

112TH CONGRESS  
2D SESSION

# S. 3616

To amend the Internal Revenue Code of 1986 to make permanent the expansion of tax benefits for adoption enacted in 2001 and to permanently reinstate the expansion of tax benefits for adoption enacted in 2010, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2012

Ms. LANDRIEU (for herself, Mr. CARDIN, Mr. BLUNT, and Mrs. HUTCHISON) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to make permanent the expansion of tax benefits for adoption enacted in 2001 and to permanently reinstate the expansion of tax benefits for adoption enacted in 2010, and for other purposes.

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 “Making Adoption Af-  
5       fordable Act of 2012”.

1 **SEC. 2. EXPANDED TAX BENEFITS FOR ADOPTION MADE**  
 2 **PERMANENT.**

3 (a) EXPANSIONS ENACTED IN 2001 MADE PERMA-  
 4 NENT.—Section 901 of the Economic Growth and Tax Re-  
 5 lief Reconciliation Act of 2001 shall not apply to the  
 6 amendments made by section 202 of such Act.

7 (b) EXPANSIONS ENACTED IN 2010 PERMANENTLY  
 8 REINSTATED.—

9 (1) INCREASE IN DOLLAR LIMITATION.—

10 (A) ADOPTION CREDIT.—

11 (i) IN GENERAL.—Paragraph (1) of  
 12 section 23(b) of the Internal Revenue Code  
 13 of 1986 is amended by striking “\$10,000”  
 14 and inserting “\$13,170”.

15 (ii) CHILD WITH SPECIAL NEEDS.—  
 16 Paragraph (3) of section 23(a) of such  
 17 Code is amended—

18 (I) in the text by striking  
 19 “\$10,000” and inserting “\$13,170”,  
 20 and

21 (II) in the heading by striking  
 22 “\$10,000” and inserting “\$13,170”.

23 (iii) CONFORMING AMENDMENT TO IN-  
 24 FLATION ADJUSTMENT.—Subsection (h) of  
 25 section 23 of such Code is amended to  
 26 read as follows:

1 “(h) ADJUSTMENTS FOR INFLATION.—

2 “(1) DOLLAR LIMITATIONS.—In the case of a  
3 taxable year beginning after December 31, 2010,  
4 each of the dollar amounts in subsections (a)(3) and  
5 (b)(1) shall be increased by an amount equal to—

6 “(A) such dollar amount, multiplied by

7 “(B) the cost-of-living adjustment deter-  
8 mined under section 1(f)(3) for the calendar  
9 year in which the taxable year begins, deter-  
10 mined by substituting ‘calendar year 2009’ for  
11 ‘calendar year 1992’ in subparagraph (B)  
12 thereof.

13 If any amount as increased under the preceding sen-  
14 tence is not a multiple of \$10, such amount shall be  
15 rounded to the nearest multiple of \$10.

16 “(2) INCOME LIMITATION.—In the case of a  
17 taxable year beginning after December 31, 2002, the  
18 dollar amount in subsection (b)(2)(A)(i) shall be in-  
19 creased by an amount equal to—

20 “(A) such dollar amount, multiplied by

21 “(B) the cost-of-living adjustment deter-  
22 mined under section 1(f)(3) for the calendar  
23 year in which the taxable year begins, deter-  
24 mined by substituting ‘calendar year 2001’ for

1           ‘calendar year 1992’ in subparagraph (B)  
2           thereof.

3           If any amount as increased under the preceding sen-  
4           tence is not a multiple of \$10, such amount shall be  
5           rounded to the nearest multiple of \$10.”.

6           (B) ADOPTION ASSISTANCE PROGRAMS.—

7                   (i) IN GENERAL.—Paragraph (1) of  
8                   section 137(b) of the Internal Revenue  
9                   Code of 1986 is amended by striking  
10                   “\$10,000” and inserting “\$13,170”.

11                   (ii) CHILD WITH SPECIAL NEEDS.—  
12                   Paragraph (2) of section 137(a) of such  
13                   Code is amended—

14                           (I) in the text by striking  
15                           “\$10,000” and inserting “\$13,170”,  
16                           and

17                           (II) in the heading by striking  
18                           “\$10,000” and inserting “\$13,170”.

19                   (iii) CONFORMING AMENDMENT TO IN-  
20                   FLATION ADJUSTMENT.—Subsection (f) of  
21                   section 137 of such Code is amended to  
22                   read as follows:

23           “(f) ADJUSTMENTS FOR INFLATION.—

24                   “(1) DOLLAR LIMITATIONS.—In the case of a  
25                   taxable year beginning after December 31, 2010,

1 each of the dollar amounts in subsections (a)(2) and  
2 (b)(1) shall be increased by an amount equal to—

3 “(A) such dollar amount, multiplied by

4 “(B) the cost-of-living adjustment deter-  
5 mined under section 1(f)(3) for the calendar  
6 year in which the taxable year begins, deter-  
7 mined by substituting ‘calendar year 2009’ for  
8 ‘calendar year 1992’ in subparagraph (B)  
9 thereof.

