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## **General Questions & Answers**

### **Q-1. What is the purpose of the Adoption Assistance Plan?**

The purpose of the Adoption Assistance Plan is to provide adoption assistance to employees by making payments in an amount not to exceed \$2,000 to reimburse certain adoption expenses, both qualified and unqualified, incurred by the employee in the adoption of any one child. The \$2,000 payment is an aggregate rather than an annual amount, even if the expenses for the child occur over a period of years.

### **Q-2. Who can participate in the Adoption Assistance Plan?**

Plan-eligible employees include: all full-time active, salaried (or hourly) employees regularly scheduled to work 40 hours or more per week; all part-time active, salaried (or hourly) employees regularly scheduled to work at least 20 hours per week; employees on paid/unpaid leaves of absence (subject to terms and conditions as outlined later in this document). *Temporary employees are not eligible for the Adoption Assistance Plan.*

### **Q-3. Are there any tax benefits available?**

**Yes. There are two (2) different types of tax benefits.**

***Exclusion from income taxation*** – An exclusion from income taxation may exist for the amount of adoption expenses reimbursed by the Adoption Assistance Plan to the adopting parents if the child is an “eligible” child, if the child is an “eligible child with special needs”, if the adopting parents qualify under the income limitation tests, and if the reimbursable adoption expenses are not prohibited by the other provisions of federal or state law. Beginning in 2003, the exclusion from income taxation for the amount of adoption expenses reimbursed by the Adoption Assistance Plan to the adopting parents, if the child is an “eligible child with special needs”, will apply to all reimbursed expenses without regard to whether the expenses are “qualified adoption expenses.”

***Tax Credits*** -- Additionally, to the extent that the adoption expenses incurred by the adopting parents are qualified under the tax code and to the extent they exceed the amounts reimbursed by the Adoption Assistance Plan, those additional qualified amounts may be eligible to be taken as *tax credits* up to \$10,000 (less the amounts paid by the Adoption Assistance Plan which are eligible for exclusion from income taxation). For tax years after 2002, the \$10,000 tax credit will be increased by cost-of-living adjustments. In order to take the tax credits, the taxpayer must include on his/her income tax return the name and tax identification number for the child in the year the credit is to be taken. Prospective adoptive parents may apply for an Adoption Taxpayer Identification Number (ATIN) for the child.

### **Q-4. Are there any taxes on the amounts reimbursed by the Adoption Assistance Plan?**

While qualified reimbursement-payments are *not* subject to federal income taxation, all qualified and non-qualified payments *are* subject to social security and Medicare taxation for the employee. Most states follow federal guidelines:

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- (i) Qualified Reimbursements -- will typically *not* be included in State Gross Income, and
  - (ii) Non-Qualified Reimbursements -- will typically be included in State Gross Income.

**Q-5. What adoption expenses are not eligible for special tax treatment?**

Payments by the Adoption Assistance Plan for reimbursement of adoption expenses are *not* exempt from income taxation if the expenses were –

- ◆ incurred before January 1, 2002,
- ◆ not directly related to the legal adoption of an eligible child,
- ◆ incurred not in conformity with, or in violation of, state or federal law,
- ◆ incurred in carrying out a surrogate parenting arrangement,
- ◆ incurred in connection with the adoption of the child of an employee's spouse, and
- ◆ other “income” related limitations.

In those circumstances, the amounts reimbursed by the Adoption Assistance Plan would be taxable income in addition to being subject to social security and Medicare taxation.

**Q-6. Who is an “eligible child” under the Adoption Assistance Plan?**

An eligible child is a child who has not yet reached age 18, or who is a child with “special needs”. The adoption expense for an eligible child under age 18 must be paid or incurred before reaching age 18. There is no age limitation for a child with special needs.

**Q-7. Who is a child with “special needs” under the Adoption Assistance Plan?**

The state law applicable to the child defines a child with “special needs”. To qualify, either (i) the state has determined that the child should not be returned to the home of his or her parents, or (ii) the state has determined that the child has a specific characteristic so that the child cannot be placed for adoption without adoption assistance. Qualifying “characteristics” include items such as ethnicity, age, membership in a minority or sibling group, or the presence of medical conditions, or physical, mental or emotional handicaps. Beginning in 2003, the exclusion from income taxation for the amount of adoption expenses reimbursed by the Adoption Assistance Plan to the adopting parents, if the child is an “eligible child with special needs”, will apply to all reimbursed expenses without regard to whether the expenses are “qualified adoption expenses.”

