

Below are a couple of examples of how the tax credit might benefit families who finalized adoptions in 2012 (these are simplified examples, which do not take into account the Child Tax Credit).

Example 1 — A couple adopted two brothers who had been determined to have 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 \$25,300, and they can use \$7,000 (their tax liability) of that with their 2012 taxes. They get a refund of the \$6,500 they had already paid, and can carry over \$18,300 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 \$37,950 in the adoption tax credit, but they cannot use it with their 2012 taxes since they have no federal tax liability. They should still file Form 8839 with their 2012 tax return so that they can carry the credit forward for up to five additional years in case their tax liability goes up in the future or the credit becomes refundable.

How the Child Tax Credit and Adoption Credit Interact

If parents can claim their child as a dependent, then they should also look into the Child Tax Credit. The Child Tax Credit and the Adoption Tax Credit interact and may reduce the Child Tax Credit a family can claim. To determine the amount of the Child Tax Credit they can use, a family must complete the Child Tax Credit Worksheet in IRS Publication 972.

Taxpayers who can answer Yes on the last line of the Child Tax Credit Worksheet may be eligible for the Additional Child Tax Credit, which is a refundable credit (meaning they can claim the credit regardless of their tax liability). To claim the Additional Child Tax Credit, parents must complete IRS Form 8812.

Claiming the Credit

Taxpayers should review 2012 Form 8839 instructions (which will be available at www.irs.gov early in 2013) very carefully to be sure that they apply for the credit correctly.

Taxpayers will complete a 2012 version of IRS Form 8839 (which will also be available at irs.gov) and submit it with their Form 1040 when they file their 2012 taxes.

2012 Taxes

Adoption Tax Credit



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Adoption Tax Credit

For adoptions finalized in 2012, there is a federal adoption tax credit of up to \$12,650 per child. The 2012 adoption tax credit is NOT refundable, which means taxpayers can only get the credit refunded if they have federal income tax liability. Even if the adoption process started in 2011 or expenses were incurred in 2011, any credit claimed in 2012 is nonrefundable.

The credit is paid one time *for each adopted child*, and should be claimed when taxpayers file taxes for 2012.

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 2012, families with a modified adjusted gross income below \$189,710 can claim full credit. Those with incomes above \$229,710 cannot claim the credit; those with incomes from \$189,710 to \$229,710 can claim partial credit.

Adoption Tax Credit Continued

Families who finalized in 2012 the adoption of a child who has been determined to have special needs can claim the full credit of \$12,650 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 2011 tax credit explain that to be considered a child with special needs, the child must meet all three of the following characteristics:

- “The child was a citizen or resident of the United States or its possessions at the time the adoption effort began (US child).
- A state (including the District of Columbia) has determined that the child cannot or should not be returned to his or her parents' home.

The state has determined that the child will not be adopted unless assistance is provided to the adoptive parents.

Adoption Tax Credit Continued

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.**

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, if any, of the adoption tax credit a parent will receive depends on their federal income tax liability in 2012 (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, less certain other credits. 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.