$ 74,999	1,360	1,643	5,898	51	3,312	3,363	1,394
\$ 75,000 - \$ 99,999	625	740	3,715	21	1,610	1,631	197
\$100,000 and over	154	184	1,056	2	166	168	32
By Filing Status							
Married Filing Jointly	3,329	4,044	14,749	108	6,155	6,263	4,267
Other	586	677	1,973	21	814	835	773

Foreign Children¹

Total	12,705	14,264	140,869	558	37,470	38,028	18,461
By Adjusted Gross Income							
Under \$15,000	173	198	1,888	1	8	9	1,023
\$ 15,000 - \$ 24,999	353	395	3,508	5	169	174	1,881
\$ 25,000 - \$ 49,999	2,991	3,333	28,787	69	6,650	6,720	8,822
\$ 50,000 - \$ 74,999	4,768	5,346	52,080	264	18,212	18,477	5,514
\$ 75,000 - \$ 99,999	3,229	3,634	39,345	191	10,942	11,132	1,061
\$100,000 and over	1,191	1,358	15,260	28	1,490	1,517	159
By Filing Status							
Married Filing Jointly	10,350	11,780	116,824	480	30,509	30,989	14,215
Other	2,355	2,484	24,045	78	6,962	7,039	4,245

Table 98 - 2

Percentage of Returns By Size of Expenses Including Total Employer Payments and Reimbursements, 1998

Percentage of Returns with Expenses (including Employer Reimbursements) per Return (%)										
All Returns ^{2,7}	Less Than \$1,000	Less Than \$2,000	Less Than \$3,000	Less Than \$4,000	Less Than \$5,000	Less Than \$6,000	Less Than \$10,000	Less Than \$15,000	\$15,000 And Over	
All Adoptions										
Total	45,349	21%	34%	42%	47%	51%	64%	75%	87%	13%
By Adjusted Gross Income										
Under \$15,000	1,051	28	44	52	59	63	76	84	93	7
\$ 15,000 - \$ 24,999	2,266	32	50	57	63	67	80	89	95	5
\$ 25,000 - \$ 49,999	13,985	27	43	53	58	62	74	84	92	8
\$ 50,000 - \$ 74,999	15,947	19	33	41	46	50	62	74	87	13
\$ 75,000 - \$ 99,999	9,122	12	22	29	34	38	51	64	80	20
\$100,000 and over	2,978	15	22	26	30	33	46	59	75	25
By Filing Status										
Married Filing Jointly	39,722	21	35	42	47	51	64	75	87	13
Other	5,627	19	33	43	49	52	65	75	86	14
Children with Special Needs (domestic)										
Total	3,915	31%	46%	55%	62%	66%	71%	88%	96%	4%
By Adjusted Gross Income										
Under \$15,000	113	37	55	62	67	71	75	92	95	5
\$ 15,000 - \$ 24,999	245	40	58	67	73	75	80	96	99	1
\$ 25,000 - \$ 49,999	1,418	36	52	63	69	73	78	92	98	2
\$ 50,000 - \$ 74,999	1,360	29	44	53	60	64	69	89	96	4
\$ 75,000 - \$ 99,999	625	21	33	44	49	55	59	79	91	9
\$100,000 and over	154	23	30	37	45	48	51	77	89	11
By Filing Status										
Married Filing Jointly	3,329	30	45	54	61	65	70	88	96	4
Other	586	37	53	62	69	74	78	93	97	3
Foreign Children¹										
Total	12,705	8%	14%	19%	21%	23%	37%	48%	69%	31%
By Adjusted Gross Income										
Under \$15,000	173	7	15	17	20	22	40	50	71	29
\$ 15,000 - \$ 24,999	353	9	12	18	19	21	45	55	75	25
\$ 25,000 - \$ 49,999	2,991	9	16	23	26	27	44	55	76	24
\$ 50,000 - \$ 74,999	4,768	9	15	20	23	24	38	48	70	30
\$ 75,000 - \$ 99,999	3,229	6	10	14	16	18	31	42	64	36
\$100,000 and over	1,191	12	14	16	17	18	31	40	60	40
By Filing Status										
Married Filing Jointly	10,350	9	15	19	21	23	36	47	68	32
Other	2,355	6	12	19	21	23	40	52	73	27

Footnotes follow Table 98-8, at the end of this chapter.

Table 98 - 3

Adoption Tax Credit, 1998:
Covered Adoptions, Expenses, and Tax Credit

Returns with 1998 Credit and/or Carry Forward From 1997	Qualified Adoption Expenses, 1998 ^{4,8}			Credit for 1998 (\$ in 000s)	Carry Forward From 1997		Credit Taken in 1998 (\$ in 000s)	Credit Carried Forward to 1999 (\$ in 000s)
	Returns	Adoptions	Amount		Returns	Amount		
	(number)	(number)	(\$ in 000s)		(number)	(\$ in 000s)		

All Adoptions

Total	49,690	44,718	49,644	286,673	133,497	11,257	24,285	104,349	53,433
By Adjusted Gross Income									
Under \$15,000	1,320	1,030	1,196	4,850	3,032	521	1,458	52	4,438
\$ 15,000 - \$ 24,999	2,603	2,198	2,463	8,592	5,791	939	2,236	868	7,159
\$ 25,000 - \$ 49,999	15,296	13,827	15,414	65,535	40,301	3,996	8,922	23,688	25,535
\$ 50,000 - \$ 74,999	17,338	15,745	17,423	102,675	54,932	3,699	7,345	49,407	12,869
\$ 75,000 - \$ 99,999	9,858	8,980	9,894	75,347	26,475	1,544	3,168	26,821	2,822
\$100,000 and over	3,275	2,938	3,254	29,675	2,967	558	1,156	3,513	609
By Filing Status									
Married Filing Jointly	43,426	39,182	43,664	251,206	115,847	9,501	20,233	91,585	44,495
Other	6,264	5,536	5,980	35,467	17,650	1,756	4,052	12,764	8,938

Children with Special Needs (domestic)

Total	4,170	3,857	4,653	15,841	10,620	838	2,138	7,247	5,511
By Adjusted Gross Income									
Under \$15,000	126	108	138	385	289	48	117	6	400
\$ 15,000 - \$ 24,999	283	235	278	604	524	101	252	73	703
\$ 25,000 - \$ 49,999	1,518	1,404	1,704	4,646	3,672	341	892	1,886	2,679
\$ 50,000 - \$ 74,999	1,418	1,340	1,619	5,580	4,267	236	606	3,411	1,462
\$ 75,000 - \$ 99,999	658	616	730	3,578	1,707	84	206	1,680	233
\$100,000 and over	167	154	184	1,047	160	28	66	191	35
By Filing Status									
Married Filing Jointly	3,551	3,276	3,982	14,010	9,263	693	1,819	6,405	4,677
Other	619	581	671	1,831	1,357	145	318	842	833

Foreign Children¹

Total	14,122	12,561	14,094	137,915	49,855	3,822	9,690	39,206	20,339
By Adjusted Gross Income									
Under \$15,000	227	173	198	1,882	832	98	387	9	1,211
\$ 15,000 - \$ 24,999	411	345	387	3,452	1,633	164	625	179	2,079
\$ 25,000 - \$ 49,999	3,385	2,955	3,293	28,301	13,162	1,264	3,368	7,069	9,461
\$ 50,000 - \$ 74,999	5,321	4,720	5,287	50,694	21,531	1,505	3,439	18,935	6,035
\$ 75,000 - \$ 99,999	3,487	3,191	3,588	38,286	11,290	582	1,368	11,363	1,295
\$100,000 and over	1,291	1,177	1,341	15,300	1,407	209	502	1,651	258
By Filing Status									
Married Filing Jointly	11,489	10,231	11,637	114,178	40,042	3,008	7,567	31,881	15,728
Other	2,633	2,330	2,457	23,737	9,813	814	2,123	7,325	4,611

Table 98 - 4

Adoption Tax Credit, 1998:
Percentage of Adoptions by Size of Expenses

Amount of Qualified Adoption Expenses per Adoption									
All ^{4,8,11}	Less Than \$1,000	Less Than \$2,000	Less Than \$3,000	Less Than \$4,000	Less Than \$5,000	Less Than \$6,000	Less Than \$10,000	Less Than \$15,000	\$15,000 And Over

