

LEGAL FACT SHEET

Tax Credits Available to Kinship Caregivers (2023 Tax Year)*

The federal government offers tax credits to all families who are raising children. These credits usually apply to kinship families.

Credits are the most effective way of reducing income taxes because the amount of the credit is subtracted from the tax due. Credits directly reduce the amount of taxes that you owe! Most importantly, the Earned Income Tax Credit (EITC) is a refundable credit. If the credit is more than your taxes, the government will pay the balance to you! The Earned Income Tax Credit is a lawful way to get paid by the federal government! In addition to the EITC, there is the Child Tax Credit, the Child and dependent Care Credit, the Adoption Credit, and the Higher Education Credit.

The Kinship Navigator Income Tax Information Fact Sheet offers some basic information about these three credits. In order to understand whether you can use these credits, you can start here, but you will need to get more information.

On the web, you can go to:

- www.irs.gov: information on tax forms, includes list of free file websites
- <https://www.irs.gov/faqs> : list of common tax questions

For information on New York State Tax Credits, please visit:

- List of New York State Income Tax credits: http://www.tax.ny.gov/pit/credits/income_tax_credits.htm
- Child and Dependent Care Credit: http://www.tax.ny.gov/pit/credits/child_and_dependent_care_credit.htm
- Empire State Child Credit: http://www.tax.ny.gov/pit/credits/empire_state_child_credit.htm
- New York EIC: http://www.tax.ny.gov/pit/credits/earned_income_credit.htm

You can also ask for assistance from a local income tax help line:

- IRS National Taxpayer Advocates helpline: 1-877-777-4778
- IRS Internal revenue service: 1-800-829-1040
- NYS Personal Income Tax Information Center: 518-457-5181
 - <https://www.tax.ny.gov/help/contact/contactus-ind.htm>

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Federal Earned Income Tax Credit (EITC)

Income Requirements

- Special tax benefit for working people who earn low to moderate incomes.
- Credit is available whether or not you have children; it is based on income.
- Credit of up to \$6,935 for qualifying taxpayers

Income Requirements (Filing as Single, Head of Household, or Widowed)

- Gross income is less than \$17,640 with no children.
- Gross income is less than \$46,560 with one child.
- Gross income is less than \$52,918 with two children.
- Gross income is less than \$56,838 with three or more children.

If filing as Married Filing Jointly

- Gross income jointly filed is less than \$24,210 with no children.
- Gross income jointly filed is less than \$53,120 with one child.
- Gross income jointly filed is less than \$59,478 with two children.
- Gross income jointly filed is less than \$63,398 with three or more children.
- Your investment income must be \$11,000 or less to qualify for EITC.
- You can Qualify for the EITC if you're separated but still married. To do so, you can't file a joint tax return and your child must live with you for more than half of the year. You also must not have lived with your spouse during the last six months, or you must have a separation agreement or decree.

Qualifying children

- Qualifying child is UNDER 19, or UNDER 24 and a full-time student, or ANY AGE and permanently and totally disabled.
- Who has lived with you for more than half of 2023
- Who is a son, daughter, adopted child, grandchild, stepchild, eligible foster child, niece, nephew, sister, brother, half-sibling, step-brother, step-sister.

Amount of Credit

- No Children: \$600
- One Child: up to \$3,995
- Two Children: up to \$6,604
- Three or more children: up to \$7,430

Requirements

- You must file [Form 1040, US Individual Income Tax Return](#) or [Form 1040 SR, US Tax Return for Seniors](#). If you have a qualifying child, you must also file the [Schedule EIC \(Form 1040 or 1040-SR\), Earned Income Credit](#) to give us information about them.
- If claiming a child(ren), the child(ren)'s Social Security Number and their date of birth

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- Public benefits do not count as income when applying for benefits. Exceptions: Public Assistance does not count this credit as income. SSI income counts credit as income after nine months. Food Stamps count as income after 12 months.

Federal Child Tax Credit

Income Requirements

- Federal tax credit for low- and moderate-income working families.
- May reduce taxes by up to \$2,000 for each qualifying dependent (all children aged 17 and younger in 2023) and \$1,600 of that credit may be refundable, per child. This refundable portion is called the “additional child tax credit (ACTC)”.
- “Credit for Other Dependents (ODC)”: If you have a dependent, who cannot be claimed for the child tax credits, you may be able to claim the “Credit for Other Dependents (ODC)”. The ODC is a nonrefundable credit of up to \$500 for each eligible dependent.

Income limits

- \$400,000 (AGI) if you are married and filing a joint return
- \$200,000 (AGI) if you are filing as a head of household; or if you are a single filer or are married and filing a separate return.
- If your AGI is above the above thresholds, the credit amount will be reduced by \$50 for each \$1,000 income over these thresholds, until the credit is eliminated.

