AMENDED IN ASSEMBLY APRIL 20, 2009

AMENDED IN ASSEMBLY MARCH 5, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 47

Introduced by Assembly Members Ma and Niello
(Principal coauthor: Assembly Member Miller)
(Principal coauthor: Senator Alquist)
(Coauthors: Assembly Members Beall, Bill Berryhill, Tom Berryhill, Chesbro, DeVore, Fletcher, *Fuentes,* Galgiani, *Garrick,* Gilmore, Hagman, Nestande, Price, Salas, and Silva)
(Coauthors: Senators Cedillo and Florez)

December 1, 2008

An act to amend, repeal, and add Section 17052.25 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 47, as amended, Ma. Income taxes: credit: adoption costs.

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law, including a credit in an amount equal to 50% of specified adoption costs, not to exceed $2,500 per minor child who is a citizen or legal resident of the United States and who is in the custody of a public agency in this state.

This bill would, for taxable years beginning on or after January 1, ~~2009~~ *2010,* and before January 1, 2015, increase the credit limitation to a maximum of $5,000 with respect to the adoption of a minor child, as described, who is over 12 years of age or who was living in a group home or residential treatment facility, *as defined,* for a period of at least 6 months within 18 months prior to the time the adoption is completed.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) This act is intended to complement the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), which provides enhanced incentive funding to states that successfully increase adoptions of older youth from foster care.

(b) The adoption of foster youth 12 years of age or older is an important issue that needs to be addressed by the Legislature.

(c) Less than 11 percent of the adoptions completed annually in California are of foster children who are 12 years of age or older, despite the fact that older youth represent approximately 40 percent of the foster care caseload.

(d) This act is intended to create additional incentives for prospective adoptive parents to adopt older foster youth by removing monetary barriers that might otherwise hinder the adoption of these older foster youth.

(e) There is evidence that when other adoption incentive measures have been enacted, the numbers of adoptions in this state have increased.

SEC. 2. Section 17052.25 of the Revenue and Taxation Code is amended to read:

17052.25. (a) (1) For each taxable year beginning on or after January 1, 1994, and before January 1, 2015, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to 50 percent of the costs paid or incurred by a taxpayer for the adoption of any minor child who is a citizen or legal resident of the United States and was in the custody of a public agency of either this state or a political subdivision of this state. Except as provided in paragraph (2), the credit shall not exceed two thousand five hundred dollars ($2,500) per minor child.

(2) For each taxable year beginning on or after January 1, ~~2009~~ *2010*, and before January 1, 2015, if the minor child is over 12 years of age at the time of his or her adoption, or if the minor child was living in a group home or residential treatment facility for a period of at least six months within 18 months prior to the date the adoption is completed, or if the minor child is both over 12 years of age at the time of his or her adoption and was living in a group home or residential treatment facility for a period of at least six months within 18 months prior to the date the adoption is completed, the credit shall not exceed five thousand dollars ($5,000) per minor child.

(b) "Costs" eligible for the credit pursuant to subdivision (a) shall include the following:

(1) Fees for required services of either the Department of Social Services or a licensed adoption agency.

(2) Travel and related expenses for the adoptive family that are directly related to the adoption process.

(3) Medical fees and expenses that are not reimbursed by insurance and are directly related to the adoption process.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Group home" means a nondetention privately operated residential home of any capacity.

(2) "Residential treatment facility" means a family home, group care facility, or similar facility determined by the State Public Health Officer, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living for the protection of the individual.

~~(c)~~

(d) The credit authorized by this section shall be claimed for the taxable year in which the decree or order of adoption is entered pursuant to Section 8612 of the Family Code. However, the allowable credit claimed may include any costs of that adoption paid or incurred in any prior taxable year.

~~(d)~~

(e) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the total credit is exhausted.

~~(e)~~

(f) Any deduction otherwise allowed under this part for any amount paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit allowed under this section.

~~(f)~~

(g) This section shall remain in effect only until December 1, 2015, and as of that date is repealed.

SEC. 3. Section 17052.25 is added to the Revenue and Taxation Code, to read:

17052.25. (a) For each taxable year beginning on or after January 1, 2015, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to 50 percent of the costs paid or incurred by a taxpayer for the adoption of any minor child who is a citizen or legal resident of the United States and was in the custody of a public agency of either this state or a political subdivision of this state. The credit shall not exceed two thousand five hundred dollars ($2,500) per minor child.

(b) "Costs" eligible for the credit pursuant to subdivision (a) shall include the following:

(1) Fees for required services of either the State Department of Social Services or a licensed adoption agency.

(2) Travel and related expenses for the adoptive family that are directly related to the adoption process.

(3) Medical fees and expenses that are not reimbursed by insurance and are directly related to the adoption process.

(c) The credit authorized by this section shall be claimed for the taxable year in which the decree or order of adoption is entered pursuant to Section 8612 of the Family Code. However, the allowable credit claimed may include any costs of that adoption paid or incurred in any prior taxable year.

(d) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the total credit of two thousand five hundred dollars ($2,500) per minor child is exhausted.

(e) Any deduction otherwise allowed under this part for any amount paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit allowed under this section.

(f) This section shall become operative on January 1, 2015, and apply to taxable years beginning on or after that date.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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