

Voice for Adoption

SPEAKING OUT FOR OUR NATION'S WAITING CHILDREN



Statement for the record by:

Voice for Adoption

Before the:

United States Senate Committee on Finance

For the hearing:

**Extenders and Tax Reform: Seeking Long-Term Solutions
January 31, 2012**

**Voice for Adoption
1220 L. Street, NW
Suite# 100-344
Washington, DC 20005**

Chairman Max Baucus and Ranking Member Orrin Hatch and members of the Senate Finance Committee, Voice for Adoption (VFA) is pleased to submit this statement for the record regarding the federal adoption tax credit. VFA¹ is a membership advocacy organization. We speak out for our nation's 107,000 waiting children in foster care and the families that adopt children with special needs. VFA members, who are spread across the country, recruit families to adopt children and youth in foster care who are waiting for a permanent family. Our members also provide vital support services both before and after adoption finalization to help adoptive families through the challenges they often face post-adoption. VFA members are dedicated to finding permanent, loving families for every waiting child in foster care. We are also committed to ensuring that those children continue to have their needs met after they find their permanent families.

VFA appreciates the opportunity to submit this statement for the record regarding ways to continue to make the adoption tax credit work for families who adopt from foster care. We would like to thank the leaders of this committee for exploring this issue. The adoption tax credit was enacted in 1996 through the Small Business Job Protection Act. Given that the original goal of the adoption tax credit was to promote adoptions from foster care, legislators should examine the gap in the beneficiaries of the adoption tax credit by adoption type (prior to the credit becoming refundable in 2010).

VFA has long supported the adoption tax credit and has advocated making it work better to promote adoptions of waiting children in foster care and to provide accessible support for families who adopt children with special needs. Data from an IRS report² on the adoption tax credit revealed that the vast majority (82 percent) of adoption tax credit recipients completed private or foreign adoptions rather than adoptions from foster care. Almost all international adoptions benefited from the tax credit, compared to only approximately 25 percent of domestic foster care adoptions. Additionally, higher-income

¹ Voice for Adoption is a coalition whose Board of Directors is composed of Adopt America Network, Adoption Exchange Association, The Adoption Exchange Inc., Casey Family Services, Child Welfare League of America, Children Awaiting Parents, EMQ FamiliesFirst, Family Builders Network, Kinship Center, Latino Family Institute, Lilliput Children's Services, North American Council on Adoptable Children, Spaulding for Children-Michigan, and Three Rivers Adoption Council.

² U.S. Department of the Treasury Office of Tax Analysis, "Federal Income Tax Benefits for Adoption: Use by Taxpayers 1999 – 2005." June 2007.

families disproportionately benefit from the tax credit; families with incomes above \$75,000 received two-thirds of the dollars claimed through the credit.

One of the significant barriers that prevents families who adopt foster children from receiving the benefits of the adoption tax credit is that these families tend to have lower incomes and therefore do not have enough of a tax liability to be able to claim the full value of the tax credit. For the adoption tax credit to be effective in supporting adoptions from foster care, it must be structured in a way that allows lower-income families to claim the credit, even if they do not have a high tax liability.

As one family who adopted before the credit was refundable explains, *“It is a shame that working families like ours can’t benefit from the adoption tax credit. We are adopting three siblings with special needs from foster care and would have used the credit to buy a van so that our whole family could fit in one vehicle. We also could have used it to offset some of the costs of making our house better able to accommodate a family of two adults and seven children. With three bedrooms, it’s really tight!”*

If the credit is not refundable it will not benefit many lower- and middle-income families. Little information is gathered nationally on the incomes of families who adopt from foster care, but we do know that the vast majority (85 percent) of foster children are adopted by their foster parents or relatives³. Children’s Bureau research on foster parents’ income found that foster parents are significantly more likely than the general population to earn less than \$50,000 per year⁴. In fact, 2000 census data showed that the income in households with foster children is significantly lower than the average income in all households with children; 37 percent of households with at least one foster child earn less than \$50,000 and 15 percent earn less than \$20,000⁵. Urban Institute data found that 54

³ U.S. Department of Health and Human Services, Administration for Children and Families, Adoption and Foster Care Analysis Reporting System (AFCARS), Preliminary Estimates for FY 2010 as of June 2011.

