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# 2022 Instructions for Form 8839



Department of the Treasury  
Internal Revenue Service

## Qualified Adoption Expenses

Section references are to the Internal Revenue Code unless otherwise noted.

### What's New

**2022 maximum credit.** The maximum credit and the exclusion for employer-provided benefits are both \$14,890 per eligible child in 2022. This amount begins to phase out if you have modified adjusted gross income in excess of \$223,410 and is completely phased out for modified adjusted gross income of \$263,410 or more.

### Future Developments

For the latest information about developments related to Form 8839 and its instructions, such as legislation enacted after they are published, go to [IRS.gov/Form8839](https://www.irs.gov/Form8839).

## General Instructions

### Purpose of Form

Use Form 8839 to figure your adoption credit and any employer-provided adoption benefits you can exclude from your income. You can claim both the exclusion and the credit for expenses of adopting an eligible child. For example, depending on the cost of the adoption, you may be able to exclude up to \$14,890 from your income and also be able to claim a credit of up to \$14,890. But, you can't claim both a credit and exclusion for the same expenses. See [Qualified Adoption Expenses](#) and [Employer-Provided Adoption Benefits](#), later.

**Adoption credit.** Use Form 8839, Part II, to figure the adoption credit you can take on Schedule 3 (Form 1040), line 6c. You may be able to take this credit in 2022 if any of the following statements are true.

1. You paid qualified adoption expenses in connection with the adoption of an eligible U.S. child (including any expenses paid in connection with adopting an eligible U.S. child with special needs) in:
  - a. 2021 and the adoption wasn't final at the end of 2021, or
  - b. 2022 and the adoption became final in or before 2022.
2. You adopted an eligible U.S. child with special needs and the adoption became final in 2022. (In this case, you may be able to take the credit even if you didn't pay any qualified adoption expenses.)
3. You paid qualified adoption expenses in connection with the adoption of an eligible foreign child in:
  - a. 2022 or prior years and the adoption became final in 2022, or
  - b. 2022 and the adoption became final before 2022.
 See [Column \(e\)](#), later.
4. You have a carryforward of an adoption credit from 2021.

**Income exclusion for employer-provided adoption benefits.** Use Form 8839, Part III, to figure the employer-provided adoption benefits you can exclude from your income on Form 1040, 1040-SR, or 1040-NR, line 1f. You may be able to exclude these benefits from income if your employer had a written

qualified adoption assistance program (see [Employer-Provided Adoption Benefits](#), later) and any of the following statements are true.

1. You received employer-provided adoption benefits in 2022. However, special rules apply for benefits received in connection with the adoption of an eligible foreign child. See [Column \(e\)](#), later.
2. You adopted an eligible U.S. child with special needs and the adoption became final in 2022.
3. You received employer-provided adoption benefits in connection with the adoption of an eligible foreign child in:
  - a. 2022 or prior years and the adoption became final in 2022, or
  - b. 2022 and the adoption became final before 2022.
 See [Column \(e\)](#), later.

For purposes of calculating the adoption credit in Part II, [qualified adoption expenses](#) don't include expenses reimbursed by an employer under a written qualified adoption assistance program (see [Employer-Provided Adoption Benefits](#)). For this reason, you must complete Form 8839, Part III, before you can figure the credit, if any, in Part II. But see [Child with special needs](#).



*You can't exclude employer-provided adoption benefits if your employer is an S corporation in which you own more than 2% of the stock or stock with more than 2% of the voting power.*

**Income limit.** The income limit on the adoption credit or exclusion is based on modified adjusted gross income (MAGI). For 2022, use the following table to see if the income limit will affect your credit or exclusion.

IF your MAGI is...	THEN the income limit...
\$223,410 or less	won't affect your credit or exclusion.
between \$223,411 and \$263,409	will reduce your credit or exclusion.
\$263,410 or more	will eliminate your credit or exclusion.

## Definitions

### Eligible Child

An eligible child is:

- Any child under age 18. If the child turned 18 during the year, the child is an eligible child for the part of the year he or she was under age 18.
- Any disabled individual physically or mentally unable to take care of himself or herself.



*If you and another person (other than your spouse if filing jointly) adopted or tried to adopt an eligible U.S. child, see [Line 2](#) (or [Line 17](#), if applicable), before completing Part II (or Part III).*

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## Qualified Adoption Expenses

Qualified adoption expenses are reasonable and necessary expenses directly related to, and for the principal purpose of, the legal adoption of an eligible child.

Qualified adoption expenses include:

- Adoption fees,
- Attorney fees,
- Court costs,
- Travel expenses (including meals and lodging) while away from home, and
- Re-adoption expenses relating to the adoption of a foreign child.

Qualified adoption expenses don't include expenses:

- For which you received funds under any state, local, or federal program;
- That violate state or federal law;
- For carrying out a surrogate parenting arrangement;
- For the adoption of your spouse's child;
- Reimbursed by your employer or otherwise; or
- Allowed as a credit or deduction under any other provision of federal income tax law.

