

**SPECIAL NEEDS ADOPTION TAX CREDIT**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: Jennifer M. Seelig

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**LONG TITLE**

**Committee Note:**

The Revenue and Taxation Interim Committee recommended this bill.

**General Description:**

This bill amends the Refundable Tax Credit Act to address a tax credit for the adoption of a child who has a special need.

**Highlighted Provisions:**

This bill:

- ▶ modifies the refundable income tax credit for the adoption of a child who has a special need; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill has retrospective operation for a taxable year beginning on or after January 1, 2013.

**Utah Code Sections Affected:**

AMENDS:

**59-10-1104**, as renumbered and amended by Laws of Utah 2006, Chapter 223

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*Be it enacted by the Legislature of the state of Utah:*



28 Section 1. Section **59-10-1104** is amended to read:

29 **59-10-1104. Tax credit for adoption of a child who has a special need.**

30 (1) As used in this section, a "child who has a special need" means a child who meets  
31 at least one of the following conditions:

32 (a) the child is five years of age or older;

33 (b) the child:

34 (i) is under the age of 18; and

35 (ii) has a physical, emotional, or mental disability; or

36 (c) the child is a member of a sibling group placed together for adoption.

37 (2) ~~It~~ **(a)** ~~shall~~ [For taxable years beginning on or after January 1, 2005] Subject  
37a to the other

38 provisions of this section, a claimant who adopts ~~[in this state]~~ a child who has a special need  
39 may claim a refundable tax credit of \$1,000:

40 ~~It~~ **(i)** ~~shall~~ for ~~each~~ **a** ~~child who has a special need who the~~  
40a claimant adopts;

41 ~~It~~ **(ii)** ~~shall~~ on the claimant's individual income tax return for the taxable year  
41a [a refundable tax  
42 credit of \$1,000]; and

43 ~~It~~ **(iii)** ~~shall~~ against taxes otherwise due under this chapter [for:];

44 ~~[(a) adoptions for which a court issues an order granting the adoption on or after~~  
45 ~~January 1, 2005;]~~

46 ~~[(b) the taxable year during which a court issues an order granting the adoption; and]~~

47 ~~[(c) each child who has a special need whom the claimant adopts;]~~

47a ~~It~~ **(b)** A tax credit under this section may not exceed \$1,000 per return for a  
47b taxable year. ~~It~~

48 (3) For a claimant to qualify for the tax credit described in Subsection (2) for an  
49 adoption:

50 (a) the order that grants the adoption shall be issued:

51 (i) on or after January 1, 2013; and

52 (ii) by:

53 (A) a court of competent jurisdiction of this state or another state; or

54 (B) a foreign country;

55 (b) the claimant shall be a resident of this state on the date the order described in  
56 Subsection (3)(a) is issued; and

57            (c) for an adoption made by a foreign country, the adoption shall be registered in  
58 accordance with Section 78B-6-142.

59           (4) (a) For an adoption for which a court of competent jurisdiction of this state or  
60 another state issues the order described in Subsection (3)(a), a claimant may claim a tax credit  
61 for the taxable year for which the adoption order becomes final.

62           (b) For an adoption for which a foreign country issues the order described in  
63 Subsection (3)(a), a claimant may claim a tax credit for the taxable year for which a court of  
64 competent jurisdiction in this state orders the state registrar to file the adoption order issued by  
65 the foreign country.

66           ~~[(3)]~~ (5) The credit provided for in this section may not be carried forward or carried  
67 back.

68           ~~[(4)]~~ (6) Nothing in this section shall affect the ability of any claimant who adopts a  
69 child who has a special need to receive adoption assistance under Section 62A-4a-907.

70           Section 2. **Retrospective operation.**

71           This bill has retrospective operation for a taxable year beginning on or after January 1,  
72 2013.

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**Legislative Review Note**  
as of 12-7-12 10:38 AM

**Office of Legislative Research and General Counsel**