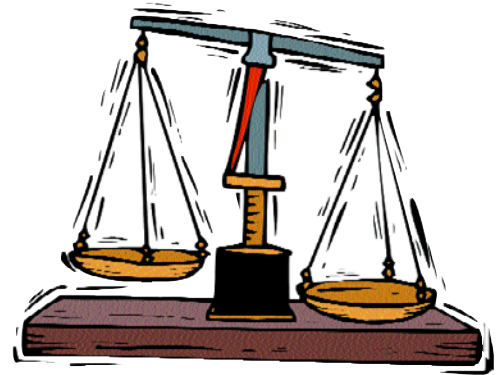


# The New Adoption Tax Credit: More Questions from Readers



In our September/October 2001 issue, *Adoptive Families* published an overview of the new federal tax credit. (To read that article, go to [www.adoptivefamilies.com](http://www.adoptivefamilies.com) and click on “Legal Column” on the home page.) Here are some questions we’ve since received from readers, with answers from attorney Mark McDermott.

**Q** In the case of a domestic adoption finalized after 12/31/01, do expenses incurred before that date qualify for the new \$10,000 tax credit?

No, they do not. The \$10,000 credit applies only to expenses paid or incurred after 12/31/01. The old law (\$5,000 credit) applies to expenses paid or incurred in a domestic adoption before 1/1/02. The answer is different for an intercountry adoption, in which case expenses paid or incurred before 1/1/02 come under the new law as long as the adoption was finalized after 12/31/01.

**Q** In the case of a child who enters the U.S. on an IR3 visa, and an intercountry adoption finalized in the country of origin which is subsequently refinalized in a U.S. state court, which date is considered the date of finalization for purposes of the tax credit: the date of the adoption in the country of origin, or the date of the refinalization?

No guidance on this point has been issued by the IRS, but our best guess is that the IRS will use the date of finalization in the country of origin.

By MARK T. McDERMOTT, J.D.

**Q** Does the tax credit apply per child or per placement—i.e., in the case of a sibling group of two children, is the family entitled to one or two tax credits?

The tax credit is per child, not per placement.

**Q** In a state that offers reimbursement for special needs adoption expenses, does this reimbursement offset the federal tax credit?

No, there is no offset to the federal tax credit for state special needs adoption reimbursements. In fact, after 12/31/02, there will be no need to document expenses in the case of a special needs adoption. Keep in mind that actual expenses in special needs adoptions qualify for the tax credit until 12/31/02, so there is no need to wait until 2003 to claim the credit.

**Q** In the case of reimbursement for adoption expenses, must expenses be documented?

Yes, adoption expenses must be documented with receipts, except in the case of special needs adoptions finalized after 12/31/02.

**Q** If a child enters the US on an IR4 visa—which means his intercountry adoption must be finalized in the U.S.—is this adoption treated as an intercountry adoption (i.e., all expenses are brought forward to the year in which finalization occurs)? Or is it considered a domestic adoption (i.e., qualifying expenses are those incurred in 2001 up to \$5000, and those incurred after 1/1/02 up to \$10,000)?

Adoptions from countries of origin requiring a finalization in the U.S. (Korea, for example) are treated as intercountry adoptions. In other words, in such adoptions finalized after 12/31/01, expenses paid or incurred before 1/1/02 will be subject to the law’s new \$10,000 limit.

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## Got a legal question?

Is there a legal issue you’d like an adoption attorney to address?

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