

Adoption Tax Credit

Effective: January 01, 2006

In recognition of the need for some relief as a result of the high cost of various adoption options, the Federal Government has now made permanent tax credits available with respect to certain adoptions. Contained in the Federal statutes that 26USCA sec. 23, tax credits are available up to a certain level. That level can be dependent upon the income of the taxpayer.

More specifically, the following rules apply to tax credits:

- Tax credit is available against federal tax imposed for the amount of certain qualified “adoption expenses” paid or incurred by the taxpayer.
- “Qualified adoption expenses” means reasonable or necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of an eligible child by the taxpayer.
- Expenses may not be included if the taxpayer was reimbursed under an employer program or any other reimbursement program and are not available in a stepparent adoption.
- The aggregate amount of qualified adoption expenses which may be taken into account or used as a credit against taxes, may not exceed \$10,000.
- However, if the child to be adopted is a child with special needs, a \$10,000 credit is available regardless of the actual total of expenses.
- A credit against taxes for expenses may be taken for any expense paid or incurred before the taxable year in which the adoption becomes final for the taxable year following the taxable year during which the expense was paid or incurred; and in cases where expenses are paid and incurred during or after the taxable year in which the adoption becomes final, for the taxable year in which such expense is paid or incurred.
- Available tax credits may be impacted by the taxpayer’s adjusted gross income. Specifically, available credit must be reduced by an amount which bears the same ratio to the amount of allowable expenses as the ratio of the taxpayer’s adjusted gross income which exceeds \$150,000, bears to \$40,000. Care should be taken to consult with a tax professional to review this ratio before a credit is taken.

- In the case of foreign adoptions, or for a child who is not a citizen of the United States, adoption credit is not available for such adoptions unless the adoption does in fact become final. Specifically, unlike other situations, any expense which is paid or incurred before the taxable year in which the adoption becomes final, must be taken into account as if they were paid or incurred during the year the adoption was finalized.

The preceding is prepared for discussion purposes only and is not intended to provide specific legal opinions on any case, nor should it be cited by anyone as a specific or complete legal opinion. All tax credits should be reviewed by a tax specialist and advice should be sought from a tax specialist when looking at specific tax credit options.