All Adoptions

Total	49,104	26%	40%	46%	51%	54%	68%	79%	89%	11%
By Adjusted Gross Income										
Under \$15,000	1,196	37	52	58	63	66	80	88	94	6
\$ 15,000 - \$ 24,999	2,461	42	58	63	66	69	84	91	95	5
\$ 25,000 - \$ 49,999	15,304	34	50	57	62	65	78	87	94	6
\$ 50,000 - \$ 74,999	17,203	24	38	45	49	53	66	78	89	11
\$ 75,000 - \$ 99,999	9,752	16	27	33	37	40	55	68	83	17
\$100,000 and over	3,188	14	22	26	30	33	49	63	78	22
By Filing Status										
Married Filing Jointly	43,154	27	40	46	51	54	68	79	89	11
Other	5,950	24	38	47	52	54	68	77	87	13

Children with Special Needs (domestic)

Total	4,587	41%	55%	63%	68%	72%	76%	92%	97%	3%
By Adjusted Gross Income										
Under \$15,000	138	54	67	72	[-----75-----]		79	[-----96-----]		4
\$ 15,000 - \$ 24,999	278	54	70	76	78	80	84	97	99	1
\$ 25,000 - \$ 49,999	1,690	47	63	70	75	78	82	95	98	2
\$ 50,000 - \$ 74,999	1,583	38	52	60	67	70	75	93	97	3
\$ 75,000 - \$ 99,999	720	28	42	50	56	60	67	84	93	7
\$100,000 and over	178	24	35	42	49	54	57	83	93	7
By Filing Status										
Married Filing Jointly	3,922	40	54	62	67	70	75	92	97	3
Other	665	47	62	70	75	79	83	94	98	2

Foreign Children¹

Total	13,832	10%	16%	20%	22%	24%	42%	53%	74%	26%
By Adjusted Gross Income										
Under \$15,000	198	10	16	20	23	25	44	60	76	24
\$ 15,000 - \$ 24,999	387	11	14	18	21	25	51	60	79	21
\$ 25,000 - \$ 49,999	3,263	11	19	25	27	29	48	61	80	20
\$ 50,000 - \$ 74,999	5,185	11	18	22	24	26	43	54	74	26
\$ 75,000 - \$ 99,999	3,502	9	13	15	18	19	36	47	70	30
\$100,000 and over	1,297	9	12	14	16	18	35	45	66	34
By Filing Status										
Married Filing Jointly	11,391	11	16	20	22	24	42	53	74	26
Other	2,441	8	14	20	23	24	43	55	74	26

Footnotes follow Table 98-8, at the end of this chapter.

Table 98 - 5

**Employer-Provided Adoption Benefits, 1998:
Total and Excluded Employer Payments and Reimbursements and Tax Benefits**

	Number of Returns ²	Number of Adoptions	Employer Payments and Reimbursements			Tax Benefit ^b (\$ in 000s)
			Total ^a (\$ in 000s)	Taxable (\$ in 000s)	Non Taxable Employer Exclusion (\$ in 000s)	
All Adoptions						
Total	3,892	4,309	10,817	2,128	8,689	1,686
By Adjusted Gross Income						
Under \$15,000	90	105	220	17	203	29
\$ 15,000 - \$ 24,999	261	303	616	51	565	80
\$ 25,000 - \$ 49,999	1,106	1,236	2,791	282	2,509	361
\$ 50,000 - \$ 74,999	1,357	1,497	3,877	400	3,477	703
\$ 75,000 - \$ 99,999	831	897	2,508	799	1,710	454
\$100,000 and over	247	271	805	580	225	60
By Filing Status						
Married Filing Jointly	3,460	3,830	9,693	1,992	7,701	1,506
Other	432	479	1,123	135	988	180
Children with Special Needs (domestic)						
Total	369	427	909	161	748	128
By Adjusted Gross Income						
Under \$15,000	17	22	35	0	35	5
\$ 15,000 - \$ 24,999	36	43	88	4	84	12
\$ 25,000 - \$ 49,999	130	153	296	34	262	36
\$ 50,000 - \$ 74,999	123	139	317	56	261	51
\$ 75,000 - \$ 99,999	51	57	137	46	91	21
\$100,000 and over	12	13	35	19	16	2
By Filing Status						
Married Filing Jointly	309	356	763	144	620	108
Other	60	71	145	17	128	21
Foreign Children¹						
Total	1,073	1,206	3,415	837	2,577	557
By Adjusted Gross Income						
Under \$15,000	3	3	7	0	7	1
\$ 15,000 - \$ 24,999	20	22	56	7	49	5
\$ 25,000 - \$ 49,999	173	198	486	32	455	69
\$ 50,000 - \$ 74,999	430	484	1,386	128	1,258	264
\$ 75,000 - \$ 99,999	329	364	1,059	347	712	191
\$100,000 and over	118	135	422	324	98	27
By Filing Status						
Married Filing Jointly	936	1,062	3,014	792	2,222	479
Other	137	144	401	46	355	78

Table 98 - 6

Employer-Provided Adoption Benefits, 1998:
Percentage of Returns by Size of Total Employer Payments or Reimbursements

Percentage of Returns with Employer Payments or Reimbursements per Return (%)									
All Returns ²	Less Than \$1,000	Less Than \$2,000	Less Than \$3,000	Less Than \$4,000	Less Than \$5,000	Less Than \$6,000	Less Than \$10,000	Less Than \$15,000	\$15,000 And Over

All Adoptions

Total	3,892	9%	21%	62%	80%	86%	96%	99%	100%	0%
By Adjusted Gross Income										
Under \$15,000	90	18	32	63	88	94	[-----100-----]		0	
\$ 15,000 - \$ 24,999	261	16	35	72	87	92	96 [-----100-----]		0	
\$ 25,000 - \$ 49,999	1,106	12	27	68	85	90	97	99	100	0
\$ 50,000 - \$ 74,999	1,357	8	20	61	78	85	96	99	100	0
\$ 75,000 - \$ 99,999	831	5	14	56	76	84	96	99	100	0
\$100,000 and over	247	4	9	47	74	81	94	98	100	0
By Filing Status										
Married Filing Jointly	3,460	9	20	61	80	86	96	99	100	0
Other	432	13	29	65	83	89	96	98	100	0

Children with Special Needs (domestic)

Total	369	15%	30%	65%	85%	92%	97%	[-----100-----]		0%
By Adjusted Gross Income										
Under \$15,000	17	35	59	[-----100-----]			100	0		
\$ 15,000 - \$ 24,999	36	14	31	64	83	[-----100-----]		100	0	
\$ 25,000 - \$ 49,999	130	18	39	68	85	92	97	100	100	0
\$ 50,000 - \$ 74,999	123	12	24	64	85	91	97	[-----100-----]		0
\$ 75,000 - \$ 99,999	63	8	17	59	83	90	[-----100-----]		100	0
\$100,000 and over										
By Filing Status										
Married Filing Jointly	309	15	29	66	85	92	96	100	100	0
Other	60	13	37	60	82	93	100	100	100	0

Foreign Children¹

Total	1,073	4%	12%	52%	73%	80%	94%	98%	100%	0%
By Adjusted Gross Income										
Under \$15,000	23	[-----26-----]		65	87	87	[-----100-----]		100	0
\$ 15,000 - \$ 24,999										
\$ 25,000 - \$ 49,999	173	5	13	59	83	88	97	[-----100-----]		0
\$ 50,000 - \$ 74,999	430	5	13	53	70	77	94	97	100	0
\$ 75,000 - \$ 99,999	329	2	11	50	71	80	94	98	99	1
\$100,000 and over	118	[-----5-----]		39	69	77	90	97	100	0
By Filing Status										
Married Filing Jointly	936	4	11	51	72	79	93	98	100	0
Other	137	4	15	57	78	84	97	[-----100-----]		0

Footnotes follow Table 98-8, at the end of this chapter.

