

TAX CREDITS

- When you file for a tax credit for adoptions conducted in 2011, the adoption must have been finalized by December 31, 2011.
- If the child came home on an IR-4 visa, the re-adoption must have been conducted by December 31, 2011.
- Beginning in 2012 only the tax credit will be available for adoptions. Refunds will no longer be available for adoptions starting in 2012.
- \$12,170 possible federal tax credit for adoptions finalized in 2012
- When the adoption tax credit is only a tax credit and not a refund, you can only get back what you have paid in federal taxes. This amount can be carried forward for up to 5 years. So if you only pay \$5,000 in federal income tax per year, and you adopt in 2012, it will take you 3 years in filing taxes before you can recoup all of the tax credit due you.
- 2013 the tax credit will revert to \$6,000 for families adopting children with special needs.

FEDERAL AND STATE GOVERNMENT

FEDERAL TAX CREDIT: \$13,170

Great news: The adoption tax credit has been extended until 2012, and you could get a tax refund!!!

The Adoption Tax Credit is \$13,170 and if you adopted in 2010 or this year (2011), you can receive not only a tax credit of up to \$13,170, you may receive refund if you did not pay the full \$13,170 in taxes. In 2012, you can still receive the tax credit, but the refund will no longer be available.

To see a video regarding the tax credit, go to:

<http://www.youtube.com/watch?v=mpHxyoHpu8Y>.

What this means to, you, the adoptive families:

You may apply **up to \$13,170** of your adoption expenses toward your federal taxes when you file your 2010 or 2011 taxes, depending upon the year that your adoption was finalized.

If you do not receive the full \$13,170 as a tax credit, you may be getting money back from the IRS for your adoption expenses. Yes, money back. If your tax liability for the year of your adoption is less than the amount of credit you are applying for, the IRS will refund the portion of the unused credit. This means you could receive some or all of the balance as a refund on your federal taxes. (The Earned Income Credit is an example of another refundable tax credit.) This is in place through 2011; in 2012, only the credit will be available.

The Joint Tax Committee says that for 2012, the maximum benefit will be \$12,170 (indexed for inflation after 2010). Unless a new law is passed, in 2013 the tax credit will revert to \$6,000 for families adopting children with special needs.

When the adoption tax credit is only a tax credit and not a refund, you can only get back what you have paid in federal taxes. This amount can be carried forward for up to 5 years. So if you only pay \$5,000 in federal income tax per year, and you adopt in 2012, it will take you 3 years in filing taxes before you can recoup all of the tax credit due you.

What if I adopt 2 children? Do I get double the tax credit/refund?

If you adopt two children, you could have a tax credit up to \$26,340 if your total expenses came to \$26,340 or more. It is important to note that if your income is too high, you could be phased out of the tax credit. However, if your income is low enough, and you paid \$26,340 or more in adoption related expenses, you could receive a tax credit *and* a refund. If you adopt three children, the credit/refund could be as high as \$39,510 as long as your adoption-related expenses are that high.

This means that if you adopted two children and the adoption fees and expenses came to \$30,000, and your federal tax liability was \$7,000, you would receive the \$7,000 as a credit against your liability; in addition, you could receive the remaining \$19,340 back in a refund from the IRS even though you did not pay that in taxes. This applies through 2011 only. **If you adopt in 2012, you can only get a tax credit—not a refund.** Also, the tax-credit will be \$1,000 less per child than in 2011. Most families will need to carry their tax-credit forward at least one more year if they adopt more than one child.

What if my employer provides adoption benefits?

If your company has employer-provided adoption assistance, you can receive up to \$13,170 in tax-free income. Also, your employer can reduce your salary to pay the adoption benefit so that you can receive tax-free income. This is even more attractive this year because, for the first time, you do not have to pay a lot in taxes to really see the benefit of the credit because you would get a refund for what you do not get in credit.

So if your adoption expenses, including all agency/attorney fees, come to \$30,000, and your employer gives you \$10,000 as an employee benefit, which is tax-free, and you pay \$3,000 in federal income tax, then you could offset your tax liability with \$3,000 from the tax credit; you could then receive the remaining \$10,170 as a refund.

We encourage you to talk with your employer, who may not normally offer adoption benefits, to consider providing this benefit to you. You are permitted to reduce your salary by up to \$13,170 and instead be given this benefit as non-taxable income. So if your adoption fees and expenses come to \$28,000, and your employer gives you \$13,170 in tax-free income, you will most likely save in taxes owed overall to the State, to social security, and Medicaid as well as to the federal government. If you are adopting siblings, the employer-provided benefits can double or triple, based on the number of children you are adopting. In addition to receiving tax-free income, you can also receive up to \$13,170 as a tax credit and/or refund for your remaining adoption expenses.

