

Part III - Administrative, Procedural, and Miscellaneous Adoption Assistance

Notice 97-70

This notice modifies Notice 97-9, 1997-2 I.R.B. 35, which provides, in part, general guidance concerning the income tax credit under § 23 of the Internal Revenue Code for qualified adoption expenses paid or incurred by an individual. Notice 97-9 is modified to incorporate the amendment made to § 23(a)(2) (relating to the year(s) in which the credit for certain qualified adoption expenses is allowed) by § 1601(h)(2)(A) of the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, 111 Stat. 788, 1092 (1997), effective for taxable years beginning after December 31, 1996. Notice 97-9 will appear in 1997-1 C.B. as modified by this notice.

Section I.E.1 and the first paragraph of section I.E.2 of Notice 97-9 are modified to read as follows:

E. Year of Credit.

1. Domestic adoptions.

The credit for qualified adoption expenses paid or incurred to adopt an eligible child who is a citizen or a resident of the United States at the time the adoption commenced (including such amounts paid or incurred in an unsuccessful effort to adopt such a child) is allowed in the next taxable year unless the expenses are paid or incurred during or after the taxable year the adoption becomes final. The credit for qualified adoption expenses paid or incurred during or after the taxable year in which an adoption becomes final is allowed in the taxable year in which the expenses are paid or incurred.

2. Foreign adoptions.

A special rule applies in the case of the adoption of an eligible child who is not a citizen or resident of the United States at the time the adoption commenced. The credit is only available for adoptions that become final. Qualified adoption expenses paid or incurred in any taxable year before the taxable year in which the adoption becomes final are treated as paid or incurred in the taxable year in which the adoption becomes final. Therefore, the credit for qualified adoption expenses paid or incurred in the taxable year in which the adoption is final, or in any earlier taxable year, is allowed in the taxable year the adoption becomes final. The credit for qualified adoption expenses paid or incurred after the taxable year in which the adoption becomes final is allowed in the taxable year in which the expenses are paid or incurred.

The principal author of this notice is Marilyn E. Brookens

of the Office of the Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Ms. Brookens at (202) 622-4920 (not a toll-free call).