
Adoption Tax Credit & Claiming a Child

embrella does not employ tax experts. This is an interpretation of potential tax credit; it is intended for information purposes only and is not meant to provide tax or legal advice for anyone to act on. If you need specific information to determine if you are eligible to claim the adoption tax credit, please contact the Internal Revenue Service, by visiting www.irs.gov, calling 800.829.1040 or consulting with a tax professional.

If you finalized a special needs adoption this year, you may be able to claim a non-refundable credit per child. The tax credit is paid one time for each adopted child and should be claimed when taxpayers file their taxes.

How do I know if it was a special needs adoption?

If the adoption you finalized is a subsidized adoption, it is a special needs adoption. As part of the adoption process, you would have signed and received a copy of a document called an "Agreement to Subsidy." This document provides the reasons why and confirms that New Jersey/CP&P designated the adoption as a special needs adoption.

What is a tax credit?

A tax credit is an amount of money that the (IRS) allows taxpayers to use, for specific reasons, to reduce the amount of income tax they may have to pay to the IRS.

What is the adoption tax credit?

The adoption tax credit is a non-refundable tax credit available to eligible taxpayers who finalized a special needs adoption (as designated by CP&P).

What does non-refundable mean?

Non-refundable means that the credit can be used to offset a portion or all of your tax liability, but the credit itself or any amount in excess of the taxes owed cannot be refunded/paid directly to you. However, the excess amount may be eligible to be carried forward for use in the next tax year.

How do I claim the adoption tax credit?

To claim the adoption tax credit, you must complete and file a Form 1040 US Individual Income Tax Return and a Form 8839 Qualified Adoption Expenses.

You can access Form 8839 here:

<http://www.irs.gov/pub/irs-pdf/f8839.pdf>.

Instructions for Form 8839 are available here:

<http://www.irs.gov/pub/irs-pdf/i8839.pdf>.

Note: Claiming the credit does not require any additional documentation to be filed with the tax forms, but you should keep the Adoption Decree issued by the court and the Agreement to Subsidy provided by CP&P for your records and future reference if needed.

One of the form names mentions Qualified Adoption Expenses; what are they?

Qualified Adoption Expenses are expenses that the IRS considers to be reasonable, necessary and directly related to the purpose of adopting an eligible child. They include adoption fees, attorneys fees, court costs and travel expenses.

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I didn't have any qualified expenses; am I still eligible to claim the credit?

Yes, you are eligible as long as the adoption you finalized was a special needs adoption. When adopting through CP&P, there are no adoption expenses incurred by the adoptive parent. The special needs designation eliminates the need to show payment of qualified expenses to be eligible to claim the credit.

I finalized more than one special needs adoption; can I file a claim for all of them?

Yes. A credit can be claimed for each child you adopted. Form 8839 allows for up to three adoption tax credit claims; if you finalized more than three special needs adoptions, you will need to complete and attach additional forms.

Claiming a Foster Child

Qualifications:

According to the IRS, a foster child is someone who is "placed with you by judgement, court order, or an authorized placement agency (state or local government organization)." The child must also be under the age of 17 by the end of the tax year and must have lived with you for at least 6 months of the specified tax year.

They aren't old enough to work yet, so you don't have to worry about them filing a joint return. If they were though, filing a joint return would not be an option if you want to claim them for tax purposes. Their board payment is not considered income they have brought in, so they have not provided more than half of their support for the tax year. Those are considered reimbursements by the state and have no effect on eligibility -- so that's good news.

What if I'm Disallowed?

Even though they are living with you, a foster child's biological parents have the option of claiming them as a dependent. If they choose to, there is a possibility that you would be disallowed. In other words, you would not be able to claim them on your taxes.

If you choose to appeal that decision, you could reach out to the IRS using the contact information they provide upon notifying you of this charge. Before reaching out, though, it's important to gather all supporting evidence that shows the child was with your family for over 6 months by your local child welfare agency. In addition to showing proof via monthly board payments, you can request paperwork from your local agency verifying you have been the primary caregiver of the child.

Note: The information provided here does not cover every aspect of potential tax credit. It only focuses on aspects that are relevant to adoptions or children in foster care, through the New Jersey Division of Child Protection and Permanency (CP&P). These links and information are offered as a convenience and are not intended to imply anyone viewing the information will qualify. Due to ever-changing tax laws and credits, we sincerely urge you reach out and contact the IRS at www.irs.gov or at 800.829.1040, or consult with your professional tax preparer.

To see specific changes to the child tax credit status, visit www.IRS.gov/pub/irs-pdf/p501.pdf