If your company is the rare employer who provides more than \$13,170 in adoption benefits, then the remaining benefit over \$13,170 is taxable. So if you receive \$15,000 in adoption benefits from your employer, you will have to pay taxes on the \$1,830. **The non-taxable employer benefits will be \$1,000 less in 2012.**

When is a family's income too high to get the tax credit?

As 2010, the credit began to phase out once a taxpayer's modified adjusted gross income (AGI) reached \$182,180. The credit completely phased out at a modified AGI at \$222,180. This means that you cannot claim the credit or employee benefit exclusion at all once your modified AGI is \$222,180.

Both the amount of the credit and the phase out are adjusted for cost of living increases. Please speak with your local tax professional for the exact amounts based on the timing of your adoption.

What about failed adoptions?

If you adopt domestically and the adoption fails, then you can take the adoption tax-credit the year after your adoption has failed. So if you were in the process of adopting domestically in 2010, and spent \$7,000 on adoption related fees and birth mother living expenses and the birthmother changed her mind, you can take the tax credit of \$7,000 when you file your 2011 taxes in 2012. If you paid, for example, \$3,000 in federal income taxes, you may be able to receive the other \$4,000 as a refund from the IRS. You have to wait until 2012 to receive those funds. If you have a failed adoption in 2011, you will have to wait until you file your 2012 taxes in 2013 to receive an adoption tax credit only.

What about adopting children with special needs?

The special provisions for those adopting children with special needs who pay minimal or no adoption related fees may still be eligible for the tax credit if the adopted children are placed through social services or an agency with a contract with social services.

(Nightlight cannot provide tax advice to your specific situation. This information has been provided in conjunction with attorney John Hine. As with all tax matters, consult with a tax attorney or CPA.)

Filing the Tax Form

The IRS released [a draft version of the form](#) that eligible taxpayers will use to claim the adoption credit on 2010 tax returns. In addition to filling out [Form 8839](#), Qualified Adoption Expenses, eligible taxpayers must include with their 2010 tax returns one or more adoption-related documents. These documents must be sent by mail with paper tax returns. Normally, it takes six to eight weeks to get a refund claimed on a paper return when all required documents are attached. The IRS encourages taxpayers to use direct deposit to speed their refund.

Taxpayers claiming the credit will still be able to use [IRS Free File](#) to prepare their returns, but the returns must be printed out and sent to the IRS, along with all required documentation.

STATE TAX CREDITS

Some states provide a tax credit. For example, in South Carolina families may be eligible for a \$2,000 income deduction on their SC Individual Income Tax return if they have adopted a child with special needs or one who is at risk for special needs. The deduction can begin in the year the adoption was made final. A letter from the adoption agency certifying that their adopted child had a special need or was at risk, should be attached to the family's tax return. Consult the instructions accompanying state tax returns or a tax advisor.

SC NON-RECURRING COSTS SUBSIDY

Many South Carolina families adopting domestically are approved to receive \$1,500 from the State of SC when adopting. The information regarding this is included in the Nightlight home study packet.

EMPLOYER ADOPTION BENEFITS

CALIFORNIA EMPLOYERS

McMaster-Carr

Hewlett-Packard

Spartanburg Regional Healthcare District \$12,000

COLORADO EMPLOYERS

CoBank \$3,500

CSG Systems, Inc. \$5,000

McKesson Corporation \$2,000

Merlin International, Inc. \$10,000

Molson Coors Brewing Company \$3,000

Verizon Business \$10,000

Federal Employees

www.opm.gov/employment_and_benefits/worklife/officialdocuments/handbooksguides/adoption/index.asp

Federal employees can check the Office of Personnel Management website for detail on adoption benefits.

SOUTH CAROLINA EMPLOYERS

Employers providing adoption benefits are listed. Information may change as employers modify their benefits package.

STATE OF SC EMPLOYEES

State of SC employees can receive up to \$5,000 in benefits and \$10,000 if the child has special needs. There is a pool of money that is divided out among the adoptive families. There is also a specific timeframe in which you can submit the request for benefits. Check the Employee Insurance Program website for details on their Adoption Assistance Programs.

Blackbaud, Inc. \$3,000

BMW \$5,000

First Reliance Bank \$5,000 8 12 weeks

First Sun Management Corporation \$7,000 3

Fiji \$7,000

FEDERAL FAMILY MEDICAL LEAVE ACT

Unpaid leave under the Federal Family Medical Leave Act is also an option. This act allows individuals to take up to 12 weeks off, unpaid with benefits without jeopardizing employment. The leave can provide valuable time for newly adoptive families to bond with their new child.