Table 98 - 7

**Adoption Expenses and Tax Benefits for Taxpayers Using Both Adoption Benefits, 1998:
Adoption Tax Credit and Employer Exclusion Combined**

	Returns ¹	Number of Adoptions	Qualified Adoption Expenses ³ (\$ in 000s)	Value of Tax Benefits in 1998			Tax Credit Carry Forward (\$ in 000s)
				Employer Exclusion (\$ in 000s)	Tax Credit (\$ in 000s)	Total (\$ in 000s)	
All Adoptions							
Total	3,261	3,600	32,030	1,447	7,510	8,957	2,685
By Adjusted Gross Income							
Under \$15,000	69	81	389.50	23.32	1.45	25	162
\$ 15,000 - \$ 24,999	193	223	927.68	58.24	41.49	100	372
\$ 25,000 - \$ 49,999	948	1,061	6,446.88	317.52	1,413.28	1,731	1,235
\$ 50,000 - \$ 74,999	1,155	1,266	12,249.71	608.91	3,746.26	4,355	790
\$ 75,000 - \$ 99,999	689	741	8,687.75	386.23	2,087.79	2,474	113
\$100,000 and over	207	228	3,328.20	53.20	219.55	273	14
By Filing Status							
Married Filing Jointly	2,920	3,227	29,269	1,300	6,867	8,167	2,316
Other	341	373	2,761	147	643	790	370
Children with Special Needs (domestic)							
Total	311	359	2,133	112	550	662	336
By Adjusted Gross Income							
Under \$15,000	12	15	61	4	0	5	25
\$ 15,000 - \$ 24,999	26	32	99	8	3	11	52
\$ 25,000 - \$ 49,999	116	137	647	34	140	174	149
\$ 50,000 - \$ 74,999	103	115	786	45	275	320	93
\$ 75,000 - \$ 99,999	42	47	435	18	121	139	17
\$100,000 and over	12	13	106	2	11	13	0
By Filing Status							
Married Filing Jointly	256	294	1,855	92	479	571	278
Other	55	65	279	19	71	91	58
Foreign Children¹							
Total	929	1,036	14,835	489	3,015	3,504	1,055
By Adjusted Gross Income							
Under \$15,000	15	17	259	4	4	9	105
\$ 15,000 - \$ 24,999	137	158	2,026	58	307	365	442
\$ 25,000 - \$ 49,999	382	425	6,007	236	1,561	1,797	443
\$ 50,000 - \$ 74,999	291	318	4,691	167	1,020	1,187	59
\$ 75,000 - \$ 99,999	104	118	1,852	23	123	146	7
\$100,000 and over							
By Filing Status							
Married Filing Jointly	817	919	13,272	421	2,648	3,070	906
Other	112	117	1,563	67	367	434	150

Footnotes follow Table 98-8, at the end of this chapter.

Table 98 - 8

Number of Returns by Size of Expenses Including Total Employer Payments and Reimbursements for Taxpayers Using Both Adoption Benefits, 1998

All Returns ⁷	Amount of Qualified Adoption Expenses per Return								
	Less Than \$1,000	\$1,000 To \$1,999	\$2,000 To \$2,999	\$3,000 To \$3,999	\$4,000 To \$4,999	\$5,000 To \$5,999	\$6,000 To \$9,999	\$10,000 To \$14,999	\$15,000 And Over

All Adoptions

Total	3,261	2%	6%	17%	28%	36%	43%	62%	76%	24%
By Adjusted Gross Income										
Under \$15,000	69	4	12	32	57	68	75	86	90	10
\$ 15,000 - \$ 24,999	193	7	21	36	60	70	76	92	95	5
\$ 25,000 - \$ 49,999	948	2	9	28	44	55	64	81	89	11
\$ 50,000 - \$ 74,999	1,155	1	4	13	22	30	36	56	73	27
\$ 75,000 - \$ 99,999	689	[-----2-----]	8	12	17	22	43	64	36	
\$100,000 and over	207	0	[-----3-----]	[-----8-----]	12	34	53	47		
By Filing Status										
Married Filing Jointly	2,920	1	6	17	27	35	42	61	76	24
Other	341	2	9	24	40	48	55	72	82	18

Children with Special Needs (domestic)

Total	311	4%	10%	27%	41%	52%	59%	78%	91%	9%
By Adjusted Gross Income										
Under \$15,000	38	14	32	54	63	71	79	[-----100-----]	0	
\$ 15,000 - \$ 24,999	116	4	11	34	50	63	72	89	95	5
\$ 25,000 - \$ 49,999	103	3	7	20	34	46	52	70	90	10
\$ 50,000 - \$ 74,999	54	0	[-----20-----]	[-----31-----]	57	80	20			
\$ 75,000 - \$ 99,999										
\$100,000 and over										
By Filing Status										
Married Filing Jointly	256	4	9	27	40	50	56	75	91	9
Other	55	[-----13-----]	31	47	64	73	[-----100-----]	0		

Foreign Children¹

Total	929	[-----1%-----]	3%	6%	9%	11%	25%	46%	54%	
By Adjusted Gross Income										
Under \$15,000	15	0	0	0	0	0	0	33	33	67
\$ 15,000 - \$ 24,999	137	0	0	7	12	[-----19-----]	36	53	47	
\$ 25,000 - \$ 49,999	382	[-----1-----]	4	7	12	14	27	46	54	
\$ 50,000 - \$ 74,999	291	0	[-----3-----]	4	7	8	22	47	53	
\$ 75,000 - \$ 99,999	104	0	0	0	[-----3-----]	14	33	67		
\$100,000 and over										
By Filing Status										
Married Filing Jointly	817	[-----1-----]	3	6	9	11	24	44	56	
Other	112	0	0	5	9	15	18	38	57	43

Footnotes follow Table 98-8, at the end of this chapter.

FOOTNOTES FOR TABLES 4-2, 4-3, 97-1 THROUGH 97-8, AND 98-1 THROUGH 98-8

1. Adoptions of foreign children include those reported as being both foreign and special needs.
2. Returns with only fully taxable employer benefits are not included in this table.
3. Qualified adoption expenses are the sum of qualified expenses for the tax credit and employer benefits (taxable and non-taxable).
4. Returns with positive qualified expenses, but zero credit and carryforward due to income-related phaseout are not included in this column.
5. Total may not equal the sum of taxable and non-taxable benefits due to rounding.
6. Tax benefits are the tax savings from having the non-taxable employer benefits excluded from taxable income. Tax benefits have been estimated by applying the appropriate marginal tax rate (including a zero rate, if appropriate) or rates to non-taxable employer benefits. The tax effects of interactions due to the exclusion of employer benefits have not been included.
7. Returns with only a carryforward from 1997 and without any qualified expenses or employer benefits for 1998 are not included in this table.
8. The number of adoptions represented by these returns can be found in the following table.
9. Only returns with qualified expenses or employer benefits (non-taxable and taxable) in 1997 and 1998 are shown in this table.
10. Total credits are the sum of the credit taken in 1997, the credit taken in 1998, and the carryforward from 1998 to 1999.
11. Excludes tax returns for which total qualified adoption expenses cannot be allocated among two or more adoptees.

General Notes:

- Details may not add to totals due to rounding.
- Bracketed cells indicate that the number or percentage of taxpayers or adoptions reported have been combined, as necessary, to avoid disclosure of specific taxpayer information.
- Excludes employer payment or reimbursement information for tax returns on which employer-paid benefits were fully taxable because the modified adjusted gross income of the taxpayer was \$115,000 or more.
- Excludes adoption tax credit information for tax returns reporting qualified adoption expenses but no adoption tax credit because the modified adjusted gross income of the taxpayer was \$115,000 or more.
- Excludes a small number of tax returns with significant, unresolved data inconsistencies.

Chapter V

OBSERVATIONS CONCERNING FEDERAL TAX BENEFITS FOR ADOPTIONS

The Congress enacted tax benefits for adoption in order to remove financial costs as a barrier to adoption and to further encourage the adoption of children with special needs. This chapter includes observations about the structure, beneficiaries, complexity, and administrability of the tax benefits, and the interaction between tax and expenditure programs for adoption.

BENEFICIARIES OF THE ADOPTION TAX PROVISIONS

Income Ranges for Receiving Benefits

The adoption tax provisions help families meet the expenses associated with an adoption, which can be substantial. In order to benefit from the provisions, a family must have income high enough to generate tax liability (before the adoption tax credit or exclusion is taken) and have income below the top of the adoption phaseout range (\$115,000).

The benefits for adoption may be limited unless the adopting family has sufficient tax liability prior to consideration of the adoption benefits. Adoption tax credits in excess of liability do not result in a payment to the taxpayer from the Internal Revenue Service (that is, they are not “refundable”), but unused tax credits may be carried forward for use in the five succeeding years. The exclusion for employer-paid or reimbursed adoption expenses does not provide any tax benefit unless the family would have some tax liability from the payment or reimbursement absent the exclusion, and unlike the credit, the value of unused benefits may not be carried forward.

In order to receive the full benefit of a \$5,000 adoption tax credit in the current year, a family must have sufficient income to have \$5,000 of tax liability. Even for a family with no other children, using the standard deduction, and using only the \$500 per child tax credit, a family must have income of \$52,400 (in tax year 2000) to have \$5,000 of tax liability.¹ Having any other nonrefundable tax credits or having other dependents further increases the minimum required income. (The required income levels for three and four person families with and without child and dependent care credits are shown in Table 5-1.) The relatively high levels of income at which taxpayers have sufficient liability to claim the full credit in the initial year, together with the phaseout of the tax credit, affect the distribution of benefits. Taxpayers with AGIs of \$50,000 to \$75,000 represented 35 percent of all taxpayers claiming a credit or exclusion in 1998 and had 36 percent of adoption expenses and 48 percent of tax benefits.