## Employer-Provided Adoption Benefits

In most cases, employer-provided adoption benefits are amounts your employer paid directly to either you or a third party for qualified adoption expenses under a qualified adoption assistance program. But see [Child with special needs](#).

A qualified adoption assistance program is a separate written plan set up by an employer to provide adoption assistance to its employees. For more details, see Pub. 15-B.

Employer-provided adoption benefits should be shown in box 12 of your Form(s) W-2 with code T. Your salary may have been reduced to pay these benefits. You may also be able to exclude amounts not shown in box 12 of your Form W-2 if all of the following apply.

- You adopted a child with special needs. See [Column \(d\)](#) for the definition of a child with special needs.
- The adoption became final in 2022.
- Your employer had a written qualified adoption assistance program as described earlier.

The following examples help illustrate how qualified adoption expenses and employer-provided adoption benefits apply to the maximum adoption credit allowed.

**Example 1.** Taxpayer A paid \$10,000 in qualified adoption expenses for the adoption of an eligible child. Under a qualified adoption assistance program, the employer reimbursed Taxpayer A for \$4,000 of those expenses. The \$4,000 reimbursement may be excluded from Taxpayer A's income. However, because of the employer reimbursement, \$4,000 of the expenses no longer meet the definition of qualified adoption expenses. As a result, Taxpayer A's maximum adoption credit is limited to \$6,000 (\$10,000 - \$4,000).

**Example 2.** Taxpayer B paid \$20,000 in qualified adoption expenses for the adoption of an eligible child, including \$8,000 of legal fees. Under a qualified adoption assistance program, the employer reimbursed the \$8,000 of legal fees. The \$8,000 employer reimbursement may be excluded from Taxpayer B's income. However, because of the employer reimbursement, \$8,000 of Taxpayer B's expenses no longer meet the definition of qualified adoption expenses. As a result, Taxpayer B's maximum adoption credit is limited to \$12,000 (\$20,000 - \$8,000).

**Example 3.** The facts are the same as in *Example 2* except that instead of reimbursing Taxpayer B for the legal fees, the employer directly paid the \$8,000 to the law firm. The employer's

payment of the legal fees produces the same result as the employer's reimbursement of the legal fees in *Example 2* (\$8,000 exclusion and \$12,000 credit).

**Example 4.** Taxpayer C paid \$30,000 in qualified adoption expenses to adopt an eligible foreign child, and the adoption became final in 2022. Under a qualified adoption assistance program, the employer reimbursed Taxpayer C for \$14,890 of those expenses. The \$14,890 reimbursement may be excluded from Taxpayer C's income. The remaining \$15,110 of expenses (\$30,000 - \$14,890) continue to be qualified adoption expenses that are eligible for the credit. However, Taxpayer C's credit is dollar-limited to \$14,890. The remaining \$220 (\$30,000 - \$14,890 - \$14,890) may never be claimed as a credit or excluded from gross income.

## Who Can Take the Adoption Credit or Exclude Employer-Provided Adoption Benefits?

You may be able to take the credit or exclusion if all three of the following statements are true.

1. Your filing status is single, head of household, qualifying surviving spouse, or married filing jointly. Generally, if you are married, you must file a joint return to take the credit or exclusion. However, if you are married and aren't filing jointly, you may be able to take the credit or exclusion on your own return if you are considered unmarried because you are legally separated or living apart from your spouse and you meet certain other requirements. See [Married Persons Not Filing Jointly](#).
2. Your modified adjusted gross income (MAGI) is less than \$263,410 or you have a carryforward of an adoption credit from 2021. To figure your MAGI, see [Line 7](#) (for the credit) or [Line 23](#) (for the exclusion).
3. You report the required information about the eligible child in Part I.

## Married Persons Not Filing Jointly

You may be able to take the credit or exclusion if all of the following apply.

- Statements (2) and (3) under *Who Can Take the Adoption Credit or Exclude Employer-Provided Adoption Benefits* are true.
- You lived apart from your spouse during the last 6 months of 2022.
- The eligible child lived in your home more than half of 2022.
- You provided over half the cost of keeping up your home.

Additionally, a person who is filing separately may claim an adoption credit carryforward from a prior year or years, provided that, if the person was married in the year in which the qualified adoption expenses first became allowable for the credit, the person filed a joint return for that year.

## When To Take the Credit or Exclusion

When you can take the adoption credit or exclusion depends on whether the eligible child is a citizen or resident of the United States (including U.S. possessions) at the time the adoption effort began (domestic adoption).

**Child who is a U.S. citizen or resident (U.S. child).** If the eligible child is a U.S. citizen or resident, you can take the adoption credit or exclusion even if the adoption never became final. Take the credit or exclusion as shown in the following table.

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Domestic Adoption	
IF you pay qualifying expenses in...	THEN take the credit in...
any year before the year the adoption becomes final*	the year <b>after</b> the year of the payment.
the year the adoption becomes final	the year the adoption becomes final.
any year after the year the adoption becomes final	the year of the payment.
IF your employer pays for qualifying expenses under an adoption assistance program in...	THEN take the exclusion in...
any year	the year of the payment.

