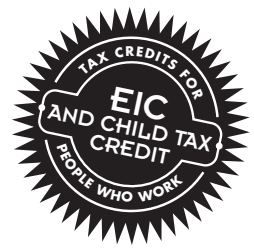


# Adoption Tax Credit Remains Available for Working Families in 2011



In 2010, Congress enacted a change to the Adoption Tax Credit (ATC) that will enable more low- and moderate-income workers to receive a refund of expenses they incur in adopting a child in 2010 or 2011.

Previously, the ATC reduced filers' income tax liability by up to \$12,150. However, moderate-income workers owe far less in income tax, so only wealthier families could take advantage of the ATC to offset much of their adoption expenses. (The ATC begins to phase out at an income of \$185,210 and drops to zero for incomes above \$225,210.)

As a result of this change, adoptive parents may now receive an ATC refund worth up to \$13,360 of qualified adoption expenses in 2011, whether or not they owed any income tax. (The ATC may also be claimed for adoptions completed in 2010 by amending the 2010 tax return.)

For example, the Jacksons are a married couple with no other children earning \$35,000 who adopted a child in 2011 and paid \$10,000 in costs for the adoption alone. The couple initially owes \$1,230 in income tax, but the child lived with them more than six months so their Child Tax Credit (CTC) reduces their income tax to \$230; they also may qualify for an Earned Income Credit (EIC) worth \$980.

## Under Previous Rules:

The Jacksons could claim an ATC worth just \$230 of their \$10,000 in adoption expenses.

## Under New Rules:

The Jacksons may claim an ATC refund for the full \$10,000 in adoption expenses.

**There is a special ATC rule for children with "special needs."** If the child adopted by the Jacksons was certified by a state or the District of Columbia as having special needs, the couple could claim a refund of the maximum \$13,360 ATC even if they did not incur expenses that high. Special needs children must meet three criteria:

- the child was a citizen or resident of the U.S. when the adoption process began;
- a state or the District of Columbia has determined that the child cannot or should not return to his or her parents;
- the state has determined that the child will not be adopted unless the adopting parents receive assistance; factors may include, but are not limited to, medical conditions or physical, mental, or emotional handicaps.



**Why is the ATC important for Tax Credit Outreach Campaigns?** Foster parents with modest earnings who are interested in adopting their foster child but cannot afford the related fees may now be able to go forward and adopt. Outreach Campaigns can provide foster care agencies and foster parent associations with information about the new rules. For more ideas, see p. 28 of the Outreach Strategies booklet in this Kit. In addition, individuals who previously were interested in adoption but could not afford it may now find it affordable to adopt a child. Outreach Campaigns can help staff at adoption agencies share information about how the ATC (in addition to other refundable tax credits) can make the cost of adoption more reasonable.

**Which adoptions qualify for the ATC in 2011?** Eligible children include those under age 18 (note that if the child turns age 18 in 2011, expenses paid before that time can be claimed), or a child of any age who is physically or mentally unable to take care of himself or herself. The child may be a U.S. citizen, resident of the U.S, or a foreigner. Expenses for a domestic adoption may be claimed even if the adoption was not final in 2011 or was unsuccessful. Expenses for adoption of a foreign child may be claimed only if the adoption became final in 2011. (See the instructions for Form 8839 on how expenses in years before or after the adoption became final may be claimed.)

**How is the ATC claimed?** Filers claim adoption expenses and provide information about the adopted children on their tax return:

- filers must use Form 1040 and attach IRS Form 8839, "Qualified Adoption Expenses"; copies of specific documents to verify an adoption or attempted adoption must be attached to the return (IRS instructions for Form 8839 describe the requirements);
- because documents are submitted with the return, the tax return must be submitted in paper form, not electronically;
- due to the additional rules for the ATC and the paper filing requirement, most Volunteer Income Tax Assistance programs will be unable to help filers claim this credit; VITA programs and Tax Credit Outreach Campaigns may wish to identify other resources in the community familiar with adoption issues, such as CPAs or Enrolled Agents, to provide referrals to tax filers.

**Does an adopted child need a Social Security number (SSN) to be claimed for the ATC?** If the child does not have an SSN and one cannot be obtained in time to file the return, filers may apply to the IRS for an Adoption Tax Identification Number (ATIN) using Form W-7A. The ATIN is a temporary tax identification number that can be used when an adoption is pending for a child without an SSN. If the child is not a U.S citizen or legal resident, filers may apply instead for an Individual Tax Identification Number (ITIN) using Form W-7.

A child with an ATIN or ITIN may not be claimed for the Earned Income Credit, which requires a valid SSN. However, the tax return may be amended later to claim the EIC after the child's SSN is obtained, if the child could otherwise have been claimed for the EIC in that year. An adopted child with an ATIN or ITIN may be claimed for the Child Tax Credit.