

## NOTICE OF INTENT

### Department of Revenue Policy Services Division

#### Adoption of Unrelated Infant Tax Credit (LAC 61:I.1931)

Under the authority of R.S. 47:297.23 and 1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division gives notice that rulemaking procedures have been initiated to adopt LAC 61:I.1931 relative to the adoption of unrelated infant tax credit.

Revised Statute 47:297.23 authorizes a refundable tax credit for the adoption of certain children who are unrelated to the taxpayer and less than two years old at the time of the adoption placement. The primary purpose of this proposed Rule is to implement Act 452 of the 2023 Regular Session of the Louisiana Legislature.

This Rule is written in plain language with a readability score of 10.2 on the Coleman-Liau Readability Index.

### Title 61

#### REVENUE AND TAXATION

##### Part I. Taxes Collected and Administered by the Secretary of Revenue

##### Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions

##### §1931. Credit for Adoption of Unrelated Infant

###### A. General.

1. For tax periods beginning on or after January 1, 2023, and prior to January 1, 2029, Revised Statute 47:297.23 authorizes a refundable individual income tax credit for the adoption of certain unrelated children equal to \$5,000, per child.

2. The credit shall be allowed against the income tax liability for the taxable period in which the adoption is finalized.

###### B. Definition

Unrelated—a taxpayer is unrelated if he or she is not the child's parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

###### C. Claiming the Tax Credit

1. The taxpayer claiming the credit shall be listed as an adoptive parent on the adoption order or decree.

2. The credit is equal to \$5,000 per child.

3. In the case of two adoptive parents who do not file jointly as a married couple, the credit shall be claimed by the taxpayer claiming the child as a dependent on his or her federal and Louisiana individual income tax returns, unless provided for differently by the adoption order or decree.

4. The following documentation shall be attached to and filed with the individual income tax return on which the credit is claimed:

a. a copy of the adoption order or decree, and

b. a letter from the private agency as defined in Louisiana Children's Code Article 1169(1), or attorney who facilitated the adoption stating when the infant was placed with the adoptive parents.

5. Failure to provide the documentation required in Paragraph 4 of this Subsection shall result in disallowance of the credit.

D. Other Tax Benefits Disallowed. A taxpayer claiming an adoption tax credit shall not receive a deduction pursuant to R.S. 47:297.21 for the same child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:297.23 and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Policy and Planning Division, LR 49:

#### Family Impact Statement

The Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of this proposed Rule has no other foreseeable effect on:

1. The stability of the family.

2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or a local government to perform this function.

#### **Poverty Statement**

This proposed regulation will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

It is anticipated that this proposed amendment should not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting this proposed amendment to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Provider Impact Statement**

The proposed amendment will have no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Any interested person may submit written data, views, arguments or comments regarding these proposed amendments to Christina Junker, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4:00 p.m., Tuesday, November 28, 2023.

#### **Public Hearing**

A public hearing will be held on Wednesday, November 29, 2023, at 10:00 AM in the River Room, on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802. Should individuals with a disability need an accommodation in order to participate, contact Christina Junker at the address given above in the Public Comments section or at (225) 219-7823.

Kevin J. Richard, CPA  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

Person Preparing Statement:	<u>Michelle Galland</u>	Dept.:	<u>Revenue</u>
Phone:	<u>225-219-2180</u>	Office:	<u>Policy Services Division</u>
Return Address:	<u>617 North Third Street</u>	Rule Title:	<u>LAC 61:I.1357</u>
	<u>Baton Rouge, LA 70802</u>	Date Rule Takes Effect:	<u>January 20, 2024</u>

SUMMARY  
(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Louisiana Department of Revenue (“LDR”) will incur one-time costs of \$53,000 in FY 24 for computer system development and modification, tax form redesign, and testing.

The purpose of the proposed rule is to implement the provisions of Act 452 of the 2023 Regular Session of the Louisiana Legislature. Act 452 provides a refundable individual income tax credit for the adoption of certain children who are unrelated to the taxpayer and less than three years old at the time of the adoption placement. Individuals who meet the requirements are allowed a refundable credit of \$5,000 per child. The credit is effective for tax years beginning on or after January 1, 2023, through the 2028 tax year. The credit is applicable to adoptions finalized on or after January 1, 2023, and before January 1, 2029, and may not be taken in conjunction with the existing individual income tax deduction for a private adoption of the same child authorized in R.S. 47:297.21.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is estimated to decrease to the State General Fund by \$1.3 M annually beginning in FY 24 and ending primarily in FY 29. Assuming an effective personal income tax rate of 4.25%, the existing adoption deduction reduced liability by \$213, whereas the refundable credit reduces liability by \$5,000. Therefore, the proposed rule is anticipated to result in a net state general fund reduction of \$4,788 per eligible adoption. Federal data provides an assumption of 280 eligible adoptions to reach the \$1.3M annual revenue reduction estimate. Since the Act does not limit the credit to adoptions in Louisiana, the Sports Facility Assistance Fund, which contains income tax from non-resident professional athletes, may see an indeterminable decrease if the credit is claimed by athletes who adopt infants.

There is no anticipated direct material effect on local governmental revenues as a result of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

Individuals seeking the credit will need to adopt an unrelated child that is less than three years of age. The individuals may incur expenses associated with the adoption. Additional costs for submission of the required documentation of this credit are expected to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated due to this proposal.

\_\_\_\_\_  
Signature of Head or Designee  
Kevin J. Richard, Secretary  
\_\_\_\_\_  
Typed Name & Title of Agency Head or Designee

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Legislative Fiscal Officer or Designee

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Date of Signature

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Date of Signature