\*In the case of a U.S. child, an adoption credit may be allowable for an attempted or unsuccessful adoption, as well as for an adoption that isn't final. See the instructions for [Line 1](#) and [Line 5](#) for additional information.

**Child with special needs.** If you adopt a U.S. child with special needs, you may be able to exclude up to \$14,890 and claim a credit for additional expenses up to \$14,890 (minus any qualified adoption expenses claimed for the same child in a prior year). The exclusion may be available, even if you or your employer didn't pay any qualified adoption expenses, provided the employer has a written qualified adoption assistance program. See [Column \(d\)](#) for more information.

**Foreign child.** If the eligible child is a foreign child, you can't take the adoption credit or exclusion unless the adoption becomes final. A child is a foreign child if he or she wasn't a citizen or resident of the United States (including U.S. possessions) at the time the adoption effort began. Take the credit or exclusion as shown in the following table.

Foreign Adoption	
IF you pay qualifying expenses in...	THEN take the credit in...
any year before the year the adoption becomes final	the year the adoption becomes final.
the year the adoption becomes final	the year the adoption becomes final.
any year after the year the adoption becomes final	the year of the payment.
IF your employer pays for qualifying expenses under an adoption assistance program in...	THEN take the exclusion in...
any year before the year the adoption becomes final	the year the adoption becomes final.
the year the adoption becomes final	the year the adoption becomes final.
any year after the year the adoption becomes final	the year of the payment.

For more information, see [Column \(e\)](#). To find out when a foreign adoption is treated as final, see Rev. Proc. 2005-31, 2005-26 I.R.B. 1374, available at [IRS.gov/irb/2005-26 IRB/](#)

[#RP-2005-31](#), and Rev. Proc. 2010-31, 2010-40 I.R.B. 413, available at [IRS.gov/irb/2010-40 IRB/#RP-2010-31](#).

If your employer makes adoption assistance payments in a year before the adoption of a foreign child is final, you must include the payments in your income in the year of the payment. Then, on your return for the year the adoption becomes final, you can make an adjustment to take the exclusion.

 **CAUTION** Your employer isn't required to withhold income tax on payments for qualifying expenses under an adoption assistance program. If you must include the payments in income in the year paid because your adoption of a foreign child isn't final, your withholding may not be enough to cover the tax on those payments. You may need to give your employer a new Form W-4 to adjust your withholding or make estimated tax payments to avoid a penalty for underpayment of estimated tax.

## Specific Instructions

### Part I—Information About Your Eligible Child or Children

#### Line 1

Complete all columns that apply to the eligible child you adopted or tried to adopt.

If you can't give complete information about an eligible child you tried to adopt in 2021 because the adoption was either unsuccessful or wasn't final by the end of 2022, complete the entries that you can on line 1. Leave blank any entries you are unable to complete. For example, if you don't have a social security number (SSN) or an adoption taxpayer identification number (ATIN) for your eligible child, leave column (f) blank.

 **TIP** For examples of the type of records you may want to keep to substantiate your claim for the adoption credit, see Notice 2010-66, 2010-42 I.R.B. 437, available at [IRS.gov/irb/2010-42 IRB/#NOT-2010-66](#).

#### Attempted Adoptions of U.S. Children

In general, the dollar limitation requires you to combine the qualified adoption expenses you paid if you made more than one attempt to adopt one eligible U.S. child. When you combine the amounts you spent, complete only the "Child 1" line. Don't report the additional attempt(s) on the "Child 2" or "Child 3" line. Complete the "Child 2" or "Child 3" lines only if you adopted or tried to adopt two or three eligible children.

**Example 1.** You planned to adopt one U.S. child. You paid \$10,000 of qualified adoption expenses in an unsuccessful attempt to adopt a child. You later paid \$8,000 of additional qualified adoption expenses in a successful adoption of a different child. Complete only the "Child 1" line because you made more than one attempt to adopt one eligible child.

**Example 2.** The facts are the same as in *Example 1* except that both attempts are unsuccessful and no adoption is ever finalized. Enter \$18,000 (\$10,000 + \$8,000) on the "Child 1" line because you made more than one attempt to adopt one eligible child.

**Example 3.** You planned to adopt one U.S. child. You paid \$9,000 in qualified adoption expenses in an unsuccessful attempt to adopt a child. You later successfully adopted twins after paying an additional \$24,000 in qualified adoption expenses (\$12,000 per child). Enter \$21,000 (\$9,000 + \$12,000) on the "Child 1" line because you made more than one attempt to adopt one eligible child. Enter \$12,000 on the "Child 2" line because you made a successful attempt to adopt a second eligible child.

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If you filed Form 8839 for a prior year in connection with this adoption, enter your 2022 information on the same line (Child 1, Child 2, or Child 3) that you used in the prior year.

### More Than Three Eligible Children

If you adopted or tried to adopt more than three eligible children, fill in and attach as many Forms 8839 as you need to list them. Also, enter "See Attached" to the right of the *Caution* below line 1.

