

LEGAL FACT SHEET

TAX CREDITS AVAILABLE TO KINSHIP CAREGIVERS*

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://turbotax.intuit.com/best-tax-software/common-questions/>: 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

FEDERAL EARNED INCOME TAX CREDIT

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 \$6,660 for qualifying tax payers.

Income requirements

- Gross income is less than \$15,820 with no children.
- Gross income is less than \$41,756 with one child.
- Gross income is less than \$47,440 with two children.
- Gross income is less than \$50,954 with three or more children.

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If filing jointly

- Gross income jointly filed is less than \$21,710 with no children.
- Gross income jointly files is less than \$47,646 with one child.
- Gross income jointly filed is less than \$53,330 with two children.
- Gross income jointly filed is less than \$56,844 with three or more children.
- The maximum investment income you can possess is \$3,650.
- If you are married and filing separately, you cannot claim EITC.

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 2020.
- Who is a son, daughter, adopted child, grandchild, stepchild, eligible foster child, niece, nephew, sister, brother, or half-sibling.

Amount of Credit

- No children: up to \$538
- One child: up to \$3,584
- Two children: up to \$5,920
- Three or more children: up to \$6,660

Requirements

- Must file Schedule EIC if you are claiming children.
- Must file federal Income Tax return 1040 or 1040A (NOT 1040EZ). Exception: You MAY file a 1040EZ if you are NOT raising a child.
- 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 counts credit as income after 12 months.

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 child. Only \$1,400 of the \$2,000 is refundable.
- If you have one or more qualifying children and more than \$2,500 of earned income in 2020, you may be eligible for a refund of up to 15% of your earned income that exceeds \$2,500. Or, if your earned income is less than \$2,500, you may be eligible for a refundable credit if you have three or more qualifying children and you paid Social Security taxes that exceeded your earned income credit.
- ***New credit for other dependents*** If you have a dependent, 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 who cannot be claimed for the child tax credit

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Income limits

- Married (filing jointly): \$400,000 (AGI-Adjusted Gross Income).
- Single/Head of household: \$200,000 (AGI).
- Married, filing separately: \$200,000 (AGI).
- Limit on investment income.

Qualifying Children

- Under 17 in 2020.
- Child, grandchild, foster child, sibling, niece/nephew, step-sibling.
- Provided less than half of their own support in 2020.
- Lived with you for more than half of 2020.
- Is claimed as a dependent on your return.

Requirements

- Must file Form 8812 “Additional Child Tax Credit”.
- Must file federal Income Tax return 1040 or 1040NR (NOT 1040EZ).
- Public Benefits: refund has little or no effect.
- SSI: counts credit as income after nine months.
- Must provide name and Social Security Number on tax return for each qualifying child.

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 or a federal additional child tax credit (claimed on federal Form 1040 or Form 1040NR), **or**
 - Your federal adjusted gross income is:

Filing Status	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.

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How much is the credit?

If you claimed the federal child tax credit, the amount of the Empire State child credit is the greater of:

- 33% of the portion of the federal child tax credit 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.

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

- You are allowed to claim up to \$3,000 for the expense of one child, and up to \$6,000 for more than one dependent.
- Each dependent must have a social security number or Taxpayer ID number.
- Due to the fact that the credit is nonrefundable (will not pay you over the amount you owe), its use is limited to low-income families.
- You MUST pay taxes to qualify for this credit.
- Income is defined as working income (public assistance and food stamps do not count toward this amount).

To qualify, you must:

- Have paid for care expenses in order to earn taxable income.
- Married individuals must both work at least part-time (unless one is disabled or a student).
- Pay more than 50% of the household maintenance costs for a qualifying dependent.
- File your tax return jointly if married, unless the separation rules apply;
 - Hire someone *other than* your child (under age 19 at the end of the tax year), your spouse, or a person you can claim as a dependent;
 - Have qualifying expenses over and above any tax-free reimbursements from your employer (ex. FSA benefits).
- Report on your tax return the name, address, and taxpayer identification number of the childcare provider. If the care provider is a tax exempt organization the taxpayer identification number is not required.

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, nursery school, baby sitter, or day care center.
- Does NOT include overnight camp, elementary school, tutoring, and summer school.
- Ordinary domestic services in the home such as cooking, cleaning and laundry that are partly for the care of the qualifying dependent.

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ADOPTION CREDITS AND EXCLUSIONS

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

What it is?

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.

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.

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How to Apply

- 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 are able to 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). It is used on their Federal Income Tax return to identify the child while final domestic adoption is pending.

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

- The child is legally placed in your home for 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 certification 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). Lastly, if 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 or Form 1040A.

Adjusted Gross Income Limits

Income (\$) Limitation:

- \$214,520- \$254,520: Phases out, Pro Rata Percentage
- \$254,520 or more: Cannot claim

Maximum Amount of Credits and Exclusions 2020

- Credit \$14,300
- Exclusion \$14,300

HIGHER EDUCATION CREDITS

Education tax credits can help offset the costs of education. The American Opportunity and the Lifetime Learning Credit are education credits that reduce your federal income tax dollar for dollar, unlike a deduction, which reduces your taxable income. 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.

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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 Family Center 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 Family Center program, funded by the New York State Office of Children and Family Services. Catholic Family Center 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.