

108TH CONGRESS
2D SESSION

S. 2316

To amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from individual retirement plans for adoption expenses.

IN THE SENATE OF THE UNITED STATES

APRIL 8, 2004

Ms. MURKOWSKI (for herself and Ms. LANDRIEU) 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 allow penalty-free withdrawals from individual retirement plans for adoption expenses.

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. PENALTY-FREE WITHDRAWALS FROM INDIVIDUAL**
4 **RETIREMENT PLANS FOR ADOPTION**
5 **EXPENSES.**

6 (a) SHORT TITLE.—This section may be cited as the
7 “Adoption Assistance Act”.

8 (b) IN GENERAL.—Paragraph (2) of section 72(t) of
9 the Internal Revenue Code of 1986 is amended by adding
10 at the end the following new subparagraph:

1 “(G) QUALIFIED ADOPTION EXPENSES.—

2 “(i) IN GENERAL.—Distributions from
3 an individual retirement plan to the extent
4 that the amount of such distributions does
5 not exceed the lesser of—

6 “(I) \$10,000 for the taxable year
7 with respect to the adoption of a
8 child, or

9 “(II) the amount determined
10 under clause (ii).

11 “(ii) DETERMINATION OF EXPENSES
12 NOT COVERED BY CREDIT.—The amount
13 determined under this clause is the excess
14 (if any) of—

15 “(I) the qualified adoption ex-
16 penses (as defined in section 23(d))
17 paid by the taxpayer during the tax-
18 able year with respect to the adoption
19 of such child, over

20 “(II) the amount of the credit al-
21 lowable under section 23 for such ex-
22 penses (determined as if such credit
23 were allowed for such year without re-
24 gard to any limitation based on liabil-
25 ity for tax).

“(iii) SPECIAL RULES FOR CHILD
WITH SPECIAL NEEDS.—In the case of an
adoption of a child with special needs (as
defined in section 23(d)(3))—

“(I) subclauses (I) and (II) of
clause (i) shall not apply, and

“(II) a distribution during the
applicable period from an individual
retirement plan with respect to such
adoption shall not be taken into ac-
count under this subparagraph to the
extent that such distribution, when
added to all other distributions with
respect to such adoption from indi-
vidual retirement plans for the appli-
cable period, exceeds \$10,000.

For purposes of subclause (II), the term
‘applicable period’ means the 3-taxable
year period beginning with the taxable year
in which such adoption becomes final.

“(iv) ORDERING RULE.—Distributions
shall not be taken into account under
clause (i) if such distributions are de-
scribed in subparagraph (A), (C), (D), (E),
or (F) or to the extent paragraph (1) does

1 not apply to such distributions by reason
2 of subparagraph (B).

3 “(v) RECONCILIATION ALLOWED.—
4 Distributions shall not be taken into ac-
5 count under this subparagraph for any tax-
6 able year if such distributions are paid on
7 or before the day prescribed by law for fil-
8 ing the taxpayer’s return for such taxable
9 year into the individual retirement plan
10 from which such distributions were
11 made.”.

12 (c) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to distributions after the date of
14 the enactment of this Act.

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