For Part II, fill in lines 2 through 6 and 10 and 11 for each child. But fill in lines 7 through 9 and 12 through 16 on only one Form 8839. The amount on line 12 of that Form 8839 should be the combined total of the amounts on line 11 of all your Forms 8839.

For Part III, fill in lines 17 through 20, 22, 26, and 27 for each child. But fill in lines 21, 23 through 25, 28, and 29 on only one Form 8839. The amount on line 21 of that Form 8839 should be the combined total of the amounts on line 20 of all your Forms 8839. The amount on line 28 of that Form 8839 should be the combined total of the amounts on line 27 of all your Forms 8839.

### Column (c)

A disabled individual, one who is physically or mentally unable to care for himself or herself, is an eligible child regardless of his or her age at the time of adoption.

### Column (d)

A child is a child with special needs if all three of the following statements are true.

1. The child was a citizen or resident of the United States or its possessions at the time the adoption effort began (U.S. child).
2. A state (including the District of Columbia) has determined that the child can't or shouldn't be returned to his or her parents' home.
3. The state has determined that the child won't be adopted unless assistance is provided to the adoptive parents. Factors used by states to make this determination include:
  - a. The child's ethnic background and age,
  - b. Whether the child is a member of a minority or sibling group, and
  - c. Whether the child has a medical condition or a physical, mental, or emotional handicap.

The state must make a determination that a child has special needs before the child is considered to be a child with special needs. A child having a specific factor or condition isn't enough to establish that the state has made a determination of special needs.

You may be able to claim an exclusion or credit for the adoption of a U.S. child with special needs even if you didn't pay any qualified adoption expenses. See [Line 22](#) and the instructions for [Line 5](#).

For more information, see Tax Topic 607, available at [IRS.gov/taxtopics/tc607.html](https://www.irs.gov/taxtopics/tc607.html).

**Example 1.** Agency A is the child welfare department of State V. Mark, Rachel, and Janet, brother and sisters, are U.S. children residing in State V. When Mark was 10, Rachel 8, and Janet 6, Agency A removed the children from the home of their biological parents.

After Agency A placed the children in foster care, Agency A determined it would be difficult to place the children for adoption without providing assistance to the adoptive family because of the ages and sibling relationship of the children. Agency A provided the adoptive parents with monthly subsidy payments

on behalf of each child. The adoption assistance agreements entered into between Agency A and the adoptive parents are evidence that State V has determined that Mark, Rachel, and Janet are children with special needs.

Their adoptive parents may claim an adoption tax credit for each child, even if the adoptive parents paid no qualifying adoption expenses, if all other requirements of the credit are met.

**Example 2.** Michael and Grace are born in State W and are members of a sibling group. Their biological mother places the siblings through a private adoption agency and voluntarily surrenders her parental rights. Membership in a sibling group is a factor that State W may use in determining that a child has special needs. State W also requires that adoptive parents requesting a state determination of special needs follow certain steps and make the request before the adoption is final. Michael and Grace's adoptive parents don't make a request or follow the required steps.

Michael and Grace aren't children with special needs because State W didn't remove them from their biological mother and didn't make a determination of special needs. Although membership in a sibling group is a factor that State W may use in making a determination, State W didn't make a determination that either Michael or Grace wouldn't be adopted unless adoption assistance was provided to the adoptive parents. However, Michael and Grace's adoptive parents may claim adoption tax credits for the qualified adoption expenses they paid in connection with Michael and Grace's adoption, if all other requirements of the credit are met.

**Example 3.** Hannah is born in State X. Her biological parents place Hannah for adoption through a private adoption agency and voluntarily relinquish their parental rights. Hannah then is adopted. A medical exam performed shortly after Hannah's birth shows that Hannah has serious physical disabilities. Hannah isn't a child with special needs because State X didn't remove her from her biological parents and didn't make a determination of special needs. However, Hannah's adoptive parents may claim the adoption tax credit for the qualified adoption expenses they paid in connection with Hannah's adoption, if all other requirements of the credit are met.

**Example 4.** Noah is born in Country Z and is diagnosed with serious physical and mental disabilities. Noah's adoptive parents, who are residents of State Y, adopt Noah in Country Z, bring him to the United States, and re-adopt him in State Y. Noah isn't a child with special needs because he wasn't a citizen or resident of the United States when the adoption process began. Additionally, State Y didn't remove him from the home of his biological parents and didn't make a determination of special needs. However, Noah's adoptive parents may claim the adoption tax credit for the qualified adoption expenses they paid in connection with Noah's adoption, if all other requirements of the credit are met.



If you check the box in column (d) indicating the child has special needs, be sure to keep evidence of the state's determination in your records.

### Column (e)

A child is a foreign child if he or she wasn't a citizen or resident of the United States or its possessions at the time the adoption effort began.

