





# Tax Benefits for Resource Families

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## Welcome!

We're excited for today's training session on Tax Benefits.

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## About Families Rising

Founded by adoptive parents in 1974, Families Rising works to ensure all children in foster care have permanent, loving families and adoptive, foster, and kinship families have the support they need.

Learn more at [wearefamiliesrising.org](https://wearefamiliesrising.org)

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## At Families Rising, we:

- **SUPPORT** adoptive, foster, and kinship parents and young people
- **EDUCATE** child welfare professionals
- **ADVOCATE** that children and families have support

Learn more at [wearefamiliesrising.org](https://wearefamiliesrising.org)


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# Today's Agenda

- ✓ Basic information
- ✓ How credits work
- ✓ Claiming Children as Dependents



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# Adoption Tax Credit

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## ATC Eligibility

To be eligible for the federal adoption tax credit, you must:

- Have adopted a child (other than a step-child)
- The child must be under 18 years old at the time of adoption
- Have a modified adjusted gross income below a certain income.
- Either have adopted a child determined by the state to have special needs OR have qualified adoption expenses; children determined to be special needs qualify for the maximum tax credit.

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## Income Limits

Year claiming credit	Maximum amount	Lower MAGI amount	Upper MAGI amount
2024	\$16,810	\$252,150	\$292,150
2023	\$15,950	\$239,230	\$279,230
2022	\$14,890	\$223,410	\$263,410
2021	\$14,440	\$216,660	\$256,660
2020	\$14,300	\$214,520	\$254,520
2019	\$14,080	\$211,160	\$251,160
2018	\$13,810	\$207,140	\$247,140
2017	\$13,570	\$203,540	\$243,540
2016	\$13,460	\$201,920	\$241,920
2015	\$13,400	\$201,010	\$240,010

This is a one time credit per child.

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## Income Tests and Filing Status



- The income test is only applied in the year you are claiming the credit. It does not apply if you are only carrying forward credit from a previous year.
- You cannot file Married Filing Separately (MFS) in the year you claim the credit. If you are Married but separated:
  - You lived apart from your spouse during the last 6 months of the year
  - The eligible child lived in your home more than half of the year
  - You provided over half the cost of keeping up your home
- Then you must file Head of Household, not MFS, in the year you claimed the credit.

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## When to file for the adoption credit



- For international adoptions, in the year the adoption is final.
- For special needs adoptions without expenses, in the year the adoption is final
- For private domestic adoptions, either the year the adoption is final OR if not final, the year after the expenses were paid.
  - Unsuccessful adoption attempts count as one child for the purpose of the IRS. So if I have a match that does not result in an adoption. Later have a 2<sup>nd</sup> attempt that is successful, the IRS counts that as one child.

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## Special Needs for Adoption Credit

- Children who receive adoption assistance are considered “special needs” as determined by the state.
- That state determination means they are special needs for the IRS.
- Families need to check that box even if their child has no disabilities. (see instructions Line 1 (d) Example 1)
  - The box that asks disabled, do not check, that is for youth that are over 18 at the time of adoption
- If the child is determined special needs, when asked about expenses, they enter the full amount of \$15,950 (2023) into the software (see instructions Line 5 Special Needs).

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## Special Needs Definition - Line 1(d)

### *Example 1.*

Agency A is the child welfare department of State V. Mark, Rachel, and Janet, brother and sisters, are U.S. children residing in State V. When Mark was 10, Rachel 8, and Janet 6, Agency A removed the children from the home of their biological parents.

After Agency A placed the children in foster care, Agency A determined it would be difficult to place the children for adoption without providing assistance to the adoptive family because of the ages and sibling relationship of the children. Agency A provided the adoptive parents with monthly subsidy payments on behalf of each child. **The adoption assistance agreements entered into between Agency A and the adoptive parents are evidence that State V has determined that Mark, Rachel, and Janet are children with special needs.**

Their adoptive parents may claim an adoption tax credit for each child, even if the adoptive parents paid no qualifying adoption expenses, if all other requirements of the credit are met.

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## Special Needs Definition – Line 5



### Special needs adoption.

If you adopted a U.S. child with special needs and the adoption became final in 2023, enter on line 5:

- \$15,950, minus
- Any qualified adoption expenses you used to figure any adoption credit you claimed for the same child in a prior year. This is the amount you entered on line 3 of Form 8839 for this child.

If you didn't claim any adoption credit for the child in a prior year, enter \$15,950 on line 5 even if your qualified adoption expenses for the child were less than \$15,950 (**and even if you didn't have any qualified adoption expenses for this child**).

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## Employer Adoption Assistance



- If your employer has an adoption assistance program to help employees with adoption expenses.
- The money provide is excluded from your income, not part of the adoption credit, but is on form 8839 also.
- If you are documenting Qualified Adoption Expenses (QAE), you must document enough to cover all of the excluded amount and adoption tax credit.
  - QAE is applied to the exclusion then credit.
- If your adoption is determined special needs, you can exclude the full amount no matter how much the employer provide in assistance. You still can claim the full credit for special needs too regardless of QAE amount.

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## Filing and record keeping



- Beginning with 2013 families could e-file their returns. They did not have to file a paper return.
  - For domestic private adoptions without a taxpayer ID number for the child or a child isn't known yet, they will have to paper file.
- Families do not have to send in supporting documentation like they had to for 2010 and 2011. However, families should keep these documents handy in case the IRS audits them.

