

118TH CONGRESS
1ST SESSION

S. 2895

To amend the Internal Revenue Code of 1986 to provide for a refundable adoption tax credit.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2023

Mr. CASEY (for himself, Mr. CRAMER, Mr. BROWN, Mrs. CAPITO, Ms. DUCKWORTH, Mrs. FEINSTEIN, Mr. FETTERMAN, Mr. HAWLEY, Mrs. HYDE-SMITH, Mr. KELLY, Ms. KLOBUCHAR, Mr. LANKFORD, Mr. LUJÁN, Mr. RISCH, Mr. ROUNDS, Mr. RUBIO, Mr. SCOTT of South Carolina, Ms. STABENOW, Mr. VAN HOLLEN, Mr. WARNER, Ms. WARREN, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide for a refundable adoption tax credit.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Adoption Tax Credit
5 Refundability Act of 2023”.

6 **SEC. 2. REFUNDABLE ADOPTION TAX CREDIT.**

7 (a) CREDIT MADE REFUNDABLE.—

1 (1) CREDIT MOVED TO SUBPART RELATING TO
2 REFUNDABLE CREDITS.—The Internal Revenue
3 Code of 1986 is amended—

4 (A) by redesignating section 23 as section
5 36C, and

6 (B) by moving section 36C (as so redesignated) from subpart A of part IV of subchapter A of chapter 1 to the location immediately before section 37 in subpart C of part IV of subchapter A of chapter 1.

11 (2) CONFORMING AMENDMENTS.—

12 (A) Section 25(e)(1)(C) of such Code is amended by striking “sections 23 and 25D” and inserting “section 25D”.

15 (B) Section 36C of such Code, as so redesignated, is amended—

17 (i) in subsection (b)(2)(A), by striking
18 “(determined without regard to subsection
19 (c))”,

20 (ii) by striking subsection (c), and

21 (iii) by redesignating subsections (d) through (i) as subsections (e) through (h), respectively.

24 (C) Section 137 of such Code is amended—
25

1 (i) in subsection (d), by striking “sec-
2 tion 23(d)” and inserting “section
3 36C(e)”, and

4 (ii) in subsection (e), by striking “sub-
5 sections (e), (f), and (g) of section 23” and
6 inserting “subsections (d), (e), and (f) of
7 section 36C”.

8 (D) Section 1016(a)(26) of such Code is
9 amended by striking “23(g)” and inserting
10 “36C(f)”.

11 (E) Section 6211(b)(4)(A) of such Code is
12 amended by inserting “36C,” after “36B,”.

13 (F) The table of sections for subpart A of
14 part IV of subchapter A of chapter 1 of such
15 Code is amended by striking the item relating
16 to section 23.

17 (G) Paragraph (2) of section 1324(b) of
18 title 31, United States Code, is amended by in-
19 serting “36C,” after “36B,”.

20 (H) Paragraph (33) of section 471(a) of
21 the Social Security Act (42 U.S.C. 671(a)) is
22 amended by striking “section 23” and inserting
23 “section 36C”.

24 (I) The table of sections for subpart C of
25 part IV of subchapter A of chapter 1 of the In-

1 ternal Revenue Code of 1986 is amended by in-
2 serting after the item relating to section 36B
3 the following new item:

“Sec. 36C. Adoption expenses.”.

4 (b) **THIRD-PARTY AFFIDAVITS.**—Section 36C(h) of
5 the Internal Revenue Code of 1986, as redesignated and
6 moved by subsection (a), is amended—

7 (1) by striking “such regulations” and inserting
8 “such regulations and guidance”,

9 (2) by striking “including regulations which
10 treat” and inserting “including regulations and
11 guidance which—

12 “(1) treat”,

13 (3) by striking the period at the end and insert-
14 ing “, and”, and

15 (4) by adding at the end the following:

16 “(2) provide for a standardized third-party affi-
17 davit for purposes of verifying a legal adoption—

18 “(A) of a type with respect to which quali-
19 fied adoption expenses may be paid or incurred,
20 or

21 “(B) involving a child with special needs
22 for purposes of subsection (a)(3).”.

23 (c) **EFFECTIVE DATE.**—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2022.

1 (d) TRANSITIONAL RULE TO TREAT CARRYFORWARD
2 AS REFUNDABLE CREDIT.—In the case of any excess de-
3 scribed in section 23(c) of the Internal Revenue Code of
4 1986 with respect to any taxpayer for the taxable year
5 which precedes the first taxable year to which the amend-
6 ments made by this section apply, such excess shall be
7 added to the credit allowable under section 36C(a) of such
8 Code with respect to such taxpayer for such first taxable
9 year.

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