**Special rules.** If you paid qualified adoption expenses in 2022 or any prior year in connection with the adoption of a foreign child and the adoption became final in 2022, you can use the total expenses you paid in 2022 and all prior years in determining the amount to enter on line 5. If you and another

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**Exclusion of Prior Year Benefits Worksheet  
(for the adoption of a foreign child that became final in 2022)**

Keep for Your Records 

1. Enter the total employer-provided adoption benefits you received in <b>2022 and all prior years</b> for the adoption of the foreign child	1. _____
2. Enter <b>\$14,890</b> . If you and another person (other than your spouse if filing jointly) each received employer-provided adoption benefits in 2022 or any prior year to adopt the same child, see the instructions for line 2 at the end of this worksheet	2. _____
3. Enter the <b>smaller</b> of line 1 or line 2 here and on Form 8839, line 17	3. _____
<b>Next:</b>	
<ul style="list-style-type: none"> <li>• Enter -0- on Form 8839, line 18.</li> <li>• Enter the amount from line 3 of this worksheet on Form 8839, line 19.</li> <li>• On Form 8839, line 20, enter the total amount of employer-provided adoption benefits received in <b>2022 and all prior years</b>. <ul style="list-style-type: none"> <li>• Complete Form 8839 through line 28. Then, complete lines 4 through 9 of this worksheet to figure the amount of any prior year benefits you can exclude and the taxable benefits, if any, to enter on Form 8839, line 29.</li> </ul> </li> </ul>	
4. Is the amount on your 2022 Form 8839, line 28, less than the amount on Form 8839, line 21?	
<input type="checkbox"/> <b>No.</b> Skip lines 4 through 6 of this worksheet and go to line 7.	
<input type="checkbox"/> <b>Yes.</b> Subtract Form 8839, line 28, from line 21	4. _____
5. Enter the total employer-provided adoption benefits you received <b>before 2022</b> included on Form 8839, line 20, for all children	5. _____
6. <b>Taxable benefits.</b> Subtract line 5 of this worksheet from line 4. If zero or less, enter -0-. Enter the result here and on Form 8839, line 29. If more than zero, also include this amount on line 1f of Form 1040, 1040-SR, or 1040-NR	6. _____
7. Enter the amount from Form 8839, line 28	7. _____
8. Enter the total <b>2022</b> employer-provided adoption benefits included on Form 8839, line 20, for all children	8. _____
9. <b>Prior year excluded benefits.</b> Subtract line 8 of this worksheet from line 7. If zero or less, <b>stop</b> ; you can't exclude any of your prior year benefits	9. _____
<b>Next.</b> Figure the total you would enter on line 1f of Form 1040, 1040-SR, or 1040-NR <b>before</b> you exclude the amount from line 9 of this worksheet. Then, subtract the amount from line 9 of this worksheet from that total. Enter the result on line 1f of Form 1040, 1040-SR, or 1040-NR.	

**Line 2.** The maximum amount of employer-provided adoption benefits that can be excluded from income is \$14,890 per child. If you and another person (other than your spouse if filing jointly) each received employer-provided adoption benefits to adopt the same child, the \$14,890 limit must be divided between the two of you. You can divide it in any way you both agree. Enter your share of the \$14,890 limit on line 2 of this worksheet.

person (other than your spouse if filing jointly) each paid qualified adoption expenses to adopt the same child, the total qualified expenses must be divided between the two of you. You can divide it in any way you both agree.

If the adoption didn't become final by the end of 2022, you can't take the adoption credit for that child in 2022.

In general, the year of finality of a foreign adoption is determined either under Rev. Proc. 2005-31, I.R.B. 2005-31, 2005-26 1374, available at [IRS.gov/irb/2005-26\\_IRB/#RP-2005-31](https://www.irs.gov/irb/2005-26_IRB/#RP-2005-31) (non-Hague adoptions) or under Rev. Proc. 2010-31, 2010-41 I.R.B. 413, available at [IRS.gov/irb/2010-40\\_IRB/#RP-2010-31](https://www.irs.gov/irb/2010-40_IRB/#RP-2010-31) (Hague adoptions).

**Non-Hague adoptions.** In most non-Hague adoptions, there is an adoption proceeding in the foreign country (and the country isn't a party to the Hague Adoption Convention, discussed later) before the child is allowed to come to the United States. There may also be a re-adoption proceeding in the United States, either in the same year as the foreign adoption or in a later year. Rev. Proc. 2005-31 generally allows taxpayers to choose as the year of finality: (1) the year of the foreign-sending country adoption proceeding, or (2) the year of the re-adoption, if the re-adoption occurs in either the first or second year following the year of the foreign-country proceeding. The expenses of re-adoption are qualified adoption expenses in the year in which the expenses are paid, subject to the dollar limitation.

**Example.** Taxpayer B and spouse, Taxpayer C, paid qualified adoption expenses of \$7,000 in 2019, \$8,000 in 2020, and \$9,000 in 2021 in connection with the adoption of an eligible foreign child from Country X. Country X is a non-Hague country (a country not party to the Hague Adoption Convention). In 2021, Country X issued a final decree of adoption to Taxpayer B and Taxpayer C, who brought the child to the United States on an IR2, IR3, or IR4 visa. In 2022, Taxpayer B and Taxpayer C paid \$1,000 in qualified adoption expenses in connection with re-adopting the child in their home state. Taxpayer B and Taxpayer C's modified gross income (MAGI) is less than the MAGI limitation in all years.