¹ Required incomes in future years would be higher due to the annual indexing of personal exemptions, the standard deduction, and tax bracket widths for the effects of inflation.

Table 5 - 1

**Minimum Income Required to Fully Utilize the Maximum Amount
Of the Adoption Tax Credit for One Adopted Child
(Married Couple Filing Joint Tax Return, 2000)**

Situation	\$5,000 Adoption Credit		\$6,000 Adoption Credit ¹	
	Used In One Year	Used Over Six Years	Used In One Year	Used Over Six Years
<u>No Other Children</u>				
No Child Care Credit	52,400	24,650	59,100	25,750
\$480 Child Care Credit	55,600	27,850	61,050	28,950
<u>One Other Child</u>				
No Child Care Credit	58,550	30,750	63,900	31,900
\$480 Child Care Credit	61,750	34,000	65,600	35,100
\$960 Child Care Credit	63,750	37,150	67,350	38,300

US Treasury Department
Office of Tax Analysis

September 2000

¹ The \$6,000 maximum credit is only for adoptions of children with special needs.

Note: Assumes taxpayers use the standard deduction, the \$500 per child tax credit, and the child and dependent care credit, as specified in the table.

Permitting unused adoption tax credits to be carried forward and used against future tax liability for up to five additional years widens the income range over which the adoption tax credit is beneficial, but at some point during the carryover period, the family must have income tax liability against which the credit can be taken. Inability to obtain full benefit from the tax credit in the current year may result in the potential adopting family not having the resources to pay adoption expenses as they occur and may discourage some families from undertaking an adoption. A three-person family that uses the standard deduction and the \$500 child credit (and has no other tax credits) requires income of at least \$24,650 in 2000 (and slightly more in each of the five successive years) in order to fully utilize a \$5,000 adoption credit over the five-year carryforward period (see Table 5-1).

Situations in Which Adoption Tax Benefits Are Not Available

In addition to adoptions for which tax benefits are reduced or are not available because of the incomes of the adopting parents, benefits are not available for the over 50,000 stepparent adoptions that are estimated to occur each year. Stepparent adoptions do incur some of the same costs as other adoptions, such as legal fees. Particularly for lower-income families, such costs could be a barrier to adoption.

Especially for adoptions of children with special needs, adopting families may be concerned about incurring financial burdens in addition to the initial costs of adoption and the normal costs of rearing a child. Such extra costs may be, or may be seen to be, a sufficiently large potential burden to present a barrier to adoption. However, such concerns may be unwarranted. Some costs, including some normal costs of raising a child, are covered through expenditure programs for most adoptive children with special needs, and some of the necessary services may be provided directly. Medicaid services also are available to many children with special needs.¹

Benefits by Type of Adoption

The 31,400 adoptions of non-foreign, non-special needs children for which tax benefits were claimed in 1998 represented 62 percent of all adoptions for which tax benefits were claimed and received 56 percent of adoption tax benefits used to reduce 1998 tax.

In 1998, 28 percent of the adoptions for which tax benefits were received were for adoptions of foreign children, and 37 percent of total tax benefits were for these adoptions. Average adoption expenses are significantly higher for adoptions of foreign children, and expenses exceed levels eligible for maximum adoption tax credits for 76 percent of such adoptions. Although the number of adoptions of foreign children has been increasing rapidly, the increase began prior to enactment of the adoption tax benefits. By offsetting about half of the average total cost of the adoption of a foreign child, the adoption tax benefits may encourage additional adoptions of foreign children.

¹ See Appendix B for a brief description of adoption assistance programs under Title IV-E of the Social Security Act.

Only 9 percent of the adoptions for which any adoption tax benefits were taken in 1998 were of children with special needs. The average expense for the adoptions of children with special needs for which a tax benefit was claimed was lower than for other types of adoptions, so tax benefits for special needs adoptions were only 7 percent of the total tax benefits. The 4,700 special needs adoptions for which any tax benefits were claimed in 1998 represented 15 percent of the estimated total number of special needs adoptions. Presumably, expenditure programs paid or reimbursed the qualified adoption expenses for the other 85 percent of special needs adoptions.

Relationship of Reported Expenses to the Maximum Credit or Exclusion

For 1998, qualified adoption expenses were less than the maximum amounts eligible for the adoption tax credit for 65 percent of the adoptions of non-foreign, non-special needs children and were within \$1,000 of those limits for an additional 13 percent of adoptions. Taxpayers reporting adoptions of foreign children reported expenses within the limits in 24 percent of cases and were above the limit by no more than \$1,000 in an additional 18 percent of adoptions. The qualified expenses of families adopting children with special needs were less than the special \$6,000 limit in 76 percent of such adoptions for which the tax credit was reported. When the total number of adoptions of children with special needs is considered, including the 85 percent that do not receive adoption tax benefits (most likely because of direct reimbursements under other programs), only about 4 percent of families adopting children with special needs report qualified adoption expenses of more than the amounts eligible for tax benefits. To the extent that the initial costs of adoption may be a barrier to the adoption of children with special needs, the current tax benefits, together with the payments or reimbursements under combined State and Federal programs, seem to have provided a comprehensive solution, covering all such qualified expenses in the vast majority of cases.

Overall, 49 percent of taxpayers using the tax credit or exclusion, or both, for 1998 reported expenses exceeding \$5,000 per tax return. However, the percentage exceeding \$5,000 increased with income, ranging from 34 percent for families with incomes under \$25,000, to 50 percent for families with incomes between \$50,000 and \$75,000, and to 67 percent for families with incomes over \$100,000. (Note that income eligibility ends at \$115,000 of modified adjusted gross income.)

Exclusion for Employer-Paid or Employer-Reimbursed Adoption Benefits

The income exclusion for employer-paid or employer-reimbursed adoption expenses is used for less than one-tenth as many adoptions as is the adoption tax credit, and less than 2 percent of total tax benefits for adoption are from the exclusion. Having two separate tax benefits for adoption adds some complexity to the tax system. The availability of two separate tax benefits does increase the maximum possible tax benefit for adoption, but only for families

whose employers provide such benefits.² According to a recent survey, 10 percent of full-time employees in medium and large establishments are offered an adoption benefit.³ An adoption credit may be of relatively little immediate value to moderate income families; employer reimbursement of expenses in the current year may be more valuable to these families. The exclusion from income tax may encourage more employers to offer this benefit.⁴

GENERAL ISSUES REGARDING TAX BENEFITS

Behavioral effects. As is true for most other tax benefits for individuals, the adoption tax benefits are available to all taxpayers who meet the criteria, regardless of whether their activity (in this case, adoption) is induced by the tax benefits or would have occurred in any event. The data do not permit a determination of the extent to which tax benefits for adoption may have increased the number of adoptions.

Because the number of healthy non-foreign infants available for adoption is less than the number of families seeking to adopt such infants, tax benefits cannot increase the number of such adoptions.⁵ Tax benefits, however, may help increase the number of adoptions of children with special needs and foreign children, since the numbers of both of those categories of children available for adoption exceeds the number of current adoptions. By reducing the costs of adoptions of foreign children, the tax benefits tend to increase the number of adoptions of foreign children. The impact, however, on the number of adoptions of children with special needs is more complicated. There are two offsetting effects. The reduction in the cost of adoption for children with special needs for whom the entire adoption cost would not be reimbursed fully by public programs tends to increase the number of adoptions of such children. Offsetting that tendency is the fact that the adoption tax benefits generally reduce the cost of adopting a foreign child compared to the cost of adopting a child with special needs whose adoption costs are reimbursed by government programs. The net impact of these two opposing effects on the number of adoptions of children with special needs is ambiguous. Although the number of adoptions of children with special needs has increased in recent years, it cannot be determined whether the number is larger or smaller than it would have been in the absence of the current tax provisions for adoption.

² Although employer reimbursements above the \$5,000 (or \$6,000) limit do not qualify for either the exclusion or the tax credit, any employee expenditures which are not reimbursed by the employer are qualified expenses for purposes of the tax credit. Thus, with respect to a single adoption, a worker could receive tax benefits for up to \$10,000 of adoption expenses (up to \$12,000 for the adoption of a child with special needs). Although the tax benefits from the employer exclusion may be less than from the tax credit for similar amounts of qualified expenses, the combination of the employer payment plus the benefit of the exclusion generally approximates the value of the tax credit.

