

The Adoption Tax Credit:
Pulled Up From the Cliff, But Saved For Whom?

By Maureen McCauley Evans
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We need to talk.

The Adoption Tax Credit (ATC) has traveled far from its roots, buoyed along by good intentions and well-meaning people who have lost sight of its origins and have overlooked compelling needs. It involves an astonishing amount of money: billions of dollars. Successful lobbying, primarily by adoptive parents and adoption agency organizations, made it permanent, pulling it up from the fiscal cliff at the end of 2012.

The ATC today effectively subsidizes the personal decision to adopt a child, particularly through international and private adoption. It does not appear to be achieving its original intent, to move children from foster care to adoption and to support their needs in some way after adoption. It's time to examine it closely, and to make it fiscally responsible and genuinely effective for families.

A Brief History

At its inception, the ATC, part of the Small Business and Job Protection Act of 1996, was meant primarily to encourage US taxpayers to adopt from the US foster care system. In the late 90's, there was a serious social movement to get children out of foster care, and this tax credit was a significant bellwether of intent by the US Congress.

In creating this incentive to adopt children from foster care, the ATC provided a \$6,000 tax credit for the adoption of children with special needs. It was meant to cover expenses that families might incur after adopting: building a wheelchair ramp, adapting a bathroom for a disabled child, paying for therapies. The credit for adopting special

needs children had no sunset provision: it was permanent, indicating the seriousness with which Congress was taking adoptions from foster care. A tax credit of \$5,000 was also made available for other adoptions, such as international and private (agency or attorney-facilitated). At the time, credit was not made permanent, and was set to expire.

Fast forward to 2013, and see how the ATC has grown:

- The credit rose to \$10,000 (plus an annual cost of living adjustment) in 2001. It will be around \$13,000 for 2013.
- The income eligibility limit went from \$115,000 (a ceiling of \$75,000 for the full credit) to its current level of \$230,000 (a ceiling of \$190,000 for the full credit).
- The credit is now permanent for all adoptions (US foster care, private, and international—surrogacy/stepparent adoptions are not included.)
- Families adopting US special needs children, since 2002, have been able to claim the maximum credit without having to document adoption expenses.
- For the purposes of the tax credit, foreign children are not considered special needs.
- Eligible expenses include legal fees, court costs, meals, flights, and hotels, whether in Tampa, St. Paul, Beijing, or Moscow.
- The credit was refundable in tax years 2010 and 2011. A refundable credit means that lower-income parents, with little or no tax liability, can receive the entire credit. Historically, lower income parents have adopted from the foster care system. As of the fiscal cliff legislation, the credit is no longer refundable.

Has the Adoption Tax Credit Been Used?

Why, yes.

According to a GAO report, “Since the original provision was enacted in 1996, taxpayers have claimed about \$4.3 billion in adoption tax credits.” That report (GAO-12-98) was issued in October 2011. Estimates for tax year 2011, according to Joint Tax Committee reports, are \$1.2 billion.

So. The US government has dispersed somewhere in the neighborhood of \$6.5 Billion as reimbursement for adoption expenses.

How Has the Credit Been Used?

Foster care adoptions cost very little; your tax dollars are already at work in the social services system. In stark contrast, international and private adoptions are far more expensive (ranging between \$10,000 and \$60,000).

A Child Trends Research Brief (Publication #2007-24) looked at 1999-2005 data from the US Treasury to see who used the ATC. The results are significant:

- The vast majority of credit recipients were for international or private adoptions, not foster care adoptions.
- Nearly all international adoptions were supported by the tax credit, but only one in four foster care adoptions was.
- Children adopted from foster care in 2004 represented 17 percent of the money spent on the tax credit.
- Nearly 90% of ATC tax filers with incomes above \$100,000 adopted internationally or privately.

What About Those Orphans?

In the name of inclusivity (see www.adoptiontaxcredit.org), the ATC has expanded broadly from its initial purpose. In 2012, there was a huge, successful lobbying campaign to make the credit permanent. In

so many ways, it is hard to argue against the advocacy approach: helping vulnerable orphans seems the right thing for anyone to do.

Is the credit really helping vulnerable orphans, whether in the US or around the world? No. Many of the children placed for adoption are not true orphans, in any traditional sense. They may have living family members, though they may be poor, ill, or otherwise unable to help. The children may have unrelated community members willing to raise them. The word “orphan” is used far too loosely and inaccurately in adoption policy discussions. It is emotionally powerful, nonetheless.

Reframing Adoption Policy, With Logic and Love

There is huge and sometimes bitter disagreement today about adoption policy, but we can probably all agree that keeping children in their original families, if it is safe to do so, should always be the first priority.

Next, I hope that we can agree that adoption is about finding a family for a child, NOT a child for a family. This statement needs to be at the top of the list of services provided by adoption agencies and attorneys, and seared into the minds of prospective adoptive parents.

This next one is a hard one for us to talk about, but it needs to be brought to the table: money remains at the core of the imbalance for adoption. In many cases, both in the US and internationally, if the original family had anything close to the economic stability of the adopting family (including access to education and health care), there would be no adoption. It's a sobering reality. At a minimum, it should make us look carefully at how we spend money related to adoption.

Within the adoption community (including families, individuals, researchers, and policymakers), most are aware of the following:

- The need for better and more pre-adoption training for prospective adoptive parents is huge.

- The need for increased, appropriate counseling and support services for mothers (and fathers) considering placing a child for adoption is huge.
- The need for effective, viable, and extensive post-adoption services for adoptees, adoptive parents, and birth parents is huge.
- If you deplore the lack of post-adoption services provided for US birth/first families (and you should), imagine what services are provided to international mothers who have lost their children to adoption.

