



The 2023 Federal Adoption Tax Credit

Updated June 2023

For adoptions finalized in 2023, there is a federal adoption tax credit of up to \$15,950 per child. The 2023 adoption tax credit is NOT refundable, which means taxpayers can only get the credit refunded if they have federal income tax liability (*see page 2*).

The credit is claimed one time *for each adopted child*, and should be claimed when taxpayers file taxes for 2023.

To be eligible for the credit, parents must:

- **Have adopted a child other than a stepchild** — A child must be either under 18 or be physically or mentally unable to take care of him or herself.
- **Be within the income limits** — How much of the credit parents claim is affected by income. In 2023, families with a modified adjusted gross income below \$239,231 can claim full credit. Those with incomes above \$279,230 cannot claim the credit; those with incomes from \$239,231 to \$279,230 can claim partial credit.

The Amount of Credit to Be Claimed

Families who finalize the adoption of a child with special needs in 2023 (*see details at right*) can claim the full credit of \$15,950 whether or not they had any expenses.

Example — A woman adopts three of her grandchildren from foster care and the state paid all of the fees. All three children receive monthly adoption assistance benefits and thus are considered special needs. The grandmother earns less than \$239,231 so can claim the full credit of \$15,950 per child for a total of \$47,850. How much the grandmother actually receives, however, will depend on her tax liability (explained on page 2).

Other adopters can claim a credit based on their qualified adoption expenses, which are the reasonable and necessary expenses paid to complete the adoption as long as those expenses are not reimbursed by anyone else. If the expenses are less than \$15,950, the adopters claim only the amount of the expenses. If expenses exceed \$15,950, the maximum to be claimed is \$15,950 per child.

Example — A couple adopted two children from China and had \$40,000 in legal, travel, and agency fees. They received employer reimbursement of \$20,000, leaving them with \$20,000 in qualified adoption expenses. They can claim only \$20,000 (not the maximum \$31,900 they might have been eligible for had their expenses been higher). If their modified adjusted gross income was between \$239,231 and \$279,230, they would receive only a portion of the credit, since the credit begins to phase out at incomes of \$239,231.

When to Claim the Credit

Parents who adopt a child with special needs and are not basing their request on expenses claim the credit the year of finalization. Parents who adopt internationally cannot claim the credit until the year of finalization. Parents who are adopting from the U.S. and claiming qualified adoption expenses can claim the credit the year of finalization or the year after they spent the funds.

Example — A family begins adopting a U.S. infant in 2021 and incurs \$4,000 in expenses in 2021, \$5,000 in 2022, and \$3,000 in 2023. The adoption finalizes in 2023. The parents must file for the \$4,000 spent in 2021 on their 2022 taxes. They cannot claim the \$5,000 and \$3,000 until they file their 2023 taxes.

Qualifying as Special Needs

Families who finalized in 2023 the adoption of a child who has been determined to have special needs can claim the full credit of \$15,950 regardless of their adoption expenses. The credit for all other adopted children is based on the family's qualified adoption expenses.

Basically, a child with special needs is a U.S. foster child who receives adoption subsidy or adoption assistance program benefits (which can include a monthly payment, Medicaid, or reimbursement of nonrecurring expenses). The instructions for the 2023 tax credit explain that to be considered a child with special needs, the child must meet all three of the following characteristics:

1. “The child was a citizen or resident of the United States or its possessions at the time the adoption effort began (US child).
2. A state (including the District of Columbia) has determined that the child cannot or should not be returned to his or her parents’ home.
3. The state has determined that the child will not be adopted unless assistance is provided to the adoptive parents. Factors used by states to make this determination include:
 - The child's ethnic background and age,
 - Whether the child is a member of a minority or sibling group, and
 - Whether the child has a medical condition or a physical, mental, or emotional handicap.”

Just because a child is disabled does not mean the child is special needs under the tax credit. No child adopted internationally is considered special needs for the adoption tax credit. Not even every child adopted from foster care is considered special needs (about 10 percent of children adopted from care do not receive adoption assistance support). **Those who do not receive any support from the adoption assistance program are likely not to have been determined to have special needs.**

Bottom line, if your child does not receive adoption subsidy/adoption assistance benefits, you will likely have to have qualified expenses to claim the credit.

How Much Taxpayers Will Benefit

How much, if any, of the adoption tax credit a parent will receive depends on their federal income tax liability in 2023 (and the next five years). In one year, taxpayers can use as much of the credit as the full amount of their federal income tax liability, which is the amount on line 18 of the Form 1040 less certain other credits (see Child Tax Credit below). Even those who normally get a refund may still have tax liability and could get a larger refund with the adoption tax credit. Taxpayers have six years (the year they first claimed the credit plus five additional years) to use the credit.

People who do not have federal income tax liability will not benefit this year. We encourage them to claim the credit and carry it forward to future years since the credit may become refundable again in the future.

Below are a couple of examples of how the tax credit might benefit families who finalized adoptions in 2023. (These are simplified examples.)

Example 1 — A couple adopted two brothers who had been determined to be special needs. The parents had \$6,500 in federal income tax withheld from their paychecks, and their tax liability is \$7,000, which means they would normally

owe \$500 to the IRS. Their adoption tax credit is \$31,900. They use \$1,000 in child tax credit and \$6,000 in adoption tax credit on their 2023 taxes. They get a refund of the \$9,500—the \$6,500 they already paid plus \$3,000 in child tax credit, and can carry over \$25,900 for up to five more years.

Example 2 — A couple adopted three siblings with special needs. They had \$1,000 in federal income tax withheld from their paychecks, and their tax liability is \$0, which means they would receive a refund of \$1,000. They have \$47,850 in the adoption tax credit, but they cannot use it with their 2023 taxes since they have no federal income tax.

liability. They should still file Form 8839 with their 2023 tax return so that they can carry the credit forward for up to five additional years in case their tax liability goes up in

For adoptions finalized between 2015 and 2022, you should visit the Families Rising website, www.nacac.org, for further information about how to file for the adoption tax credit. Adoptions finalized before 2015 are no longer able to file for the credit.

the future or the credit becomes refundable.

Interaction with the Child Tax Credit

In 2023 the Child Tax Credit is only partially refundable for age 0-17 years old. In 2023 this credit will interact and likely reduce the amount of the Adoption Tax Credit that is used. If you are claiming a Credit for Other Dependents that will still reduce the amount of the Adoption Tax Credit you are able to use this year.

Claiming the Credit

To claim the credit, taxpayers will complete a 2023 version of IRS Form 8839 (available at irs.gov in early 2024) and submit it with their Form 1040 when they file their 2023 taxes, most tax software will create this form for you. Before filing, taxpayers should review 2023 Form 8839 instructions (also available at www.irs.gov) very carefully to be sure that they apply for the credit correctly and to see if anything has changed. The instructions are needed to calculate how much of the credit will be used.

The instructions state that taxpayers may e-file their tax return to claim the adoption tax credit, there is no requirement to paper file the return. There is no requirement to submit documentation in 2023 (documentation was required in 2010 and 2011 when the adoption credit was refundable).

For more information, visit www.nacac.org/taxcredit/taxcredit.html, e-mail taxcredit@nacac.org, or call 800-470-6665. Families Rising is not a tax professional organization and this information should not be considered to be legal or tax advice.