³ United States Department of Labor, *Employee Benefits in Medium and Large Private Establishments*, 1997. p. 8.

⁴ Employer reimbursements that are excludable for income tax purposes are subject to Social Security and Medicare taxes.

⁵ There is no reason to believe that the availability of tax benefits for adoptive parents increases the number of healthy, non-foreign infants available for adoption.

Changes in the after-tax cost may have encouraged particular taxpayers, especially those with moderate incomes, to undertake the adoptions of children who would have been adopted in any event. Neither tax nor other currently available data permit an evaluation of the extent to which tax benefits may have affected the decisions of specific individuals who succeed in adopting children.

100 percent tax credits. Generally, tax credits are some percentage, but less than 100 percent, of a taxpayer's qualified expense. Tax credits for 100 percent of an expense are unusual, but not unprecedented, in the Federal income tax system.⁶ A 100 percent tax credit means that qualified expenses are fully paid by the government. As a result, adopting families whose expenses do not exceed the statutory maximum and who can make full use of the tax credit in the current year do not have a strong financial incentive to control their expenses or to resist fee increases by service providers and intermediaries. Financial incentives to control expenses are lessened, but not eliminated, for taxpayers whose expenses are not fully covered by a tax credit or employer reimbursement. To the extent that the tax benefits permit third parties to raise fees, those third parties, rather than the adopting families, are the beneficiaries of the adoption tax provisions.

Tax benefits versus direct expenditures. The value of a 100 percent tax credit generally will have the same value to the adopting family as would a direct government expenditure program that paid or reimbursed taxpayers' expenses, provided that the benefits under both programs are made available to the taxpayer at about the same time. Two provisions of the adoption tax benefits may delay when the value from them is received. First, for expenses paid in years prior to the year in which the adoption becomes final, the expenses are not considered for the adoption tax credit until the following year, or later. Second, taxpayers must have sufficient tax liability against which the tax credit may be deducted. Otherwise, some or all of the benefits from the tax credit will be delayed until later years.

Providing benefits via the income tax system may eliminate the need for interaction with another government agency to obtain the reimbursement and may reduce the duplication of information, especially information about income, provided to the government. However, with fewer limitations and conditions, tax benefits for adoption may be payable to a larger number of adopting families. As a result, if the same level of benefits is provided for each adoption, the tax program will have a greater total cost. Alternatively, for the same level of aggregate expenditures, the tax program may not achieve the same increase in the number of adoptions that would be achievable under an expenditure program of similar cost.

⁶ The income tax credit for the employer share of social security and Medicare taxes paid on the tip income of certain classes of tipped employees is an example of another 100 percent income tax credit. The credit is limited to the taxpayer's income tax liability (*i.e.*, it is not refundable), and unused credits may not be carried forward to future years. See section 45B of the Internal Revenue Code of 1986.

COMPLEXITY AND TAXPAYER BURDEN

In order to claim the benefits of the adoption tax credit or the employer exclusion, taxpayers must complete and file IRS Form 8839 as part of their annual income tax return. Form 8839 is two pages long and its instructions are four pages long and include several “worksheets” and several complicated instructions which provide information on how to proceed in different situations.⁷ Before completing the tax form, taxpayers need to gather information about the expenses incurred in the adoption process, determine which expenses are “qualifying,” and determine the year in which those qualifying expenses may be claimed for income tax purposes.

Form 8839 is one of the more complicated income tax forms that middle- and lower-income taxpayers need to use. Even if the computational complexity is handled for the taxpayer by computerized tax preparation software, complexity remains from the determination of qualifying expenses and from dealing with concepts that are unfamiliar to most taxpayers. For many users, some or all of the tax credit may have to be carried forward to, and considered for use in, future years. If taxpayers make errors in required arithmetic computations which require follow-up correspondence with the IRS or when the IRS requests verification of reported expenses, burdens will increase for the affected taxpayers. Moreover, taxpayer burden is compounded by the fact that Form 8839 is generally used by a given taxpayer for only one or two adoptions, so that the taxpayer’s burden is not reduced through experience from repetitive use.

The extra tax return completion complexity and burdens imposed on taxpayers who receive these two benefits is directly related to the statutory elements of the provisions and is the minimal amount essential to the computation of the benefits and to alert the IRS that benefits are being claimed. The tax filing process does not require taxpayers to submit with their tax returns either the details of their expenses by category or documents verifying the expenses.

Some adopting families may elect to obtain their adoption tax benefits through reduced income tax withholding on wages and salaries rather than through a tax refund during the following calendar year. To accomplish that, the family’s worker or workers will face the additional complexity and burden of determining, and applying for, the appropriate downward adjustment to their withholding in the year in which they are eligible for the adoption tax benefits, followed by a reversal of that adjustment in the following year (or the year after they have used all of their tax credit carryforwards).

ADMINISTRATIVE ISSUES

Providing benefits for adoption through the Federal income tax system rather than through a direct outlay program results in some administrative benefits as well as some administrative burdens.

The prime administrative benefit for taxpayers is eliminating the need to deal with a separate government agency and to file separate forms to obtain payment of, or reimbursement

⁷ A copy of Form 8839 for 1998 and its instructions is contained in Appendix A.

for, adoption-related expenses. To the extent that benefits may depend on family income, use of the Federal tax system reduces the need for families to supply to another government agency income information that has already been provided to the IRS.⁸ Dealing with IRS as part of the income tax filing process also eliminates the need for a separate government payment; the adoption tax benefits are provided simply through a reduction in the payment the taxpayer would otherwise have to make or an increase in the tax refund to the taxpayer. However, providing benefits through the tax system adds somewhat to the complexity of the tax system for all taxpayers.⁹

IRS examinations of the adoption-related portion of income tax returns impose administrative burdens on adoptive families. Not having to include substantiation of adoption expenses with the tax return and not having third-party reporting of such expenses directly to the IRS may result in taxpayers understating or overstating qualified expenses and including non-qualified expenses. Because the adoption provisions apply to only a tiny fraction of taxpayers (under 0.05 percent), IRS examiners are likely to have only limited expertise about the eligibility of various types of expenditures. Omissions of qualified adoption expenses are less likely to be discovered, to the adopting family's disadvantage, than would be the case under a direct outlay program. Even IRS examinations that could help taxpayers claim additional adoption benefits may place taxpayers under stress. Because the adoption benefits are part of the tax system, examinations must be performed under the rules for tax examinations, which can be both burdensome and stressful for taxpayers. And, if an examination uncovers errors or some claimed expenses are determined to be ineligible for the tax credit or exclusion, taxpayers will be subject to interest and, possibly, penalties in addition to having to pay back the tax benefits already received.

⁸ Reimbursements for the expenses of the adoptions of children with special needs are not based on the income of the adopting family.

⁹ The vast majority of taxpayers without adoption expenses have only a slight additional burden imposed from having to determine that the tax form line for the adoption credit does not apply to them. Taxpayers with adoption expenses that may only be considered in a future year and taxpayers with income exceeding the income related phaseout have greater additional burdens due to the data collection and calculations they are likely to perform before they realize that they are not entitled to benefits in the current year.

Appendix A

INCOME TAX FORM AND INSTRUCTIONS FOR ADOPTION BENEFITS FOR 1998

Qualified Adoption Expenses

Department of the Treasury
Internal Revenue Service

▶ Attach to Form 1040 or 1040A.

▶ See separate instructions.

Name(s) shown on return

Your social security number

Before you begin, you need to understand the following terms. See **Definitions** on page 1 of the instructions.

- **Eligible Child**
- **Employer-Provided Adoption Benefits**
- **Qualified Adoption Expenses**

Part I Information About Your Eligible Child or Children—You must complete this part. See the instructions for details, including what to do if you need more space.

1	(a) Child's name First Last		(b) Child's year of birth	Check if child was—			(f) Child's identifying number
				(c) born before 1980 and was disabled	(d) a child with special needs	(e) a foreign child	
Child 1			19	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	: : :
Child 2			19	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	: : :

Caution: If you received **employer-provided adoption benefits**, complete **Part III** on the back next.

Part II Adoption Credit

Caution: If the eligible child is a foreign child, you can take the credit only if the adoption was final in or before 1998.