To be “eligible”, a child with “special needs” must be a citizen or resident of the United States. The determination of a child’s residency-status is a complex test; there are multiple provisions that may qualify a foreign-born child as a U.S. resident.

The adoption of a child with special needs who is not a citizen or resident of the United States will still qualify for the certain reimbursements from the Adoption Assistance Plan. The “citizen - resident” provision affects only the amount of tax-free reimbursement and tax credits for which an employee may be eligible.

**Q-8. To be a Qualified (income-tax-free) Payment, must an adoption be final and completed?**

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**No – Domestic Adoption.**

You can exclude from income taxation the adoption assistance received related to the adoption of a child who is a resident or citizen of the United States in the year you receive it, regardless of when, or whether, the adoption becomes final.

**Yes -- Foreign Adoption.**

Although expenses related to a foreign adoption may be reimbursed by the Adoption Assistance Plan, under tax law the reimbursement by the Adoption Assistance Plan of adoption expenses may *not* be excluded from being income to you *until and unless* the adoption becomes final.

If your employer makes adoption assistance payments in a year before the adoption of a foreign child is final, you must include the payments in your income in the year of payment. Then, on your return for the year the adoption becomes final, you can make an adjustment to take the exclusion. See IRS Form 8839 and its instructions.

**Q-9. What are the “income” tests that limit the tax-exclusions and tax credits?**

There are “income limitations” that phase-out the amount of expenses incurred which are eligible for exclusion from income taxation, and/or tax credits. Those limitations do not apply if your “adjusted gross income” (AGI) from all sources is less than \$150,001; they are pro-rated between \$150,001 and \$190,000 AGI. If your AGI is greater than \$190,000, you will not qualify for an exclusion from income taxes of any adoption expenses. Thus, you may be eligible to receive reimbursement of adoption expenses from the Adoption Assistance Plan but may not be eligible for the tax benefits related to those payments and may not be eligible for tax credits for un-reimbursed adoption expenses. In those circumstances, the amounts reimbursed by the Adoption Assistance Plan would be taxable income in addition to being subject to social security and Medicare taxation. The AGI tests are complex calculations and are not simply an addition of your and your spouse’s income. You should consult with your tax advisors if you believe that AGI limitations could apply to you.

**Q-10. How long does the Adoption Assistance Plan continue?**

BAE SYSTEMS currently intends to continue the Adoption Assistance Plan indefinitely, however, it also reserves the right to amend, modify, or terminate this Adoption Assistance Plan at any time, for any reason and without prior notice to employees.

**Q-11. I am currently adopting a child. Am I eligible for reimbursement by the Adoption Assistance Plan?**

Subject to the provisions of Question #2, you may be eligible for reimbursement for your adoption-related expenses incurred on or after January 1, 2002 (the “start” date for the Adoption Assistance Plan).

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**Q-12. How do I request reimbursement for my qualified adoption expenses?**

All inquiries about procedures should be directed to the BAE SYSTEMS BenefitCenter. You can also obtain all requisite forms at <http://www.na.baesystems.com/benefits>.

Then >>

- (1) *Read the plan documents*
- (2) *Read the reimbursement procedure*
- (3) *Complete the Reimbursement Request form*
- (4) *Submit the completed form to the BAE Systems BenefitCenter*
  - (a) *Domestic Adoption -- at any time*
  - (b) *Foreign Adoption - -within ninety (90) days after the date the adoption is finalized*

**Q-13. Who makes the final decision about what expenses are reimbursable under the Adoption Assistance Plan?**

The Plan Administrator makes all decisions for the Adoption Assistance Plan. The Plan Administrator's decision is a final, binding determination. You may request that the Plan Administrator review any decision. The exact appeal procedure is set forth in the SPD (summary plan description). To receive a form on which to file your appeal, you should contact the BAE SYSTEMS BenefitCenter at (866) 840-4BAE(4223). You can also obtain all forms to request reimbursement at <http://www.na.baesystems.com/benefits>.