Under Rev. Proc. 2005-31, Taxpayer B and Taxpayer C may treat 2021 (the year of the adoption in Country X) or 2022 (the year of re-adoption in the United States) as the year of finality. If Taxpayer B and Taxpayer C choose 2021, then the \$24,000 of aggregate qualified adoption expenses paid in 2019, 2020, and 2021 (\$7,000 plus \$8,000 plus \$9,000) will be treated as paid in 2021. The credit will be limited to \$14,440 (the dollar limitation for 2021).

Taxpayer B and Taxpayer C instead may choose to treat 2022 (the year of re-adoption in the United States) as the year of finality. If Taxpayer B and Taxpayer C choose 2022, then the \$25,000 of aggregate qualified adoption expenses paid (\$24,000 total from 2019, 2020, and 2021, plus the \$1,000 of re-adoption expenses paid in 2022) will be treated as paid in

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2022. The credit will be limited to \$14,890 (the dollar limitation for 2022).

**Hague adoptions.** In Hague adoptions, there is usually an adoption proceeding in the sending country (and the country is one that is a party to the Hague Adoption Convention, discussed later) before the child is allowed to come to the United States. Rev. Proc. 2010-31 generally allows taxpayers to choose as the year of finality: (1) the year in which the sending country enters a final decree of adoption, or (2) the year in which the U.S. Secretary of State issues a certificate under section 301(a) of the Intercountry Adoption Act of 2000, 42 U.S.C. sections 14901–14954.

**Custodial agreements followed by adoption in the United States.** In a few cases, the sending country may allow the child to come to the United States under a custodial agreement. If so, the child will be adopted later in a state court in the United States. Both Rev. Proc. 2005-31 and Rev. Proc. 2010-31 allow the adoptive parent(s) to treat the year of the state-court adoption as the year of finality.



*The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention) entered into force for the United States on April 1, 2008. The Hague Adoption Convention applies if you adopted a child from a country that is party to the Hague Adoption Convention and you filed your application and petition (Forms I-800A and I-800) with the U.S. Citizenship and Immigration Service after March 31, 2008. See [www.travel.state.gov/content/travel/en/Intercountry-Adoption.html](http://www.travel.state.gov/content/travel/en/Intercountry-Adoption.html) for more information on the Hague Adoption Convention, the application and petition, and a complete list of countries that are parties to the Convention.*

If you received employer-provided adoption benefits in 2022 in connection with the adoption of a foreign child and the adoption didn't become final by the end of 2022, you must include the benefits in the total entered on line 1f of Form 1040, 1040-SR, or 1040-NR.

**Exclusion of prior year benefits.** If you received employer-provided adoption benefits before 2022 in connection with the adoption of a foreign child and the adoption became final in 2022, you may be able to exclude part or all of those benefits from your 2022 income. To find out if you can, complete the [Exclusion of Prior Year Benefits Worksheet](#). You must also use that worksheet to complete Form 8839, Part III, and to figure any taxable benefits to enter on Form 8839, line 29.

If the adoption of more than one eligible foreign child became final in 2022, complete lines 1 through 3 of the Exclusion of Prior Year Benefits Worksheet separately for each foreign child and use the combined totals to complete lines 4 through 9 of the worksheet.



*If you check the box in column (e), you must also check the box in column (g), indicating the adoption was finalized in 2022 or earlier.*

## Column (f)

Enter the child's identifying number. This can be a social security number (SSN), an adoption taxpayer identification number (ATIN), or an individual taxpayer identification number (ITIN).

Enter the child's SSN if the child has an SSN or you will be able to get an SSN in time to file your tax return. Apply for an SSN using Form SS-5.

If you are in the process of adopting a child who is a U.S. citizen or resident alien but you can't get an SSN for the child in time to file your return, apply for an ATIN using Form W-7A. However, if the child isn't a U.S. citizen or resident alien, apply instead for an ITIN using Form W-7.

## Column (g)

Check the box in column (g) if the adoption for each child became final in 2022 or earlier.

## Part II—Adoption Credit

### Line 2

The maximum adoption credit is \$14,890 per child. Enter \$14,890 on line 2. If you and another person (other than your spouse if filing jointly) each paid qualified adoption expenses to adopt the same child, the \$14,890 limit must be divided between the two of you. You can divide it in any way you both agree. Enter your share of the \$14,890 limit on line 2 for that child.

### Line 3

If you filed Form 8839 for a prior year for the same child, enter on line 3 the total of the amounts shown on lines 3 and 6 (or corresponding line) of the last form you filed for the child.

### Line 5



*Special rules apply if you paid expenses in connection with the adoption of an eligible foreign child. See [Column \(e\)](#) for details.*

Enter on line 5 the total qualified adoption expenses (as defined earlier) you paid in:

- 2021 if the adoption wasn't final by the end of 2022,
- 2021 and 2022 if the adoption became final in 2022, or
- 2022 if the adoption became final before 2022.