	Child 1	Child 2	
2 Enter \$5,000 (\$6,000 for a child with special needs)	2		
3 Did you file a 1997 Form 8839? No. Enter -0-. Yes. See the instructions for the amount to enter.	3		
4 Subtract line 3 from line 2	4		
5 Enter the total qualified adoption expenses you paid in: ● 1997 if the adoption was not final by the end of 1998. ● 1997 and 1998 if the adoption was final in 1998. ● 1998 if the adoption was final before 1998.	5		
6 Enter the smaller of line 4 or line 5	6		
7 Add the amounts on line 6. If zero, skip lines 8-11, enter -0- on line 12, and go to line 13	7		
8 Enter your modified adjusted gross income (see instructions)	8		
9 If line 8 is \$75,000 or less, skip lines 9 and 10 and enter -0- on line 11. If line 8 is over \$75,000, subtract \$75,000 from the amount on line 8	9		
10 Divide line 9 by \$40,000. Enter the result as a decimal (rounded to at least three places). Do not enter more than "1.000"	10	×	
11 Multiply line 7 by line 10	11		
12 Subtract line 11 from line 7	12		
13 Enter any credit carryforward from 1997 (line 11 of your 1997 Form 8839)	13		
14 Add lines 12 and 13. Then, see the instructions for the amount of credit to enter on Form 1040, line 45, or Form 1040A, line 30 Note: If the credit you enter on Form 1040, line 45, or Form 1040A, line 30, is equal to the total of lines 12 and 13, stop ; you do not have any credit to carry forward to 1999.	14		
15 1997 credit carryforward to 1999 (see instructions)	15		
16 1998 credit carryforward to 1999 (see instructions)	16		

Part III Employer-Provided Adoption Benefits

Caution: If the eligible child is a foreign child, see **Special Rules** in the instructions for line 1, column (e), before completing this part.

		Child 1		Child 2		
17	Enter \$5,000 (\$6,000 for a child with special needs)	17				
18	Did you receive employer-provided adoption benefits for 1997? No. Enter -0-. Yes. See the instructions for the amount to enter. }	18				
19	Subtract line 18 from line 17. If zero or less, enter -0-	19				
20	Enter the total amount of your employer-provided adoption benefits received in 1998. This amount should be shown in box 13 of your 1998 W-2 form(s) with code T	20				
21	Add the amounts on line 20	21				
22	Enter the smaller of line 19 or line 20	22				
23	Add the amounts on line 22. If zero, skip lines 24-28, enter -0- on line 29, and go to line 30	23				
24	Enter your modified adjusted gross income (from the worksheet in the instructions)	24				
25	If line 24 is \$75,000 or less, skip lines 25-27 and enter the amount from line 23 on line 28. If line 24 is over \$75,000, subtract \$75,000 from the amount on line 24	25				
26	Divide line 25 by \$40,000. Enter the result as a decimal (rounded to at least three places). Do not enter more than "1.000"	26			×	
27	Multiply line 23 by line 26	27				
28	Subtract line 27 from line 23	28				
29	Excluded benefits. Enter the smaller of line 23 or line 28	29				
30	Taxable benefits. Subtract line 29 from line 21. Also, include this amount on Form 1040, line 7, or Form 1040A, line 7. On the line next to line 7, enter "AB"	30				

If the total adoption expenses you paid in 1998 were not fully reimbursed by your employer **AND** the adoption was final in or before 1998, you may be able to claim the adoption credit in Part II on the front of this form.





Instructions for Form 8839

Qualified Adoption Expenses

General Instructions

Purpose of Form

You may be able to take the adoption credit if you paid qualified adoption expenses in:

- 1997, or
- 1998 and the adoption was final in or before 1998.

Use Form 8839 to figure the amount of your credit.

If you received any **employer-provided adoption benefits** for 1998, you **MUST** use Form 8839 to figure the amount, if any, of benefits you may exclude from your income on line 7 of Form 1040 or Form 1040A. You need to complete Part III of Form 8839 before you can figure the credit, if any, in Part II.

Caution: *Special rules apply if you paid expenses or received benefits in connection with the adoption of an eligible foreign child. See the instructions for line 1, column (e), for details.*

Definitions

Eligible Child

An eligible child is:

- Any child **under age 18**. If the child turned 18 during the year, the child is an eligible child for the part of the year he or she was under age 18.
- Any disabled person not able to care for himself or herself.

Caution: *If you and another person adopted or tried to adopt an eligible child, see the instructions for line 2 (or line 17 if applicable) before you enter an amount on that line.*

Employer-Provided Adoption Benefits

These are amounts your employer paid directly to either you or a third party for qualified adoption expenses. Your salary may have been reduced to pay for these benefits. Employer-provided adoption benefits should be shown in box 13 of your 1998 W-2 form(s) with code T.

Qualified Adoption Expenses

For purposes of the credit, these are the reasonable and necessary expenses directly related to, and for the principal purpose of, the legal adoption of an eligible child.

Qualified adoption expenses **include**:

- Adoption fees.
- Attorney fees.
- Court costs.
- Travel expenses (including meals and lodging) while away from home.

Qualified adoption expenses **do not include** expenses:

- For which you received funds under any state, local, or Federal program.

- That violate state or Federal law.
- For carrying out a surrogate parenting arrangement.
- For the adoption of your spouse's child.
- Paid or reimbursed by your employer or any other person or organization.
- Paid before 1997.
- Allowed as a credit or deduction under any other provision of Federal income tax law.

Who May Take the Adoption Credit or Exclude Employer-Provided Adoption Benefits?

You may take the credit or exclusion if **all three** of the following apply.

1. Your filing status is Single, Head of household, Qualifying widow(er) with dependent child, or Married filing jointly. However, if your filing status is Married filing separately, see **Married Persons Filing Separate Returns** below.

2. Your modified AGI (adjusted gross income) is less than \$115,000. To figure your modified AGI, see the instructions for line 8 (for the credit) or line 24 (for the exclusion).

3. You report the required information about the eligible child on line 1.

Caution: *Special rules apply if the eligible child is a foreign child. See the instructions for line 1, column (e), for details.*

Married Persons Filing Separate Returns

You may take the credit or exclusion if you meet items **2** and **3** listed above and **all** of the following apply.

- You lived apart from your spouse during the last 6 months of 1998.
- The eligible child lived in your home more than half of 1998.
- You provided over half the cost of keeping up your home.

Line Instructions

Line 1

Complete all columns that apply to the eligible child you adopted or tried to adopt. If you do not give correct or complete information, your credit (and any applicable exclusion) may be disallowed.

If you cannot give complete information because you tried to adopt an eligible child but were not successful or the adoption was not final by the end of 1998, complete the entries you can on line 1. Enter "See Page 2" in the columns for which you do not have the information. Then, on the bottom of page 2, enter the name and address of

any agency or agent (such as an attorney) that assisted in the attempted adoption.

Child 1 or Child 2

If you tried to adopt **one** eligible child and you made more than one attempt to do so, combine the amounts you spent and enter the total on the "Child 1" line. **Do not** report the additional attempt(s) on the "Child 2" line. Complete the "Child 2" line **only** if you adopted or tried to adopt **two** eligible children. If you adopted or tried to adopt more than two eligible children, see **More Than Two Eligible Children** on this page.

Caution: If you filed a 1997 Form 8839 in connection with this adoption, enter your 1998 information on the same line (Child 1 or Child 2) that you used for 1997.

Column (a)

Enter the eligible child's name.

Column (c)

Check this box if the child was born **before 1980** and was disabled. A child is **disabled** if the child is physically or mentally unable to care for himself or herself.

Column (d)

Check this box if the child was also a child with special needs. A child is a **child with special needs** if **both** of the following apply.

1. The child was a citizen or resident of the United States or its possessions at the time the adoption process began.

2. A state (including the District of Columbia) has determined that the child cannot or should not be returned to his or her parents' home and probably will not be adopted unless assistance is provided to the adoptive parents. Factors used by states to make this determination include:

- The child's ethnic background and age,
- Whether the child is a member of a minority or sibling group, and
- Whether the child has a medical condition or a physical, mental, or emotional handicap.

Caution: If you check this box, be sure to keep evidence of the state's determination in your records.

Column (e)

Check this box if the child was a foreign child. A child is a **foreign child** if he or she was **not** a citizen or resident of the United States or its possessions at the time the adoption process began.

Special Rules. If you paid **qualified adoption expenses** in connection with the adoption of a foreign child and the adoption was **not final** by the end of 1998, you **cannot** use those expenses to figure your 1998 adoption credit. **Do not** include them on line 5 of Form 8839. If the adoption becomes final in 1999, you may be able to take a credit for those expenses on your 1999 return.

