

Yes, the Adoption Tax Credit is for Foster Care adoptions!

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Many have been told they do not qualify for the Adoption Tax Credit because they had no expenses. This is simply not true! Have you adopted from the foster care system? Are you thinking about adopting from the foster care system? If you have answered yes to either of these questions, you need to know about the Adoption Tax Credit. The top two questions I am often asked about the Adoption Tax Credit is can it actually help me and how does it work? The answer is yes, it can help you. It helps cover your tax liability.

According to the AFCARS (Adoption and Foster Care Analysis and Reporting System) report dated June 28, 2022 there were 391,098 children in foster care. So many Americans consider adoption, but worry about the cost of adoption. If you adopt an eligible child from the foster care system you may qualify for the full amount of the Adoption Tax Credit with little or no expenses necessary. All adoptions may qualify for the Adoption Tax Credit with the exception of one, adopting a spouse's child.

The Adoption Tax Credit is non-refundable at the time of this writing, but we are advocating strongly for it to be made refundable again. Don't give up hope, take action! There is currently a bill before Congress trying to get this great credit refundable again. H.R. 3662 is titled the "Adoption Tax Credit Refundability Act." Please contact your Representative and ask them to co-sponsor this bill. It is very important that we get it passed. I have personally seen it help so many more foster families when it is refundable.

The other question I get a lot is, how does the Adoption Tax Credit work? The maximum Adoption Tax Credit for the year 2023 is \$15,950. For tax year 2023, the MAGI phaseout begins at \$239,230 and ends at \$279,230. To be eligible, a child must generally be under 18 years of age with one exception; the child is physically or mentally unable to care for themselves.

As stated, for 2023 the credit is non-refundable. This will reduce your tax liability (total tax on your Federal 1040) before it gets to your withholding. If your credit exceeds your tax, you are able to carry forward the amount of unused credit for up to five years following the initial claim. If in that time frame the Adoption Tax Credit becomes refundable again you will be eligible for a refund of the remaining credit that was unused and carried forward.

The downside of the credit not being refundable: you get it in pieces instead of all at once. For some taxpayers this works wonderful; however, for some it does not. When non-refundable, it will not cover self-employment tax, additional IRA and pension penalty for early withdrawal, first time homebuyer repayment, and Affordable Care Act shared responsibility payment.

Even if a taxpayer has zero tax liability, I advise them to claim the credit and carry it forward for two reasons. The first being, if the Adoption Tax Credit becomes refundable again you will have the credit carry forward waiting to be refunded to you. Secondly, everyone's tax situation can change from year to year. You must carry the credit forward on each tax return.

A child adopted from the foster care system and declared special needs according to the state's criteria will qualify for the full amount of the Adoption Tax Credit with little or no expenses necessary. Each state has a different criteria as to what qualifies as special needs. The adoption must be final and the credit should be claimed in the tax year it is final. For example, if the child is declared special needs by the state and the adoption was final in 2023, you would claim the credit on your 2023 tax return that you complete between January and April of 2024.

To claim the Adoption Tax Credit use Form 8839, Qualified Adoption Expenses. This form can now be electronically filed with the rest of your tax return. Documentation is no longer required to be sent when filing your tax return. However, it is highly recommended you keep a copy of all documentation in a safe place in the event the IRS requests more information.

The credit is subject to income limitations. The limits reduce or eliminate the amount you can claim. Your income will determine the amount of credit you can claim if you are in this income range.

Documentation has been the biggest issue when claiming the Adoption Tax Credit over the years. The IRS may request the following documentation. I recommend to everyone to put good copies of all documentation in a separate envelope marked IRS documentation in the event it is requested.

- Final Judgment of Adoption
- Adoption Assistance Eligibility Determination (Subsidy Agreement) that declares the child special needs by the state.
- All adoption documents must be signed and dated. The IRS will not accept without them being signed and dated by the proper authorities.

Some other important things to remember:

- Make sure the child's name on the Social Security Card matches the name on the Final Judgment of Adoption before filing your tax return.
- The Adoption Tax Credit is a one-time credit per child.
- The maximum amount of the credit for \$15,950 for 2023.
- Some states also have a state Adoption Tax Credit or income exclusion for children adopted out of the foster care system.

Becky Wilmoth is an Enrolled Agent and Adoption Tax Credit Specialist® at Bills Tax Service. She is a member of National Foster Parent Association, National Council for Adoption/Adoption League, North American Council on Adoptable Children, Kaskaskia College Business/Accounting Advisory Board, National Association of Enrolled Agents, National Association of Tax Professionals, and Illinois Society of Enrolled Agents. She is a guest writer and guest speaker at national adoption conferences, webinars, internet radio, blogs, and podcasts and is a member of Christian Alliance for Orphans. Many at Bills Tax Service have been blessed by adoption!

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