

U.S. and Ohio Law Make Adoption More Affordable

To help make adoption more affordable, Ohioans can benefit from both a federal and a state adoption income tax credit.

Q: What, exactly, is the federal adoption income tax credit?

A: The federal income tax credit for “qualifying adoption expenses” up to \$12,970, non-refundable, by the end of the 2013 taxable year and increases the employer adoption assistance exclusion to \$12,970.

Q: What are “qualifying adoption expenses” for the federal adoption income tax credit?

A: According to the IRS, qualifying adoption expenses include “reasonable and necessary adoption fees, court costs, attorney fees, traveling expenses (including meals and lodging) and other expenses related to, and whose principal purpose is for, the legal adoption of an eligible child.”

Q: Who qualifies for the federal adoption income tax credit?

A: In 2013, persons with modified adjusted gross incomes of \$194,580 or less qualify, and those with modified adjusted gross incomes of more than \$194,580 and less than \$234,580 can qualify for a partial credit.

Q: Do all adoptions qualify for the federal adoption tax credit?

A: All legal adoptions qualify except step-parent adoptions. Note that overseas adoptions must be finalized and the child deemed a U.S. citizen in order to be legal.

Q: What about special needs adoptions?

A: Domestic special needs adoptions are defined as applying to adoptive children with special needs who are U.S. citizens and are determined by the state of residence to qualify for financial subsidy of the adoption, as well as for both the federal and state adoption income credit.

Q: Is the Ohio tax credit separate from the federal adoption income tax credit?

A: Yes. In addition to and separate from the federal adoption income tax credit, the state allows Ohio residents a \$1,500 Ohio income tax credit for a family that legally adopts a child.

Q: What if an Ohio family adopts two or three children? Is the family eligible for twice or three times the state and federal tax credit?

A: Yes, an Ohio family is eligible for the \$1,500 Ohio income tax credit as well as the federal tax credit every time it adopts a child that meets the standards the law requires.

Q: Is the adoptive family eligible for the federal and state income tax credit regardless of the age of the child being adopted?

A: The law says the child must be a “minor” (under age 18) if the adoptive family is to receive the

credit from either the state or the federal government.

Q: When does the adoptive family receive tax credit?

A: The adoptive family receives the adoption tax credit from both the state and the federal government when the child is “legally adopted.” An adoption becomes legal when the final decree of order of adoption is issued by the proper court under the laws of the state or nation under which the child is adopted. In the case of an interlocutory order of adoption, the adoption becomes legal when the order becomes final under the laws of the state or nation. An interlocutory order is a temporary or interim order until the final order is issued, usually six months after the child has been in the adoptive parents’ home.

Q: Are there any circumstances in which the adoptive family would not qualify for the state or federal adoption income tax credit?

A: A “legal adoption” does not include the adoption of a minor child by the child’s stepparent. In such cases, there is no adoption income tax credit from either the state or the federal government.

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This "Law You Can Use" consumer legal information column was provided by the Ohio State Bar Association. It was prepared by Columbus attorney Thomas Taneff, who concentrates on probate and adoption law and has served on the Ohio Adoption Commission.

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