If you received **employer-provided adoption benefits** in 1998 in connection with the adoption of a foreign child and the adoption was not final by the end of 1998, you must include the benefits in the total entered on Form 1040, or Form 1040A, line 7. Also, enter "AB" (adoption benefits) next to line 7. If the adoption becomes final in 1999, you may be able to exclude the benefits from your 1999 income.

Exclusion of 1997 benefits. If you received employer-provided adoption benefits in 1997 in connection with the adoption of a foreign child **and** the adoption was final in 1998, you may be able to exclude part or all of those benefits from your 1998 income. To find out if you can, complete Part III of Form 8839 through line 29. However, on line 18, enter zero. On line 20, enter the total amount of employer-provided adoption benefits received in 1997 and 1998. On the dotted line next to line 20, enter "97 AB" and the amount of 1997 benefits received. Then, use the worksheet below to figure the amount of any 1997 benefits you may exclude and the amount, if any, to enter on line 30.

Exclusion of 1997 Benefits Worksheet (keep for your records)

1. Is the amount on your 1998 Form 8839, line 29, less than the amount on line 21?
No. Go to line 4.
Yes. Subtract line 29 from line 21 1. _____
2. Enter the **1997** employer-provided adoption benefits included on line 20 for the child..... 2. _____
3. **Taxable benefits.** Subtract line 2 from line 1. Enter the result, but not less than zero, here and on Form 8839, line 30. Also, include this amount, if more than zero, on line 7 of Form 1040 or Form 1040A. On the line next to line 7, enter "AB"..... 3. _____
4. Enter the amount from Form 8839, line 29 . 4. _____
5. Enter the **1998** employer-provided adoption benefits included on line 20 for the child..... 5. _____
6. **1997 excluded benefits.** Subtract line 5 from line 4 6. _____

Note: If line 5 is equal to or more than line 4, **stop here**; you **cannot** exclude any of your 1997 benefits.

Next: Figure the total you would enter on line 7 of Form 1040 or Form 1040A **before** you exclude the amount from line 6 above. Then, subtract the amount from line 6 above from that total. Enter the result on line 7 of Form 1040 or Form 1040A. On the line next to line 7, enter "97 AB" and the amount from line 6 above.

Column (f)

Enter the child's identifying number. This may be a social security number (SSN), an adoption taxpayer identification number (ATIN), or an individual taxpayer identification number (ITIN).

To get an —

- SSN, use **Form SS-5.**
- ATIN, use **Form W-7A.**
- ITIN, use **Form W-7.**

More Than Two Eligible Children

If you adopted or tried to adopt more than two eligible children, fill in and attach as many Forms 8839 as you need to list them. Also, enter "See Attached" to the right of the **Caution** below line 1.

For **Part II**, fill in lines 2 through 6 for each child. But fill in lines 7 through 16 on only one Form 8839. The amount on line 7 of that Form 8839 should be the combined total of the amounts on line 6 of all the Forms 8839.

For **Part III**, fill in lines 17 through 20 and 22 for each child. But fill in lines 21 and 23 through 30 on only one Form 8839. The amount on line 21 of that Form 8839 should be the combined total of the amounts on line 20 of all the Forms 8839, and the amount on line 23 should be the combined total of the amounts on line 22.

Line 2

Enter \$5,000 (\$6,000 if the child was also a child with special needs). If you and another person each paid qualified adoption expenses to adopt the same child, the \$5,000 limit (or \$6,000 if applicable) must be divided between the two of you in any way you both agree. If the other person is your spouse and you are filing a joint return, this rule does not apply.

Line 3

If you filed a 1997 Form 8839 in connection with the adoption of the child, enter the amount shown on line 4 of that form for the child. If you filed a 1997 Form 8839 in connection with the adoption of another child, enter zero.

Line 8

Use the following chart to find your modified AGI (adjusted gross income) to enter on line 8.

IF you file...	THEN enter on line 8 the amount from...
Form 1040	Form 1040, line 34, increased by the total of any: <ul style="list-style-type: none"> ● Exclusion of income from Puerto Rico, and ● Amount from— <ul style="list-style-type: none"> ● Form 2555, lines 43 and 48. ● Form 2555-EZ, line 18. ● Form 4563, line 15.
Form 1040A	Form 1040A, line 19

Line 14

The amount of your credit may be limited. To find out if it is, complete the **Credit Limit Worksheet** on this page.

Credit Limit Worksheet—Line 14

(keep for your records)

Caution: Form 1040 filers, if you are claiming the mortgage interest credit (see the instructions for Form 1040, line 47), complete **Form 8396** before you begin.

1. **Form 1040 filers**, enter the amount from Form 1040, line 40, minus the total of any amounts on lines 41 through 44, and any mortgage interest credit from Form 8396, line 11. **Form 1040A filers**, enter the amount from Form 1040A, line 25, minus the total of any amounts on lines 26 through 29 1. _____
2. Enter the amount from Form 8839, line 14 2. _____
3. Enter the **smaller** of line 1 or line 2. Also, enter this amount on Form 1040, line 45, or Form 1040A, line 30. If line 1 is the smaller amount, replace the amount on Form 8839, line 14, with that new amount... 3. _____

Lines 15 and 16

If you had to replace the amount on line 14 of Form 8839 with a new amount from the **Credit Limit Worksheet**, you have an unused credit to carry forward to the next 5 years or until used, whichever comes first. Use the worksheet below to figure the amount of your credit carryforward. If you have any unused credit to carry forward to 1999, be sure you keep a copy of your 1998 Form 8839. You will need it to figure your credit for 1999.

Credit Carryforward Worksheet—Lines 15 and 16

(keep for your records)

1. Enter the amount from line 2 of the Credit Limit Worksheet above 1. _____
2. Enter the new amount from Form 8839, line 14 2. _____
3. Subtract line 2 from line 1 3. _____
4. Do you have a credit carryforward from 1997?
 - No.** **Stop here**; enter -0- on Form 8839, line 15, and enter the amount from line 3 above on line 16.
 - Yes.** Enter the amount from Form 8839, line 13 4. _____
5. If line 4 above is equal to or less than line 2, enter -0-. If line 4 is more than line 2, subtract line 2 from line 4..... 5. _____
6. Subtract line 5 from line 3. If the result is zero, enter -0- 6. _____

Next: Enter the amount, if more than zero, from line 5 above on Form 8839, line 15. Then, enter the amount, if more than zero, from line 6 above on Form 8839, line 16.

Line 17

Enter \$5,000 (\$6,000 if the child was also a child with special needs). If you and another person each received employer-provided adoption benefits in connection with the adoption of the same eligible child, the \$5,000 limit (or \$6,000 if applicable) must be divided between the two of you in any way you both agree. If the other person is your spouse and you are filing a joint return, this rule does not apply.

Line 18

If you received employer-provided adoption benefits in 1997 in connection with the adoption of the child, enter the amount shown on line 15 of your 1997 Form 8839 for the child. If the 1997 benefits were received in connection with the adoption of a different child, enter zero on line 18.

Caution: If the 1997 benefits were received in connection with the adoption of a foreign child and the adoption was final in 1998, see **Exclusion of 1997 benefits** on page 2.

Line 24

Follow these steps before you fill in the line 24 worksheet on this page.

Step	Action						
1	Figure the amount you would enter on line 7 of Form 1040 or 1040A if you could exclude the total amount on Form 8839, line 21.						
2	If you received social security benefits, use Pub. 915 to figure the taxable amount of your benefits.						
3	If you made contributions to a traditional IRA for 1998 and you were covered by a retirement plan at work or through self-employment, use Pub. 590 to figure your IRA deduction.						
4	If you file Form 1040, figure any amount to be entered on the dotted line next to line 32.						
5	Complete the following lines on your return if they apply: <table border="1" data-bbox="230 1423 782 1669"> <thead> <tr> <th>IF you file...</th> <th>THEN complete...</th> </tr> </thead> <tbody> <tr> <td>Form 1040</td> <td>Lines 8a, 8b, 9 through 21, 23, and 25 through 31a</td> </tr> <tr> <td>Form 1040A</td> <td>Lines 8a, 8b, 9 through 13b, and 15</td> </tr> </tbody> </table>	IF you file...	THEN complete...	Form 1040	Lines 8a, 8b, 9 through 21, 23, and 25 through 31a	Form 1040A	Lines 8a, 8b, 9 through 13b, and 15
IF you file...	THEN complete...						
Form 1040	Lines 8a, 8b, 9 through 21, 23, and 25 through 31a						
Form 1040A	Lines 8a, 8b, 9 through 13b, and 15						

Modified AGI Worksheet—Line 24 (keep for your records)

1. Enter the amount you would enter on line 7 of Form 1040 or 1040A if you could exclude the total amount on Form 8839, line 21 **1.** _____
 2. Enter the amount from Form 8839, line 21 . **2.** _____
 3. **Form 1040 filers**, add the amounts on lines 8a, 9 through 14, 15b, 16b, 17 through 19, 20b, and 21. Enter the total. **Form 1040A filers**, add the amounts on lines 8a, 9, 10b, 11b, 12, and 13b. Enter the total..... **3.** _____
 4. Add lines 1, 2, and 3..... **4.** _____
 5. **Form 1040 filers**, enter the total of the amounts from lines 23 and 25 through 31a, plus any amount entered on the dotted line next to line 32. **Form 1040A filers**, enter the amount from line 15..... **5.** _____
 6. Subtract line 5 from line 4..... **6.** _____
- Form 1040 filers**, increase the amount on line 6 above by the total of the following amounts. Enter the total on Form 8839, line 24.