10 If any amount as increased under the preceding sen-  
11 tence is not a multiple of \$10, such amount shall be  
12 rounded to the nearest multiple of \$10.

13 “(2) INCOME LIMITATION.—In the case of a  
14 taxable year beginning after December 31, 2002, the  
15 dollar amount in subsection (b)(2)(A) shall be in-  
16 creased by an amount equal to—

17 “(A) such dollar amount, multiplied by

18 “(B) the cost-of-living adjustment deter-  
19 mined under section 1(f)(3) for the calendar  
20 year in which the taxable year begins, deter-  
21 mined by substituting ‘calendar year 2001’ for  
22 ‘calendar year 1992’ in subparagraph (B)  
23 thereof.

1 If any amount as increased under the preceding sen-  
2 tence is not a multiple of \$10, such amount shall be  
3 rounded to the nearest multiple of \$10.”.

4 (2) CREDIT MADE REFUNDABLE.—

5 (A) CREDIT MOVED TO SUBPART RELAT-  
6 ING TO REFUNDABLE CREDITS.—The Internal  
7 Revenue Code of 1986 is amended—

8 (i) by redesignating section 23, as  
9 amended by subsection (a), as section 36C,  
10 and

11 (ii) by moving section 36C (as so re-  
12 designated) from subpart A of part IV of  
13 subchapter A of chapter 1 to the location  
14 immediately before section 37 in subpart C  
15 of part IV of subchapter A of chapter 1.

16 (B) CONFORMING AMENDMENTS.—

17 (i) Section 24(b)(3)(B) of such Code  
18 is amended by striking “23,”.

19 (ii) Section 25(e)(1)(C) of such Code  
20 is amended by striking “23,” both places it  
21 appears.

22 (iii) Section 25A(i)(5)(B) of such  
23 Code is amended by striking “23, 25D,”  
24 and inserting “25D”.

1 (iv) Section 25B(g)(2) of such Code is  
2 amended by striking “23,”.

3 (v) Section 26(a)(1) of such Code is  
4 amended by striking “23,”.

5 (vi) Section 30(c)(2)(B)(ii) of such  
6 Code is amended by striking “23, 25D,”  
7 and inserting “25D”.

8 (vii) Section 30B(g)(2)(B)(ii) of such  
9 Code is amended by striking “23,”.

10 (viii) Section 30D(c)(2)(B)(ii) of such  
11 Code is amended by striking “sections 23  
12 and” and inserting “section”.

13 (ix) Section 36C of such Code, as so  
14 redesignated, is amended—

15 (I) by striking paragraph (4) of  
16 subsection (b), and

17 (II) by striking subsection (c).

18 (x) Section 137 of such Code is  
19 amended—

20 (I) by striking “section 23(d)” in  
21 subsection (d) and inserting “section  
22 36C(d)”, and

23 (II) by striking “section 23” in  
24 subsection (e) and inserting “section  
25 36C”.

1 (xi) Section 904(i) of such Code is  
2 amended by striking “23,”.

3 (xii) Section 1016(a)(26) of such  
4 Code is amended by striking “23(g)” and  
5 inserting “36C(g)”.

6 (xiii) Section 1400C(d) of such Code  
7 is amended by striking “23,”.

8 (xiv) Section 6211(b)(4)(A) of such  
9 Code is amended by inserting “36C,” be-  
10 fore “53(e)”.

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

15 (xvi) Paragraph (2) of section  
16 1324(b) of title 31, United States Code, is  
17 amended by inserting “36C,” after  
18 “36B,”.

19 (xvii) The table of sections for subpart  
20 C of part IV of subchapter A of chapter 1  
21 of the Internal Revenue Code of 1986 is  
22 amended by inserting after the item relat-  
23 ing to section 36B the following new item:

“Sec. 36C. Adoption expenses.”.

24 (3) COORDINATION WITH SUNSET.—Each  
25 amendment made by this subsection to another pro-



1 vision of law is to such provision of law as amended  
2 by section 10909(c) of the Patient Protection and  
3 Affordable Care Act, as amended by section 101(b)  
4 of the Tax Relief, Unemployment Insurance Reau-  
5 thORIZATION, and Job Creation Act of 2010.

6 (4) EFFECTIVE DATE.—The amendments made  
7 by this subsection shall apply to taxable years begin-  
8 ning after December 31, 2011.

9 (c) ADOPTION OF GAO RECOMMENDATIONS.—The  
10 Secretary of the Treasury or the Secretary’s designee  
11 shall—

12 (1) ensure that the Internal Revenue Service  
13 communications efforts about the adoption credit  
14 under section 36C of the Internal Revenue Code of  
15 1986 specifically include State and local adoption of-  
16 ficials, and clarify acceptable documentation for the  
17 certification on special needs adoptees, and

18 (2) determine whether requesting documenta-  
19 tion in cases where no documentation is provided be-  
20 fore initiating an audit would reduce the number of  
21 audits without significantly delaying refunds and, if  
22 so, implement such a strategy for the 2012 taxable  
23 year filing season.

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