

**DEPARTMENT OF TAXATION
2008 Fiscal Impact Statement**

**REVISED
1/14/08**

1. **Patron** C. Charles Caputo

3. **Committee** House Finance

4. **Title** Individual Income Tax; Credit for Adoption Expenses

2. **Bill Number** HB 743

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would create an individual income tax credit equal to the amount of qualified adoption expenses paid by an individual, up to a total of \$4,000 for each adoption of a child. If the allowable credit exceeds the amount of tax in any taxable year, the excess may be carried over for the next five taxable years.

This credit would not be allowed to the extent that funds, subsidy payments, or reimbursements were made to or received by any individual for qualified expenses under any federal, state or local program, or to the extent that any other deduction or credit was allowed for the same expense.

This bill would be effective for taxable years beginning on or after January 1, 2008.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7. **Budget amendment necessary:** Yes. (See Line 8.)
Page 1, Revenue Estimates

8. Fiscal implications:

Administrative Costs

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

The negative revenue impact of this bill is unknown. Based on information obtained from the Department of Social Services ("DSS") regarding the number and types of adoptions finalized each year in Virginia, however, it could be as high as approximately \$3.5 million per year. In addition, it is likely that the revenue impact of this credit would vary significantly from year to year because of the yearly fluctuation in the number of adoptions in Virginia.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Social Services

10. Technical amendment necessary: Yes.

The Department of Social Services has requested the following technical amendment:

Under DSS regulations, the term "subsidy payments" refers to assistance offered after an adoption to provide ongoing care for children with special needs. A subsidy payment does not reimburse the costs of the adoption itself. If the intent of this bill is to allow the credit to taxpayers who adopt any child, including one with special needs, the following technical amendment is suggested:

Page 1, Line 25, after funds,
Strike: subsidy payments,

11. Other comments:

Federal Law

Internal Revenue Code ("IRC") § 23 allows an individual income tax credit for the amount of qualified adoption expenses paid or incurred by the taxpayer. "Qualified adoption expenses" are defined as reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to, and the principal purpose of which is for, the legal adoption of an eligible child.

An "eligible child" is an individual who is under 18 years old, or is physically or mentally incapable of caring for himself or herself. In addition, the expenses cannot be in connection with the adoption of a spouse's child, nor can the expenses be reimbursed under an employer program or otherwise.

For 2007, the maximum amount of the credit is \$11,390. This credit begins to phase out for taxpayers with 2007 federal modified adjusted gross incomes in excess of \$170,820; and it is completely phased out for taxpayers with modified adjusted gross incomes of \$210,820 and greater.

Proposal

This bill would create a Virginia individual income tax credit equal to the amount of qualified adoption expenses paid by an individual, up to a total of \$4,000 for each adoption of a child. If the allowable credit exceeded the amount of tax in any taxable year, the excess could be carried over for the next five taxable years.

This credit would not be allowed to the extent that funds, subsidy payments, or reimbursements were made to or received by any individual for qualified expenses under any federal, state or local program, or to the extent that any other deduction or credit was allowed for the same expense.

Taxpayers claiming the federal adoption tax credit would need to incur eligible expenses in an amount greater than \$11,390 in order to also claim the Virginia credit. Because of that, most adoptions completed through the Department of Social Services would not qualify. Instead, this credit would primarily benefit those who adopt through private adoption agencies, parental placement, or international adoptions.

This credit would be effective for taxable years beginning on and after January 1, 2008.

cc : Secretary of Finance

Date: 1/14/2008 AMS
HB743F161