

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.602. Tax forms and instructions.
(Also Part I, §§ 23, 36C, 137)

Rev. Proc. 2010-35

SECTION 1. PURPOSE

This revenue procedure modifies and supersedes sections 3.03 and 3.14 of Rev. Proc. 2009-50, 2009-45 I.R.B. 617, to reflect the statutory amendments by the Patient Protection and Affordable Care Act, Pub. L. 111-148, 124 Stat. 119 (PPACA) to the adoption credit under § 36C (formerly § 23) and the exclusion for adoption assistance programs under § 137.

SECTION 2. BACKGROUND

For taxable years beginning in 2010, §10909(a)(1) of PPACA increased the maximum adoption credit and the maximum adoption assistance exclusion from \$12,170 to \$13,170.

SECTION 3. MODIFICATION OF REV. PROC. 2009-50

To reflect the statutory amendments by PPACA to §§ 36C and 137, sections 3.03 and 3.14 of Rev. Proc. 2009-50 are modified to read as follows:

.03 Adoption Credit. For taxable years beginning in 2010, under § 36C(a)(3) the credit allowed for an adoption of a child with special needs is \$13,170. For taxable years beginning in 2010, under § 36C(b)(1) the maximum credit allowed for other adoptions is the amount of qualified adoption expenses up to \$13,170. The available adoption credit begins to phase out under § 36C(b)(2)(A) for taxpayers with modified adjusted gross income in excess of \$182,520 and is completely phased out for taxpayers with modified adjusted gross income of \$222,520 or more. (See section 3.14 of this revenue procedure for the adjusted items relating to adoption assistance programs.)

.14 Adoption Assistance Programs. For taxable years beginning in 2010, under § 137(a)(2) the amount that can be excluded from an employee's gross income for the adoption of a child with special needs is \$13,170. For taxable years beginning in 2010, under § 137(b)(1) the maximum amount that can be excluded from an employee's gross income for the amounts paid or expenses incurred by an employer for qualified adoption expenses furnished pursuant to an adoption assistance program for other adoptions by the employee is \$13,170. The amount excludable from an employee's gross income begins to phase out under § 137(b)(2)(A) for taxpayers with modified adjusted gross income in excess of \$182,520 and is completely phased out for taxpayers with modified adjusted gross income of \$222,520 or more. (See section 3.03 of this revenue procedure for the adjusted items relating to the adoption credit.)

SECTION 4. EFFECT ON OTHER DOCUMENTS

Sections 3.03 and 3.14 of Rev. Proc. 2009-50 are modified and superseded effective for taxable years beginning in 2010.

SECTION 5. DRAFTING INFORMATION

The principal author of this revenue procedure is Marilyn E. Brookens of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Ms. Brookens at (202) 622-4920 (not a toll free call).