*Expenses reimbursed by your employer under a written qualified adoption assistance program aren't qualified adoption expenses and must not be entered on line 5. See the examples following [Employer-Provided Adoption Benefits](#).*

**Special needs adoption.** If you adopted a U.S. child with special needs and the adoption became final in 2022, enter on line 5:

- \$14,890, minus
- Any qualified adoption expenses you used to figure any adoption credit you claimed for the same child in a prior year. This is the amount you entered on line 3 of Form 8839 for this child.

If you didn't claim any adoption credit for the child in a prior year, enter \$14,890 on line 5 even if your qualified adoption expenses for the child were less than \$14,890 (and even if you didn't have any qualified adoption expenses for this child).

**Unsuccessful adoption.** If you paid qualified adoption expenses in an attempt to adopt a U.S. child and the attempt was unsuccessful, treat those expenses in the same manner as expenses you paid for adoptions not final by the end of the year.

**Example.** You paid \$3,000 of qualified adoption expenses in 2021 in an attempt to adopt a U.S. child. You paid \$2,000 in qualified adoption expenses early in 2022. However, the adoption attempt was unsuccessful. Enter \$3,000 on line 5. The \$2,000 paid in 2022 may qualify in 2023.

### Line 7

Enter on line 7 the amount from Form 1040, 1040-SR, or 1040-NR, line 11, increased by the total of any:

- Exclusion of income from Puerto Rico;
- Amounts from Form 2555, lines 45 and 50; and
- Amount from Form 4563, line 15.

### Line 15

Complete the credit limit worksheet to figure the limit of your nonrefundable adoption credit.

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Credit Limit Worksheet—Line 15

1. Enter the amount from Form 8839, line 14 . . . . . 1. \_\_\_\_\_
2. Enter the amount from Form 1040, 1040-SR, or 1040-NR, line 18 . . . . . 2. \_\_\_\_\_
3. 1040 or 1040-SR filers: Enter the total of any amounts from Form 1040 or Form 1040-SR, line 19\*; Schedule 3 (Form 1040), lines 1 through 4, 6d through 6g, and 6i; and Form 5695, line 30. } 3. \_\_\_\_\_
1040-NR filers: Enter the total of any amounts from Form 1040-NR, line 19\*; Schedule 3 (Form 1040), lines 1, 2, 4, 6e through 6g, and 6i; and Form 5695, line 30. }
4. Subtract line 3 from line 2 . . . . . 4. \_\_\_\_\_
5. Enter the smaller of line 1 or line 4 here and on Form 8839, line 15 . . . . . 5. \_\_\_\_\_
\* If you are directed to complete Form 8839 by Credit Limit Worksheet B in the Instructions for Schedule 8812 (Form 1040), include the amount from line 14 of Credit Limit Worksheet B instead of the amount from Form 1040, 1040-SR, or 1040-NR, line 19.

you have any unused credit to carry forward to 2023, be sure you keep the worksheet. You will need it to figure your credit for 2023.

Part III—Employer-Provided Adoption Benefits Line 17

The maximum amount that can be excluded from income for employer-provided adoption benefits is \$14,890 per child. Enter \$14,890 on line 17. If you and another person (other than your spouse, if filing jointly) each received employer-provided adoption benefits in connection with the adoption of the same eligible child, the \$14,890 limit must be divided between the two of you. You can divide it in any way you both agree. Enter your share of the \$14,890 limit on line 17 for that child.

Line 18

If you received employer-provided adoption benefits in a prior year for the same child, enter on line 18 the total of the amounts shown on lines 18 and 22 (or corresponding lines) of the last Form 8839 you filed for the child.



Special rules apply if the prior year benefits were received in connection with the adoption of a foreign child and the adoption became final in 2022. See Exclusion of prior year benefits, earlier.

Line 16—Credit Carryforward to 2023

If Form 8839, line 15, is smaller than line 14, you may have an unused credit to carry forward to the next 5 years or until used, whichever comes first. Use the Adoption Credit Carryforward Worksheet to figure the amount of your credit carryforward. If

