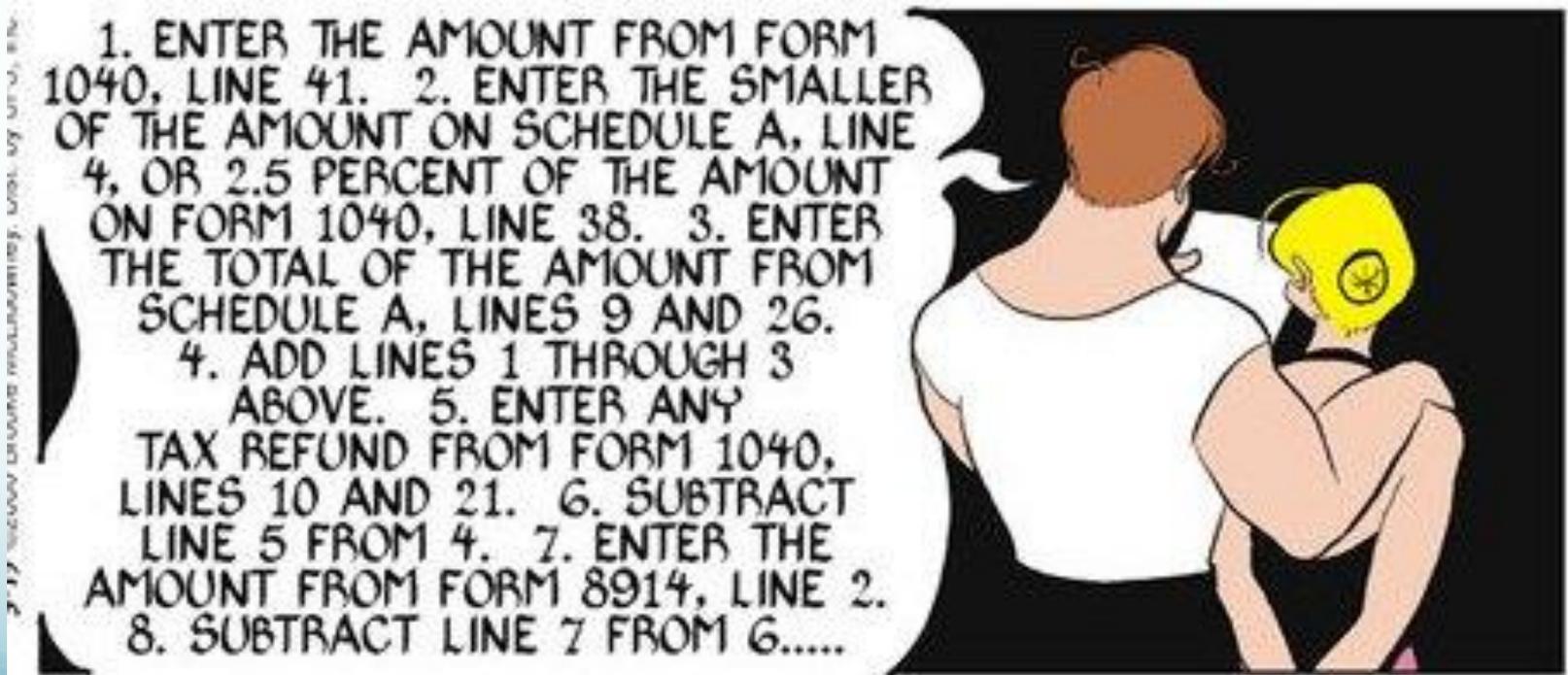


Federal Adoption Tax Credit

Welcome to NACAC's workshop on the federal adoption tax credit. This workshop is intended to provide you with basic information on the tax credit. It is not intended as tax advice.



Presented by Josh Kroll

Agenda

The agenda today will cover:

- Basic information about the federal adoption tax credit
- Specific information about adoptions completed in the following years:
 - 2021-2012
 - Other tax issues related to adoption

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 within certain guidelines
- Either have adopted a child determined by the state as special needs (hard to place) OR have qualified adoption expenses; children who have special needs qualify for the maximum tax credit.

Maximum Credit and Income

	Maximum Adoption Credit	Lower Income Limit (can get partial credit)	Upper Income Limit
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
2014	\$13,190	\$197,880	\$237,880
2013	\$12,970	\$194,580	\$234,580
2012	\$12,650	\$189,710	\$229,710

The credit is a one-time credit **per child**. The income limit is based on the modified adjusted gross federal income in the year of the adoption. Families who earn between the lower income limit and the upper can take partial credit. Those who make below the lower limit are eligible for the full credit.

Income test 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.

Children with Special Needs

How do I know if my child is considered a child with special needs for the adoption tax credit?

- The definition of special needs for the tax credit is almost identical to the definition for federal adoption subsidy. **Therefore, if you adopted a child from foster care who receives adoption subsidy, your child has been determined as a child with special needs.**

Why does it matter if my child is special needs?

- If you adopted a child determined as special needs, you qualify for the maximum amount of the adoption tax credit, even if you did not pay anything for the adoption.

IRS instructions

- **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 the 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.