**Q-14. Will I ever be required to repay the Adoption Assistance Plan for these payments?**

If an employee receives a reimbursement of adoption expenses from the Adoption Assistance Plan, he/she will become obligated to pay back to the Adoption Assistance Plan the funds received if –

1. at any time the employee (or employee's spouse) receives reimbursement for the same expenses from any other source, or
2. at any time the employee claims a tax credit for the same expenses.
3. it is determined that the employee violated the provisions of the Adoption Assistance Plan.

That refund payment may be made by repayment directly by employee to the Adoption Assistance Plan or by subsequent payroll deductions at the Plan Administrator's discretion.

**Q-15. Do other BAE SYSTEMS benefit plans also have "adoption" provisions?**

If an employee acquires new family members by adoption, the adopted (or placed for adoption) child will be eligible for enrollment in other benefit plans sponsored by the Company, as specified in the Value Plan's Summary Plan Description. Call the BAE SYSTEMS BenefitCenter at (866) 840-4BAE(4223) to enroll the new family member *within 31 days* of the date that you acquired the family member. If you do not enroll the new family member within

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this 31-day period, you must wait until the next Annual Enrollment Period to enroll them. (See below for the special rule that applies to the *Medical Plan*).

Stepchildren, foster children, and other children will be considered eligible “children” for the BAE SYSTEMS Value Plan if you can demonstrate that you are legally required to support the child and the child lives with you in a parent-child relationship (**such as children placed in your home prior to adoption**).

A special Value Plan rule applies to newly adopted children (or children placed for adoption) whom you wish to enroll in the *Medical Plan*. *Medical Plan* enrollments are permitted up to 90 days following birth, adoption, or placement in the home; otherwise you must wait until the next Value Plan Annual Enrollment Period to enroll a child.

**Q-16. What happens if my employment status changes?**

If your work-hours are reduced or your employment status changes so that you become ineligible to continue participating in the Adoption Assistance Plan, only expenses *incurred* on or before the last day of the month in which you were previously eligible will be paid.

**Q-17. If I Take a Leave of Absence, will that affect my ability to collect reimbursement of adoption expenses?**

Benefits-eligible employees on leave of absence (whether paid, unpaid, or a combination of paid and unpaid, including FMLA leave) may continue benefit coverage for up to six months (unless otherwise required by collective bargaining agreement or state law). The leave must be approved by your supervisor and comply with Company policy. You are eligible to apply for reimbursement of your adoption expenses incurred during an approved leave of absence.

**Q-18. When can I file for a reimbursement?**

- **Domestic Adoption.** You can file for reimbursement at any time after you have started the adoption process regardless of when, or whether, the adoption becomes final.
- **Foreign Adoption.** You can file for reimbursement at any time after you have started the adoption process regardless of when, or whether, the adoption becomes final, however, you may want to delay filing a request for reimbursement of adoption expenses until the adoption is finalized to maximize the likelihood that your adoption expenses will be excluded from income taxation.

**Q-19 Most of my foreign adoption expenses were incurred in 2000 and 2001, and in 2002 to a lesser extent. Can I claim expense prior to 2002?**

- Only expenses actually incurred from 1/1/2002 on will qualify. You can not file for expenses incurred in 2000 and 2001 even though the adoption was not completed until 2002..

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**Q-20 I do not have receipts for many of my expenses because many of my payments were made directly to individuals and receipts were not provided. Can I provide cancelled checks or bank statements instead?**

- Cancelled checks and bank statements are not acceptable.

Failure to timely submit a request for reimbursement may result in a denial by the Adoption Assistance Plan of your application. While an employee can file a request for reimbursement at any time, employees should file all requests for reimbursement under the Adoption Assistance Plan within ninety (90) days after the date the adoption is finalized. The Plan Administrator may waive this final 90-day final-filing date under circumstances the Plan Administrator deems appropriate and necessary.

*Determinations by the Adoption Assistance Plan Plan Administrator on any reimbursement, as to whether a payment qualifies for exclusion from income tax under Section 137 of IRC, is not conclusive as to any determination made by the United States Department of Treasury pertaining to a particular employee. Plan Administrator's determination only addresses the issue of employee qualification for reimbursement and does not address any issues regarding qualification for or under any provision of any state or federal tax code. It is each person's responsibility to determine the tax implications and issues that may apply to the adoption. You should obtain tax advice and assistance from your own advisors.*