Qualifying Children

- Be your daughter, son, stepchild, eligible foster child, brother, sister, stepbrother, stepsister, half-brother, half-sister, or their descendant
- Be under age 17 at the end of the tax year
- Not provide more than half of their own financial support during the tax year
- Must have lived with you for more than half of the tax year (certain exceptions exist)
- Be claimed as a dependent on your tax return
- Not file a joint tax return for the year (except when only filing to claim a refund of withheld income taxes or estimated taxes paid)
- Be a U.S. citizen, U.S. national, or U.S. resident alien
- Have a Social Security Number issued by the Social Security Administration that is valid for employment

Requirements

- Must file Form 8812 “Credits for Qualifying Children and Other Dependents”.
- Must file federal Income Tax return 1040 or 1040SR (NOT 1040EZ).
- Public Benefits: refund has little or no effect.
- SSI: counts credit as income after twelve months.
- Must provide name and Social Security Number on tax return for each qualifying child.

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For further information on the Child Tax Credit: <http://turbotax.intuit.com/tax-tools/tax-tips/Family/Child-Tax-Credit/INF12004.html>

Empire State Child Credit

You are entitled to this refundable credit if you:

- Are a full-year New York State resident or married to a full-year resident,
- Have a qualifying child*, **and**
- Meet **one** of the following conditions:
 - you have a federal child tax credit, additional child tax credit, or credit for other dependents (claimed on federal Form 1040 or Form 1040NR) **or**
 - your New York recomputed federal adjusted gross income is:

Filing Status	NY Recomputed Federal Adjusted Gross Income
Married filing a joint return	\$110,000 or less
Single or head of household or qualifying widow(er)	\$75,000 or less
Married filing separately	\$55,000 or less

*A qualifying child must be at least four years old, but less than 17 years old on December 31st of the tax year and must qualify for the federal child tax credit.

How much is the credit?

- 33% of the portion of the federal child tax credit and federal additional child tax credit (calculated using the NY recomputed FAGI as well as the federal credit amounts and income thresholds that were in effect for tax year 2017, prior to the enactment of Public Law 115-97), attributable to qualifying children, or
- \$100 multiplied by the number of qualifying children.

If you did not claim the federal child tax credit but meet all of the other eligibility requirements shown above, the amount of the Empire State child credit is:

- \$100 multiplied by the number of qualifying children.

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For additional information on claiming this credit, see [Form IT-213](#), Claim for Empire State child Credit and its [instructions](#).

Child and Dependent Care Tax Credit

- The maximum amount of care expenses you're allowed to claim is \$3,000 for one person, or \$6,000 for two or more people. The percentage of your qualified expenses that you can claim ranges from 20% to 35%.
- Credit is a tax credit and therefore nonrefundable (ONLY reduces the amount of income you pay taxes on)
- Income is defined as working income (public assistance and food stamps do not count toward this amount).

To qualify:

- Your qualifying child who is your dependent and who was under age 13 when the care was provided (but see [Child of divorced or separated parents or parents living apart](#), later);
- Your spouse who wasn't physically or mentally able to care for themselves and lived with you for more than half the year; or
- A person who wasn't physically or mentally able to care for themselves, lived with you for more than half the year, and either:
 - Was your dependent, or
 - Would have been your dependent except that:
 - He or she received gross income of \$4,700 or more,
 - He or she filed a joint return, or
 - You, or your spouse if filing jointly, could be claimed as a dependent on someone else's 2023 return.

Employment related expenses include:

- [Household services and expenses](#) for care for the qualifying dependent.
- Out of home care costs for a child under 13, including daytime summer camp, before and after school programs, babysitter (including nannies/housekeepers), or day care center (including fees, deposits).
- Transportation by a care provider for the dependent can also be claimed
- Does NOT include overnight camp, elementary school, tutoring, and summer school, or child support.

Adoption Credits and Exclusions

If you adopt a child, you can qualify for special tax breaks and income declaration exclusions.

What it is?

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Credit: Tax credit for *qualifying expenses* paid to adopt an eligible child (including a child with special needs). Tax credits can also be claimed for failed or non-finalized adoption but must wait until a year after the expenses occur. The adoption credit is an amount subtracted from your tax liability. (Adoption credits can be carried forward for up to five years)

Exclusion: If your employer has an adoption assistance program you may also exclude qualifying adoption expenses from your declared income.

When you can claim it

If expenses are paid prior to the year the adoption becomes final, the credit generally is allowed for the year following the year of payment. A taxpayer who paid qualifying expenses in the current year for an adoption which became final in the current year, may be eligible to claim the credit for the expenses on the current year's return, in addition to credit for expenses paid in a prior year.

Non-Qualifying Expenses (Exclusions)

- The adoption credit is not available for any *reimbursed expense*.
- Certain amounts *paid by your employer* for qualifying adoption expenses may be excludable from your gross income.