IRS instructions continued

- 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 and may be used to support the adoptive parents' claim to the adoption tax credit.**
- Mark, Rachel, and Janet are U.S. children who State V has removed from their biological parents. State V also has determined that each child has 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.

Children with Special Needs

- The single most important thing you need to know is that **a child determined as special needs qualifies for the full amount of the credit regardless of expenses paid for the adoption.**
- If your tax preparer does not believe you, show him or her the instructions for IRS Form 8839, line 5. The instructions are very clear.

Children with Special Needs

(continued)

- Special needs adoption.
- If you adopted a U.S. child with special needs and the adoption became final in 2020, enter on line 5:
 - \$14,300, 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 \$14,300 on line 5 even if your qualified adoption expenses for the child were less than \$14,300 (and even if you didn't have any qualified adoption expenses for this child).

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.

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.

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.

Base example

- NACAC 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.

New Twist

- With the passage of tax reform starting in 2018, there are some changes that impact a family's ability to use the adoption tax credit.
- Previously all \$1,000 of the child tax credit (children under 17 at end of year) could become the refundable Additional Child Tax Credit (provided enough earned income)
- Currently only \$1,400 of the \$2,000 available Child Tax Credit can be made refundable. That leaves \$600 per child that will be used before the adoption tax credit. Children 17 and over would also have \$500 used before the adoption tax credit.
- So from previous page example. Would owe \$3,000 which would be reduced to \$0 by \$600 in child tax credit and \$2,400 in adoption tax credit (of \$14,300)
- Payment would be \$4,000 withheld plus \$1,400 in additional child tax credit.
- Total refund would be \$5,400. Carryforward \$11,900 to the next year.

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 2020 and going forward.
- Join our Facebook page:
<https://www.facebook.com/AdoptionTaxCredit>
- Get connected to News from NACAC e-newsletter.
- See our webinar on advocacy at www.adoptiontaxcredit.org
- If you 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)

Families who adopted in 2020

- It is still not refundable
- Special needs adoption do not have to have qualified adoption expenses.
- They will be able to e-file (domestic private without an identified child will probably have to paper file because of lack of taxpayer id for the child).
- Families should keep their records as mentioned earlier

Amending returns

- The adoption tax credit must be filed in the year the adoption was finalized.
- Years 2017 to 2019 are still open—to receive a refund.
- Years 2012 to 2016 are closed—can't get a refund.
- Best to refer families to me if they adopted in 2012 to 2019.
- Families need to start amending in the year finalized, and if they have carryforward, later years until used up or 6 years have passed.

Claiming a child as a dependent

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.

Claiming a child as a dependent

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.

Claiming a child as a dependent

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.

Recovery Rebate Credit Line 30

- Families that gained a qualifying child(ren) to their household in 2020, can access stimulus payments, called Economic Impact Payments via the Recovery Rebate Credit.
- From 1040 instructions line 30

The recovery rebate credit was paid out to eligible individuals in two rounds of advance payments called economic impact payments. The economic impact payments were based on your 2018 or 2019 tax year information. The recovery rebate credit is figured like the economic impact payments except that the credit eligibility and the credit amount are based on your 2020 tax year information. If you didn't receive the full amount of the recovery rebate credit as economic impact payments, you may be able to claim the recovery rebate credit on your 2020 Form 1040 or 1040-SR.

Recovery Rebate Credit Line 30

- You may be able to claim the recovery rebate credit only if your economic impact payments are less than your credit. This happens when:
 - You are eligible but were not issued an EIP 1, an EIP 2, or neither an EIP 1 or EIP 2, or
 - Your EIP 1 was less than \$1,200 (\$2,400 if married filing jointly) plus \$500 for each qualifying child you had in 2020; or
 - Your EIP 2 was less than \$600 (\$1,200 if married filing jointly) plus \$600 for each qualifying child you had in 2020.
- You don't qualify for the recovery rebate credit if, for EIP 1:
 - You received \$1,200 plus \$500 for each qualifying child you had in 2020, or
 - You're filing a joint return for 2020 and together you and your spouse received \$2,400 plus \$500 for each qualifying child you had in 2020.
- And for EIP 2:
 - You received \$600 plus \$600 for each qualifying child you had in 2020, or
 - You're filing a joint return for 2020 and together you and your spouse received \$1,200 plus \$600 for each qualifying child you had in 2020.

Recovery Rebate Credit

- If you have a qualifying child, a child under 17 at the end of 2020 that you can claim as a dependent, and they were not claimed as a dependent as a qualifying child on your 2018 or 2019 taxes.
- You need to check your Economic Impact Payments at <https://www.irs.gov/coronavirus/economic-impact-payments>
- Then complete the Recovery Rebate Credit Worksheet in the instructions.

Other Tax Issues

- Taxability for adoption subsidy payments — Adoption subsidy payments are not taxable income for federal income tax purposes.
- Other government programs may count adoption subsidy payments as income, even though the IRS does not.

Questions on Tax Credit?

- Ask now!
- Look on our web site: www.nacac.org
- Call our office: 651-644-3036 x115
- E-mail me: joshk@nacac.org