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## Documenting the Adoption



- For all domestic adoptions, a **court decree** (the papers from the judge/court that shows you adopted)
- For international adoptions, foreign adoption decree translated into English, Hague Adoption Certificate, some Visas.
- For special needs adoptions, you need proof that the state has determined that the child has special needs. Your **adoption assistance agreement** (adoption subsidy agreement) is the proof.
- For private domestic and international adoptions that are not determined special needs, you should keep copies of bills, receipts and proof of payment to show that you had qualified adoption expenses and that you paid them.

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## How Credits Work



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## Definitions

- **Claim** — This means that you are filing that you are eligible to get the credit.
- **Use** — Once you claim the credit, you have to be able to use it. Your ability to use the credit will be limited by your tax liability for the year.
- **Tax liability** — This is the amount you are responsible for in federal income tax for the year.



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## Base Example of Taxes



- Families Rising withholds \$4,000 from my paychecks to pay my federal income tax.
- When I complete my taxes, the tax tables say I owe \$3,000 in income tax.
- I have no credits, and no other taxes.
- I get a refund of the \$1,000 I overpaid. So even though I get a refund, I owed \$3,000 in income tax.
- With an adoption of one child with \$15,950 in adoption tax credit.
- My tax liability is \$3,000 and it is reduced to \$0 by \$400 in Child Tax Credit and \$2,600 in Adoption Tax Credit. My payments are \$4,000 in withholdings, and \$1,600 in refundable Additional Child Tax Credit for a total \$5,600 which will be the size of the refund.
- I will have \$13,350 in carryforward for 2024 tax year.
  - You have five additional years to use the credit (for a total of six years)

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## Save the Adoption Tax Credit



- NACAC has worked with other national groups to extend the adoption tax credit (successful) and make it refundable (not successful)
- We are advocating for it to be refundable in 2024 and going forward.
- Join our Facebook page: <https://www.facebook.com/AdoptionTaxCredit>
- Get connected to Families Rising News e-newsletter.
- See our webinar on advocacy at [www.adoptiontaxcredit.org](http://www.adoptiontaxcredit.org)
- If your Adjusted Gross Income is below \$30,000 the adoption tax credit probably won't help you one cent if it isn't made refundable (based on pre Tax Reform data—which seems to still be accurate)

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## Prior years

- You can amend prior years.
- The IRS only allows a credit within past three years. So currently back to 2020.
- For adoptions finalized in 2015-2019 there may be a possibility of benefiting, please contact me to discuss your specific tax situation.

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**Claiming Children as  
Dependents**



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## Claiming Children as Dependents

- To claim a child there are five tests that must be met:
  1. Relationship Test
  2. Age Test
  3. Residency Test
  4. Support Test
  5. Joint Test

From IRS Publication 501



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## Relationship Test

### Relationship Test

- To meet this test, a child must be:
  - Your son, daughter, stepchild, foster child, or a descendant (for example, your grandchild) of any of them, or
  - Your brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant (for example, your niece or nephew) of any of them.
  - **Adopted child.** An adopted child is always treated as your own child. The term “**adopted child**” includes a child who was lawfully placed with you for legal adoption.
  - **Foster child.** A foster child is an individual who is placed with you by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

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## Age and Residency Test

### Age Test

- To meet this test, a child must be:
- Under age 19 at the end of the year and younger than you (or your spouse if filing jointly),
- A student under age 24 at the end of the year and younger than you (or your spouse if filing jointly), or
- Permanently and totally disabled at any time during the year, regardless of age.

### Residency Test

- To meet this test, your child must have lived with you for more than half the year. There are exceptions for temporary absences, children who were born or died during the year, kidnapped children, and children of divorced or separated parents.
- ***Death or birth of child.* A child who was born or died during the year is treated as having lived with you more than half the year if your home was the child's home more than half the time he or she was alive during the year. The same is true if the child lived with you more than half the year except for any required hospital stay following birth.**

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## Residency Test – Uncertainty?

### Residency Test

- New language in 2022 that is confusing
- **Adopted child or foster child.**

You can treat your adopted child or foster child as meeting the residency test as follows if you adopted the child in 2023, the child was lawfully placed with you for legal adoption by you in 2023, or the child was an eligible foster child placed with you during 2023. This child is considered to have lived with you for more than half of 2023 if your main home was this child's main home for more than half the time since this child was adopted or placed with you in 2023.

- **Qualifying child of more than one person. (from 1040 instructions)**

Even if a child meets the conditions to be the qualifying child of more than one person, only one person can claim the child as a qualifying child for all of the following tax benefits, unless the special rule for Children of divorced or separated parents, described earlier, applies.

For purposes of these rules, the term "parent" means a biological or adoptive parent of an individual. It doesn't include a stepparent or foster parent unless that person has adopted the individual.

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## Support and Joint Test

### Support Test (To Be a Qualifying Child)

- To meet this test, the child can't have provided more than half of his or her own support for the year.
- *Foster care payments and expenses.* Payments you receive for the support of a foster child from a child placement agency are considered support provided by the agency. Similarly, payments you receive for the support of a foster child from a state or county are considered support provided by the state or county.

### Joint Return Test (To Be a Qualifying Child)

- To meet this test, the child can't file a joint return for the year.

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## Any final questions?

More info at [wearefamiliesrising.org](http://wearefamiliesrising.org)

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## Today's presenter



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# Thank you!



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