- Any amount from **Form 2555**, lines 43 and 48; **Form 2555-EZ**, line 18; and **Form 4563**, line 15, and
- Any exclusion of income from Puerto Rico.

Form 1040A filers, enter on Form 8839, line 24, the amount from line 6 above.

Caution: For purposes of the credit, your modified AGI may be different. If you are taking the credit, be sure to read the instructions for line 8 on page 3 before you enter an amount on that line.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Internal Revenue Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 46 min.; **Learning about the law or the form**, 20 min.; **Preparing the form**, 1 hr., 31 min.; and **Copying, assembling, and sending the form to the IRS**, 35 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for Form 1040 or 1040A.

Appendix B

FEDERAL EXPENDITURE PROGRAMS FOR ADOPTION

The Federal programs promoting adoption are administered through direct expenditure programs and tax benefits. This appendix provides a brief overview of the major expenditure programs. Federal expenditure programs in support of adoption are focused on children in the child welfare system, generally children who are or, who have been, in foster care. Federal outlays for non-tax adoption assistance programs, both initial adoption assistance and continuing support, were \$707 million in Fiscal Year 1998, \$839 million in Fiscal Year 1999, and are estimated to be \$980 million in Fiscal year 2000.

TITLE IV-E ADOPTION ASSISTANCE PROGRAM

The Federal program to assist adoption was established by the Adoption Assistance and Child Welfare Act of 1980, P.L. 96-272. The program is intended to assure that families adopting children with special needs from the public child welfare system would have the necessary services and funding to meet the children's significant and varied needs. The Title IV-E program provides funds to States to assist in paying maintenance costs for adopted children who are eligible for Temporary Assistance to Needy Families (TANF) or Supplemental Security Income (SSI) and who are children with special needs as defined by the particular State.¹ Funds are also used for the administrative costs of managing the program and training staff. The goal of this program is to facilitate the placement of hard-to-place children in permanent adoptive homes and thus prevent long, inappropriate stays in foster care. Federal funds for continuing assistance are matched by State funds at the same rate as Medicaid. Federal funds for one-time adoption expenses are matched by State funds at a 50 percent rate. For 1998, 31,115 of the 36,000 children adopted from the public foster care system were receiving continuing support.² Additional data on children in foster care are provided in Chapter IV.

Each State must establish a Title IV-E adoption assistance program that provides to families adopting eligible children:

- Monthly maintenance payments;
- Medicaid coverage;
- Certain social services; and
- Reimbursement of up to \$2,000 for nonrecurring (one-time) adoption expenses.

¹ Children with special needs are generally children who are older, have physical or mental disabilities, and/or have siblings who also need adoptive parents. In some States, racial characteristics may also be a criterion for special needs. The exact definition of special needs children depends on State law. Certain children who are determined to have special needs by a State are eligible for support and adoption assistance from programs financed solely by State funds.

² United States Department of Health and Human Services, Administration for Children and Families, *The AFCARS Report, Interim Estimates for Fiscal Year 1998 - - April 2000* (3).

TITLE IV-B, SUBPART 1, CHILD WELFARE SERVICES PROGRAM

The Title IV-B, subpart 1, Child Welfare Services Program provides funding for State public welfare agencies to improve their child welfare services with the goal of keeping families together. State services include preventive intervention, so that, if possible, children will not have to be removed from their homes; services to develop alternative placements such as foster care or adoption, if children cannot remain at home; and reunification services so that, if possible, children who have been removed from their homes can return home.

TITLE IV-B, SUBPART 2, PROMOTING SAFE AND STABLE FAMILIES PROGRAM

The Title IV-B, subpart 2, Promoting Safe and Stable Families program is a more restricted program which provides funds to States for family support, family preservation, time-limited family reunification, and adoption promotion and support.

ADOPTION OPPORTUNITIES GRANT PROGRAM

Funds from the Adoption Opportunities Grant Program provide support for demonstration projects that facilitate the elimination of barriers to adoption and provide permanent homes for children who would benefit from adoption, particularly children with special needs. The Administration on Children, Youth and Families in the Department of Health and Human Services expects to award approximately 110 new competitive grants in fiscal year 2000 with funding at approximately \$11 million for Adoption Opportunities grants.

ADMINISTRATION INITIATIVES

On December 14, 1996, President Clinton issued an Executive Memorandum that directed the Secretary of Health and Human Services to recommend strategies to accelerate the movement of children from foster care into permanent homes. The goal was to double the number of adoptions and other permanent placements from the public foster care system by the year 2002. The Executive Memorandum also called for continued aggressive implementation of the Howard M. Metzenbaum Multiethnic Placement Act of 1994, as amended (MEPA), P.L. 103-382 and Section 1808, Removal of Barriers to Interethnic Adoption, of the Small Business Job Protection Act of 1996, P.L. 104-188, and for the development and dissemination of information about the new adoption tax credits and other adoption benefits.

Strategies for implementing that Presidential directive were presented in *Adoption 2002: A Response to the Presidential Executive Memorandum on Adoption*.³ This document, *Adoption 2000*, is a blueprint for Federal leadership in adoption for children in the public child welfare system. *Adoption 2002* outlined an agenda to overcome barriers to the placement of children from foster care to permanent homes and barriers to accelerating the path to permanent placement for all children waiting in the public child welfare system.

³ U.S. Department of Health and Human Services, Administration for Children and Families, February 14, 1997.

On November 24, 1998, President Clinton issued an Executive Memorandum, "Using the Internet to Increase Adoptions," which instructed the Department of Health and Human Services to expand use of the Internet to share information about children who are legally free for adoption in order to shorten the time needed to find them adoptive families.

ADOPTION AND SAFE FAMILIES ACT OF 1997

The Adoption and Safe Families Act of 1997 (ASFA), P.L. 105-89, contained provisions to help accelerate and insure the movement of children from the States' child welfare systems to adoptive homes or other permanent placements. Its provisions parallel and implement the central recommendations of the Administration's *Adoption 2002* initiative.

ASFA's goal is to shorten the time frame for making permanency planning decisions, establish a time frame for initiating proceedings to terminate parental rights, clarify reasonable efforts to return the child to the parental home, and call for every State to ensure that its laws and regulations comply with the new provisions, so that children in the State's child welfare system are able to move to adoptive homes or other permanent placement more quickly.

ASFA also provided an incentive to States to increase the number of adoptions for children waiting in the foster care system. In Fiscal Year 2000, 44 States and jurisdictions received shares of the \$19 million in adoption incentive awards based on their Fiscal Year 1999 performance.

CHILD WELFARE DEMONSTRATION WAIVERS

The Adoption and Safe Families Act of 1997 also authorized the Department of Health and Human Services to approve up to 10 demonstration projects each year through 2002. These demonstration projects involve the waiver of certain requirements of titles IV-B and IV-E, the sections that govern foster care, adoption assistance, independent living, child welfare services, promoting safe and stable families, family preservation and support, and related expenses for program administration, training and automated systems. This authority provides States with an opportunity to develop approaches to remove the many barriers that may exist between children waiting in foster care and their adoption or permanent placement. The States can design and demonstrate a wide range of approaches to improve and reform child welfare. Twenty-four child welfare demonstration projects have been approved in 21 States and the District of Columbia.

COURT IMPROVEMENT PROGRAM

The Court Improvement Program provides funding to State courts to improve the handling of foster care and adoption proceedings. The Court Improvement Program has strengthened the focus on judicial decision-making and the role that courts play in attaining safe, permanent homes for children.

ACKNOWLEDGMENTS

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Jonathan Talisman