We need more funding for these pre-and post-adopt services.

The US government has given out about \$6 billion worth of adoption tax credits. That is a dollar-for-dollar reduction of tax liabilities, and a credit is generally a greater benefit than a deduction. Tax credits are meant to encourage certain public policy behaviors: they are authorized incentives, encouraging taxpayers to “invest” in behaviors that probably would not occur unless there were a tax credit.

The biggest argument for the credit is that it helps children get adopted, especially those with special needs. It has largely evolved, though, into a reimbursement for the expenses of international and private adoptions. Providing a tax credit for meals and hotels overseas was not the original intent. Helping children, especially those with special needs, who otherwise would not have families was the intent.

I have no wish to engage in an argument about which children deserve families more. All children do.

So here is my proposal. The adoption tax credit, if it is meant to provide an incentive for behavior that would otherwise not occur, should create incentives for expenses that will genuinely support the creation and preservation of strong, healthy families.

I suggest that, in future revamping of the Adoption Tax Credit, eligible expenses for reimbursement be the following:

1. Rigorous, pragmatic, pre-adoption counseling that is designed to be challenging and real.

Pre-adoption classes should be way more than the paltry 10 hours that is currently the minimum under the Hague Convention on Intercountry Adoption, for example. Yes, the classes are inconvenient, time-consuming, and expensive. Welcome to parenting.

Classes should feature adult adoptees speaking to the realities of their experiences (good, bad, indifferent, including adults who were raised in foster care and aged out, as well as international adoptees who were a different race/culture than their adoptive parents, and as well as those who have and have not searched and reunited with their birth families.

Classes should not just include adoptive parents with toddlers. Parents with middle schoolers and high schoolers and fully-grown children should be featured speakers.

Classes should include a panel of birth parents, including those who have placed their children recently and those who placed them decades ago, to describe their decisions and journeys.

Classes should provide a current, lengthy list of resources for all parents (IEPs, therapists, FAS-FAE, sensory deprivation, grief/loss through the years, impact of abuse/neglect, adoptee mentors, respite options, books/movies about race and identity, and more).

Classes should discuss ethics around technology and Internet use. (Examples: Why parents should/should not blog publicly about their children's private stories/history/issues. The likelihood of contact by birth family/siblings whether the adoption is local or international. Why online groups, potentially useful for support and information, are often full of inaccuracies and individual truths that do not apply to all.)

2. Substantive, accessible, welcoming post-adoption support and services for all families.

There are shamefully few post-adopt resources for adoptive families in this country. Many resources, when available, are not accessed until problems are severe. I've known adoptive parents—good people—who don't know what respite care is, who punish their children who are not misbehaving but are grieving, who face incredible battles around food, who don't recognize symptoms of PTSD.

There are way too few social workers and therapists trained in adoption issues, never mind elementary school teachers, child care providers, pediatricians, guidance counselors, and juvenile justice workers. As a result, many families struggle. Thoughtful, focused interventions early on might help children avoid services that are much more complicated and expensive (for them, their family, and society) later.

In an ideal world, post-adoption services would also be highly valued for parents who have placed their children, whether in the US or elsewhere, and whether by court order or careful planning.

3. Increased funding for family preservation, here in the US and around the globe.

Adoption serves the needs of a tiny percentage of children in need of families. The bottom line: All adoptive parents should work hard to decrease the number of children who need adoption. We should work harder to increase the number of children able to stay safely with their families. This is not because adoption is bad or inappropriate. It's because we value family.

Family preservation can take many forms. It can mean increased investigations into a child's background to seek out relatives who might care for the child. It can include US families who have adopted internationally who now give back to their child's country via clean water organizations, literacy programs, domestic violence education, and midwives training—all of these have the potential to keep children from needing adoption. It can mean improved training for social workers and therapists about options for parents considering placing their children for adoption. It can mean increased funding for respite care. It can mean nutrition and parenting classes. It can mean

microloans that allow a family to keep all their children, not send one or two far away, never to be seen again.

It can mean that more children will be safe, more families stable, and more families preserved—wherever they are in the world.

Conclusion

There are (always have been and always will be) children for whom adoption is a necessary and good plan, whether in the US or anywhere else on the earth. So let's keep that in mind. Let's not pit one group against another in terms of who is most valuable or worthy, further commodifying children.

Instead, let's work together to figure out ways to use those **billions** of dollars in revenue differently. Let's talk about modifying the Adoption Tax Credit, to encourage taxpayers to invest in behaviors, sanctioned by the US government, which probably would not occur unless there were a tax credit.

Let's create an incentive for the provision of pre-adoption services, for post-adoption services, and for family preservation. The provision of those services would mean that more children are helped, that fewer children need adoption, and that more families are preserved.

Let's talk.

About the author: I am the mom to sons through (agency, infant) adoption and to daughters through (agency, older child, international) adoption. I was also, 7 years ago, named the guardian of a 16-year-old foster daughter. All my kids are now in their 20's, and they are wonderful. I have a 6-year-old granddaughter who is the light of many people's lives, including mine. In my professional life, I was executive director of the Joint Council on International Services and of the Maryland office of Children's Home Society and Family Services (MN), and interim executive director of the Barker Foundation. I believe in adoption as one means of children having families, and I am deeply committed to adoption being a transparent, thoughtful

process that is genuinely respectful to everyone involved. In a final bit of TMI full disclosure, I never filed for nor received the adoption tax credit.