⁴ U.S. Department of Health and Human Services, Administration for Children and Families. “National Survey of Child and Adolescent Well-Being (NSCAW)” November 2003. Retrieved from http://www.acf.hhs.gov/programs/opre/abuse_neglect/nscaw/reports/nscaw_oyfc/oyfc_report.pdf

⁵ O’Hare, William P. “Data on Children in Foster Care from the Census Bureau.” The Annie E. Casey Foundation, Kids Count. June 2008.

percent of kinship families have incomes below 200 percent the poverty level⁶.

For tax years 2010 and 2011, the Patient Protection and Affordable Care Act of 2010 made the adoption tax credit refundable and set the maximum credit at \$13,170 for 2010, with the maximum amount for 2011 indexed for inflation to \$13,360. The credit is scheduled to revert to a nonrefundable credit with a \$12,650 maximum for tax year 2012. After 2012, the credit will only be available to families who have expenses related to adopting children with special needs and who have tax liability—a tiny portion of adoptive families overall. VFA members urge Congressional leaders of the Senate Finance Committee to examine how to continue making the credit accessible for *all* adoptive families, including those who do not have tax liability high enough to claim the credit.

It is especially important for Congress to find a solution that ensures foster care adoptive families can claim the adoption tax credit since a primary goal of the original legislation was to ensure the adoption of waiting foster children. One reason that the credit was made flat for special needs adopters, beginning in tax year 2003, was that Congress acknowledged that families who adopt children with special needs have more ongoing expenses than upfront adoption costs. These families often have ongoing costs for specialized treatment, therapy, tutoring to overcome educational disabilities or delays, medications, etc. If the credit is not both flat and refundable, a large portion of the special needs adopters will never benefit. Encouraging adoption from foster care is not only good for children, but it saves U.S. government funds by eliminating foster care and ongoing court supervision costs.

It is also important for this Committee to understand the widespread public confusion surrounding this credit due to the number of times the credit has been changed over the years. The adoption tax credit has been expanded several times since originally

⁶ The Urban Institute “Children in Kinship Care”. October 2003. Retrieved from <http://www.urban.org/publications/900661.html>

created in 1996.⁷ Congress should consider making the credit permanent, as continuing changes have created enormous uncertainty related to the credit—not only for parents seeking to access the credit, but also for professionals informing adoptive families about the credit’s existence and tax preparers who assist families with their taxes.

One of VFA’s board members had this to share:

“The adoption process is lengthy; some families are under enormous pressure to finalize their adoptions within certain time constraints based on the accessibility of the adoption tax credit. [Consider this] a family begins the adoption process and a child is placed in their home in December 2010, however adoption finalization does not occur until January 2012 (1 year and 1 month later). The family is informed about the adoption tax credit at the beginning of their adoption process with one set of tax code rules and finalizes with an entirely different set of rules. Because finalization happened in January 2012 and not in December 2011 access to the credit differs drastically for this family, by just one month.”

Through the Fostering Connections to Success and Increasing Adoptions Act (P.L. 110-351), state agencies are required to inform prospective parents about the adoption tax credit. Voice for Adoption and our member organizations have also worked to inform eligible families of the credit’s existence. We have found, through our experiences serving adoptive families, that the Fostering Connections provision was very helpful and states seem to be increasingly informing parents about the credit.

Conclusion

As Congress contemplates tax reforms it should consider the importance of including the adoption tax credit in these important discussions. Specifically, legislators should extend the adoption tax credit beyond a year or two at a time and continue to

⁷ United States Government Accountability Office (GAO) Report To Congressional Requesters, “Adoption Tax Credit: IRS Can Reduce Audits and Refund Delays”. October 2011. Appendix I: Adoption Tax Credit Provisions, 1996 to the Present.

make it accessible for families that are committed to caring for adopted children with special needs. To ensure that the credit benefits those who adopt foster children with special needs, Congress must ensure that the adoption tax credit is:

- Refundable, so that all adoptive families can claim the credit
- Flat for families who adopt children with special needs, meaning that they can claim the credit without having any expenses in the adoption process
- Permanent or at least extended for several years at a time

As you work to improve tax reform issues VFA members hope you will keep in mind the love, commitment, and sometimes solace adoptive families provide for their children, but more importantly, the time, patience and tenacity it takes to raise children who often come with painful pasts. For families who adopt from foster care, many expenses result after adoption finalization and the adoption tax credit provides a critical lifeline to meet those children's needs. Adoptive families need our support as they care for our most precious children, raising them to be successful, productive individuals.

We would like to thank the committee for its interest in hearing perspectives for improvements to tax reforms that work on behalf of children and families. In closing we appreciate the dedication of this Committee, as your work on children's issues remains a priority across party lines. We look forward to your continued efforts on behalf of waiting children in foster care.