Adoption Credit Carryforward Worksheet—Line 16

1. Enter the amount from Form 8839, line 12 . . . . . 1. \_\_\_\_\_
Did you use the Adoption Credit Carryforward Worksheet—Line 16 in the 2021 Form 8839 instructions?
[ ] No. Skip lines 2 through 6. Enter the amount from line 1 of this worksheet on line 7.
[ ] Yes. Have that worksheet handy and go to line 2.
2. Enter any 2017 credit carryforward (line 12 of your 2021 worksheet) . . . . . 2. \_\_\_\_\_
3. Enter any 2018 credit carryforward (line 14 of your 2021 worksheet) . . . . . 3. \_\_\_\_\_
4. Enter any 2019 credit carryforward (line 16 of your 2021 worksheet) . . . . . 4. \_\_\_\_\_
5. Enter any 2020 credit carryforward (line 18 of your 2021 worksheet) . . . . . 5. \_\_\_\_\_
6. Enter any 2021 credit carryforward (line 20 of your 2021 worksheet) . . . . . 6. \_\_\_\_\_
7. Add lines 1 through 6 . . . . . 7. \_\_\_\_\_
8. Enter the amount from Form 8839, line 16 . . . . . 8. \_\_\_\_\_
9. Subtract line 8 from line 7 . . . . . 9. \_\_\_\_\_
Did you enter an amount on line 2, 3, 4, 5, or 6?
[ ] No. Enter the amount on line 9 on lines 20 and 23 below; skip all the other lines.
[ ] Yes. Continue to line 10.
10. Subtract line 8 from line 2. If zero or less, enter -0- . . . . . 10. \_\_\_\_\_
11. Subtract line 2 from line 8. If zero or less, enter -0- . . . . . 11. \_\_\_\_\_
12. 2018 credit carryforward to 2023. Subtract line 11 from line 3. If zero or less, enter -0- . . . . . 12. \_\_\_\_\_
13. Subtract line 3 from line 11. If zero or less, enter -0- . . . . . 13. \_\_\_\_\_
14. 2019 credit carryforward to 2023. Subtract line 13 from line 4. If zero or less, enter -0- . . . . . 14. \_\_\_\_\_
15. Subtract line 4 from line 13. If zero or less, enter -0- . . . . . 15. \_\_\_\_\_
16. 2020 credit carryforward to 2023. Subtract line 15 from line 5. If zero or less, enter -0- . . . . . 16. \_\_\_\_\_
17. Subtract line 5 from line 15. If zero or less, enter -0- . . . . . 17. \_\_\_\_\_
18. 2021 credit carryforward to 2023. Subtract line 17 from line 6. If zero or less, enter -0- . . . . . 18. \_\_\_\_\_
19. Add lines 10, 12, 14, 16, and 18 . . . . . 19. \_\_\_\_\_
20. 2022 credit carryforward to 2023. Subtract line 19 from line 9. If zero or less, enter -0- . . . . . 20. \_\_\_\_\_
21. Add lines 19 and 20 . . . . . 21. \_\_\_\_\_
22. Enter the amount from line 10 . . . . . 22. \_\_\_\_\_
23. Total credit carryforward to 2023. Subtract line 22 from line 21 . . . . . 23. \_\_\_\_\_

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**Line 22**

If the child was a child with special needs and the adoption became final in 2022, enter the amount from line 19 only if your employer has a qualified adoption assistance program, as defined earlier under [Employer-Provided Adoption Benefits](#). This requirement applies whether or not you received any employer-provided adoption benefits under this plan.

If your employer has no qualified adoption assistance program, you must enter the smaller of line 19 or line 20.

**Line 23**

Use the [Modified Adjusted Gross Income \(MAGI\) Worksheet](#) to figure your modified adjusted gross income.



Your modified adjusted gross income (MAGI) for the adoption credit may not be the same as the MAGI figured in the following worksheet. If you are taking the credit, be sure to read [Line 7](#) before you enter an amount on that line.

**Modified Adjusted Gross Income (MAGI) Worksheet—Line 23**

<b>Before you begin:</b>	
✓ If you file Form 1040 or 1040-SR, complete lines 2a through 9, and Schedule 1.	
✓ If you file Form 1040-NR, complete lines 2a through 5b, 7, and Schedule 1.	
1. Enter the amount you would enter on line 1f of Form 1040 or 1040-SR or on line 1f of Form 1040-NR reduced by line 10c of Form 1040-NR, if you could exclude the total amount on Form 8839, line 21	1. _____
2. Enter the amount from Form 8839, line 21	2. _____
3. <b>Form 1040 or 1040-SR filers</b> , enter the total of lines 2b, 3b, 4b, 5b, 6b, 7, and the amount from Schedule 1 (Form 1040), line 10. <b>Form 1040-NR filers</b> , enter the total of lines 2b, 3b, 4b, 5b, 7, and the amount from Schedule 1 (Form 1040), line 10	3. _____
4. Add lines 1, 2, and 3	4. _____
5. <b>Form 1040 or 1040-SR filers</b> , enter the total of Schedule 1 (Form 1040), lines 11 through 20, 23, and 25. <b>Form 1040-NR filers</b> , enter the total of Schedule 1 (Form 1040), lines 11 through 18, 20, 23, and 25	5. _____
6. Subtract line 5 from line 4	6. _____
<b>Form 1040 or 1040-SR filers</b> , increase the amount on line 6 of this worksheet by the total of the following amounts. Enter the total on Form 8839, line 23.	
<ul style="list-style-type: none"> <li>• Any amount from <b>Form 2555</b>, lines 45 and 50, and <b>Form 4563</b>, line 15; and</li> <li>• Any exclusion of income from Puerto Rico.</li> </ul>	
<b>Form 1040-NR filers</b> , enter on Form 8839, line 23, the amount from line 6 of this worksheet.	