

Legal Guardians

For parents who have assumed Subsidized Permanent Legal Custodianship (SPLC) or Permanent Legal Custodianship (PLC). The following special rules apply to guardians:

- Cost of care reimbursement and difficulty of care payments are not taxable income, and should not be reported on the caretaker's tax return.
- Expenses related to legal guardianship of a child are not eligible as charitable contributions. The IRS determined legal guardianship is similar to caring for your own child.
- A guardian child not related to you may be claimed as a dependent if the guardian provides for more than half of the child's support and the child lives in the caretaker's home for a full year. A guardian child related to you does not need to live with you all year.
- A child claimed as a dependent may also be a qualifying child for the Child and Dependent Care Credit, the Child Credit, and the Education Credits.
- A child placed by a public or private child welfare agency with a guardian can be a qualifying child for the Earned Income Tax Credit, if the child resides with the guardian for more than 6 months.

Claims for Prior Years

If you learn about your eligibility for a tax benefit for the first time, you may be concerned about previous year's tax returns. Any taxpayer may file an amended return, Form 1040X, to correct errors in a prior year return. The IRS will issue refunds for amended returns **up to three years prior**. The deadline for filing an amended return that claims a refund for the 2008 tax year is April 15, 2012.

Where to Find More Information

Publication 972 Child Tax Credit

Form 8839 Qualified Adoption Expenses

Or call: Call (800)829-1040



Together as Adoptive Parents, Inc. (TAP) is a nonprofit, adoptive, foster, and kinship parent support group. For information on when we meet and where, please contact us at 215.256.0669.

2011 Taxes

Adoption Tax Credit



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Adoption Tax Credit

Public Law 111-148, the Patient Protection and Affordable Care Act, was signed into law on March 23, 2010. Section 10909 of the Act extended the adoption tax credit for one more year (to December 31, 2011) and expanded the program in two ways:

For tax year 2011, the amount of the credit is \$13,360.

The credit was made **refundable** for tax years 2010 and 2011.

The 2011 adoption tax credit is refundable, which means taxpayers can typically get the credit refunded regardless of what they owe or paid in taxes for the year. Even people who have no income can qualify for a refundable credit.

The credit is paid one time for each adopted child, and should be claimed when taxpayers file taxes for 2011.

To be eligible for the credit, parents must:

- ***Have adopted a child other than a stepchild***

And be within the income limits —

How much of the credit parents can claim is affected by income. In 2011, families with a federal modified adjusted gross income below \$185,210 can claim the full credit. Those with incomes above \$225,210 cannot claim the credit; families with incomes between \$185,210 and \$225,210 can claim partial credit.

Adoption Tax Credit Continued

Families who adopted a child who has been determined to have special needs can claim the full credit of \$13,360 without having any adoption expenses. The credit for all *other* adopted children is based on the family's qualified adoption expenses.

Basically, a child with special needs is a U.S. foster child who is adopted and **receives adoption subsidy** or adoption assistance program benefits.

Example — A grandparent adopts three of her grandchildren from foster care and the state agency paid for all of the fees. However, all three children receive monthly adoption assistance benefits and thus are considered special needs. The grandmother earns less than \$185,210 so can claim the full credit of \$13,360 per child for a total of \$40,080.



Adoption Tax Credit Continued

Unless the process changes from 2010, parents will need to prove the adoption by providing the IRS with a **copy** of the adoption decree with the official seal visible. Families who adopted a child with special needs must also provide a **copy** of the following: (1) the adoption assistance agreement, and (2) a letter from the county child welfare agency stating that the child has been determined to have special needs.

Taxpayers should review 2011 Form 8839 instructions very carefully to be sure that they apply for the credit correctly. In 2010, taxpayers were required to file taxes by mail rather than electronically and had to submit certain documentation with the return.

Families who adopted from 2005 to 2010 who have not already claimed the adoption credit for those adoptions may still be able to benefit from the credit.

Taxpayers who adopted from 2005 to 2009 can carry credits forward to 2010 (when the credit first became refundable). In cases of adoptions before 2008, however, some or all of the credit may be lost.