

The Federal Adoption Tax Credit Assists Families With The Cost Of Adoption

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As an adoption attorney, I often am asked whether there are programs that assist families with the cost of adopting a baby. This question is one of my favorites because unlike other ways of building your family, adoption is substantially subsidized by the federal government. That is, the federal government offers adoptive parents a tax credit for adoption expenses (up to \$12,150 in 2009) for each child they attempt to adopt. The amazing thing about this subsidy is that it is not a deduction that reduces your income for purposes of determining your tax liability. Rather, it is a tax refund based on a dollar for dollar reduction of your total tax liability. Simply put, the adoption tax credit is \$12,150 dollars in your pocket to offset your adoption costs.

In order to take advantage of the adoption tax credit, I strongly recommend that you consult with a tax professional to determine the extent of the tax credit available to you. Nonetheless, here are my answers to the most common questions about the adoption tax credit and how it works.

Who May Claim The Adoption Tax Credit?

The adoption tax credit is fully available if your modified adjusted gross income (AGI) is equal to or less than \$182,180 (for 2009). If your modified AGI is more than \$182,180 but less than \$222,180, you will receive a reduced tax credit. If your modified AGI is \$222,180 or more for the year, you are not eligible for the tax credit.

What Adoption Expenses Qualify?

The adoption tax credit may only be used for "qualified adoption expenses." These expenses must be reasonable and necessary adoption fees. Fortunately, most adoption expenses qualify. Qualified adoption expenses include court costs, attorney's fees, agency fees, a birth mother's reasonable living expenses, traveling expenses (which include meals and lodging while away from home) and other expenses directly related to, and whose principal purpose is for, the legal adoption of an eligible child (defined as a child under 18 years of age).

In addition, adoption expenses that are required by the state as a condition of your adoption, such as installing a fence around a pool, may qualify. The expenses can be incurred in both a domestic and international adoption. The adoption of a child with special needs may entitle you to claim the full amount of the adoption tax credit even if you have not incurred the full amount of expenses.

Expenses that do not qualify include expenses your employer reimburses you through an employee benefit plan. Step-parent and surrogacy expenses also do not qualify for the adoption tax credit.

When Can I Claim The Adoption Tax Credit?

If the child is born in the United States or is a resident alien, then you may claim the adoption tax credit in the year after you incurred the expenses. However, if you finalize the adoption in the same year you incurred the expenses, you may claim the adoption tax credit in that year. Also, if you incur expenses in the year after the adoption is finalized, you may take the tax credit in the year you incurred the expenses. In an international adoption, the adoption tax credit can be claimed only after the adoption is finalized.

What If The Adoption Is Unsuccessful?

One of the amazing things about the federal adoption tax credit is that eligibility does not turn on whether an adoption attempt was successful. Indeed, expenses incurred with an adoption attempt of a specific child, whether successful or not, may be reimbursed through the credit. The IRS allows you to treat these adoption expenses in the same manner as expenses you paid for an adoption that was not finalized by the end of the year. However, in an international adoption, the adoption tax credit can be claimed only if the adoption is successfully finalized.

What Forms Do I File To Claim The Adoption Tax Credit?

To claim the adoption tax credit, you must complete Form 8839 "Qualified Adoption Expenses" and attach the form to your Form 1040 or Form 1040A. In most cases, if you are married, you must file a joint return to take the tax credit. If you are married and filing separately, you must meet special requirements to take the tax credit.

What If My Qualified Adoption Expenses Are Greater Than My Tax Liability?

The adoption tax credit is allowed only to the extent of your tax liability for that year. If the adoption tax credit exceeds the amount of your tax liability for the year, the good news is that the excess amount of the tax credit can be carried forward for up to five years.

What If My Employer Reimburses Me For Certain Adoption Expenses?

It is important to know that if your employer reimburses you for certain adoption expenses, you are permitted to exclude the amount of the reimbursement (up to \$12,150 in 2009) from your income. In other words, employee adoption benefit programs are tax deductible. You should inquire into whether your employer offers an adoption benefit program. A typical employer contribution is between \$3,000 and \$5,000.

In addition to this exclusion, you also are permitted to claim the adoption tax credit for the remaining amount of adoption expenses (up to \$12,150 in 2009).

The thing to remember is that you are not allowed to claim the tax credit and the exclusion for the same expenses. Again, you should consult with a tax professional to determine the extent of the adoption tax credit and exclusion available to you.

Since The Tax Credit Is A Federal Program, Does My State Offer Similar Types Of Tax Credits Or Deductions For Adoptive Parents?

Some states do and some do not. For example, in certain circumstances, California offers a \$2,500 tax credit in the year the adoption is finalized. Since every state is different, you should consult with a tax professional to determine the extent of the adoption tax credit available in your state.

An important part of any adoption plan is consideration of the costs and subsidies available to you. The federal adoption tax credit is a vital tool for most adoptive parents in managing their adoption expenses. In addition to the federal adoption tax credit, check to see if your state provides additional tax benefits and if your employer reimburses for any portion of your adoption expenses. Together these programs and subsidies are yet another wonderful reason to consider adoption as a means to building your family.