Typical Qualifying Expenses

You can take these off your taxes:

- Reasonable and necessary adoption fees.
- Court costs.
- Attorney fees.
- Traveling expenses (including amounts spent for meals and lodging while away from home).
- Other expenses directly related to and for which the principal purpose is the legal adoption of an eligible child.

Child Requirements

Child must be:

- Under 18 years old, *or*
- Be physically or mentally incapable of caring for himself or herself *and*
- US Citizen or resident
- Adoption in process or final in the taxable year

Adoption Credit is increased or excluded in special circumstances

- Child with special needs
- United States citizen or resident
- State determines that the child cannot or should not be returned to his or her parent's home, and
- Probably will not be adopted unless assistance is provided.

Adoption Credits and Exclusions (Continued)

How to Apply

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- Married
 - Filing Status: **must file a joint return** to take the adoption credit or exclusion.
- Married Filing Separately
 - Filing Status: only if you meet special requirements.

Adoption Taxpayer Identification Number (ATIN) for Child

If you are in the process of adopting a child and can claim the child as your dependent or are able to claim a childcare credit, you may need an [ATIN](#) for your adoptive child. An [ATIN](#) is issued by the Internal Revenue Service as a temporary taxpayer identification number for the child in a domestic adoption where the adopting taxpayers do not have and/or are unable to obtain the child's Social Security Number (SSN). Recent tax law changes require that when you list a person's name on your federal income tax return, you must provide a valid identifying number for that person.

An ATIN when adopting child from foreign country may be obtained if:

- The child is legally placed in your home for legal adoption by an authorized placement agency.
- The adoption is a **domestic** adoption **OR** the adoption is a **foreign** adoption and the **child/children have a Permanent Resident Alien Card or Certificate of Citizenship**.
- You cannot obtain the child's existing SSN even though you have made a reasonable attempt to obtain it from the birth parents, the placement agency, and other persons.
- You cannot obtain an SSN for the child from the SSA for any reason. (For example, the adoption is not final).
- You are eligible to claim the child as a dependent on your tax return.

To take the credit or exclusion, complete [Form 8839 \(PDF\)](#), *Qualified Adoption Expenses*, and attach the form to your [Form 1040, U.S. Individual Income Tax Return](#), [Form 1040-SR, U.S. Tax Return for Seniors](#) or [Form 1040-NR, U.S. Nonresident Alien Income Tax Return](#).

Adjusted Gross Income Limits

Income (\$) Limitation:

- \$239,230 - \$279,230: Phases out, Pro Rata Percentage
- \$279,231 or more: Cannot claim

Maximum Amount of Credits and Exclusions 2023

- Credit \$15,950
- Exclusion \$15,950 (must claim any exclusion before you can claim credit)

High Education Credits

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The American opportunity tax credit (AOTC) is a credit for qualified education expenses paid for an eligible student for the first four years of higher education. You can get a maximum annual credit of \$2,500 per eligible student. If the credit brings the amount of tax you owe to zero, you can have 40% of any remaining amount of the credit (up to \$1,000) refunded to you.

The amount of the credit is 100% of the first \$2,000 of qualified education expenses you paid for each eligible student and 25 percent of the next \$2,000 of qualified education expenses you paid for that student.

To be eligible for AOTC, the student must:

- Be pursuing a degree or other recognized education credential
- Be enrolled at least half time for at least one academic period* beginning in the tax year
- Not have finished the first four years of higher education at the beginning of the tax year
- Not have claimed the AOTC or the former Hope credit for more than four tax years
- Not have a felony drug conviction at the end of the tax year

***Academic Period** can be semesters, trimesters, quarters, or any other period of study such as a summer school session. The schools determine the academic periods. For schools that use clock or credit hours and do not have academic terms, the payment period may be treated as an academic period.

For more information see [IRS information on form 970](#). You may be able to deduct qualified education expenses, such as tuition and fees but not for living expenses, paid during the year for yourself, your spouse, or your dependent(s). You cannot claim this deduction if you're filing married, filing separately or if another person can claim an exemption for you as a dependent on his or her tax return. The qualified expenses must be for higher education.

The above information is not legal advice. It is not a substitute for consulting an attorney. Up-to-date legal advice and legal information can only be obtained by consulting with an attorney. Any opinions, legal opinions, findings, conclusions or recommendations expressed in this publication or on the NYS Kinship Navigator website or by any person or entity to whom you may be referred are those of the Kinship Navigator, Catholic Charities Family and Community Services and/or the person or entity you are referred to and do not necessarily represent the official views, opinions, legal opinions or policy of the State of New York and/or the New York State Office of Children and Family Services (OCFS). NYS Kinship Navigator is a Catholic Charities Family and Community Services program, funded by the New York State Office of Children and Family Services. Catholic Charities Family and Community Services is the only agency authorized by New York State to provide a statewide information and referral service to kinship caregivers. The information herein is published by the NYS Kinship Navigator.