



# Instructions for Form 8839

## Qualified Adoption Expenses

### General Instructions

#### Purpose of Form

Use Form 8839 to figure the amount of your adoption credit and any employer-provided adoption benefits you can exclude from your income. You can claim both the credit and the exclusion for expenses of adopting an eligible child. But, you cannot claim both for the same expenses.

**Adoption credit.** Use Form 8839, Part II, to figure the amount of adoption credit you can take on Form 1040, line 53, or Form 1040NR, line 48. You may be able to take this credit if any of the following statements are true.

1. You paid qualified adoption expenses in:
  - a. 2007 and the adoption was not final at the end of 2007, or
  - b. 2008 and the adoption became final in or before 2008.
2. You adopted a child with special needs and the adoption became final in 2008. (In this case, you may be able to take the credit even if you did not pay any qualified adoption expenses.)
3. You paid expenses after 1996 in connection with the adoption of an eligible foreign child and the adoption became final in 2008. See the instructions for line 1, column (e), that begin on page 2.
4. You have a carryforward of an adoption credit from a prior year.

**Income exclusion for employer-provided adoption benefits.** Use Form 8839, Part III, to figure the amount of employer-provided adoption benefits you can exclude from your income on Form 1040, line 7, or Form 1040NR, line 8. You may be able to exclude these benefits from income if your employer had a qualified adoption assistance program (see *Employer-Provided Adoption Benefits* on this page) and any of the following statements are true.

- You received employer-provided adoption benefits in 2008. However, special rules apply for benefits received in connection with the adoption of an eligible foreign child. See the instructions for line 1, column (e), that begin on page 2.
- You adopted a child with special needs and the adoption became final in 2008.
- You received employer-provided adoption benefits after 1996 in connection with the adoption of an eligible foreign child and the adoption became final in 2008. See the instructions for line 1, column (e), that begin on page 2.

You must complete Form 8839, Part III, before you can figure the credit, if any, in Part II.



*You cannot 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.*

### 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 person 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 child, see the instructions for line 2 on page 3 (or line 19 on page 5, if applicable) before completing Part II (or Part III).*

#### 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 do not 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,
- Paid or reimbursed by your employer or any other person or organization,
- Paid before 1997, or
- Allowed as a credit or deduction under any other provision of federal income tax law.

#### Employer-Provided Adoption Benefits

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. Generally, 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's Tax Guide to Fringe Benefits*.

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 the instructions for line 1, column (d), on page 2 for the definition of a child with special needs.
- The adoption became final in 2008.

- Your employer had a qualified adoption assistance program as described on page one.

## 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 widow(er), or married filing jointly. If your filing status is married filing separately, see *Married Persons Filing Separate Returns* below.
2. Your modified AGI is less than \$214,730 or you have a carryforward of an adoption credit from a prior year. To figure your modified AGI, see the instructions for line 8 on page 3 (for the credit) or line 26 on page 6 (for the exclusion).
3. You report the required information about the eligible child in Part I.

### Married Persons Filing Separate Returns

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

- Statements (2) and (3) above 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 2008.
- The eligible child lived in your home more than half of 2008.
- You provided over half the cost of keeping up your home.

## 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 do not give correct or complete information, your credit and any exclusion may be disallowed.

If you cannot give complete information about an eligible child you tried to adopt in 2007 because the adoption was either unsuccessful or was not final by the end of 2008, complete the entries that you can on line 1. Enter “See Attached Statement” in the columns for which you do not have the information. Then attach a statement to your return, providing the name and address of any agency or agent (such as an attorney) that assisted in the attempted adoption. Be sure to write your name and social security number on the statement.

### Child 1 or Child 2

If you made more than one attempt to adopt one eligible child, combine the amounts you spent and complete only the “Child 1” line. Do not report the additional attempt(s) on the “Child 2” line. Complete the “Child 2” line only if you adopted or tried to adopt two eligible children.

**Example.** You planned to adopt one child. You had one unsuccessful attempt to adopt a child and later successfully adopted a different child. Complete only the “Child 1” line because you made more than one attempt to adopt one eligible child.



If you filed Form 8839 for a prior year in connection with this adoption, enter your 2008 information on the same line (Child 1 or Child 2) that you used in the prior year.

### More Than Two Eligible Children

If you adopted or tried to adopt more than two 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 for each child. But fill in lines 7 through 18 on only one Form 8839. The amount on line 7 of that Form 8839 should be the combined total of the amounts on line 6 of all the Forms 8839.

For Part III, fill in lines 19 through 22 and 24 for each child. But fill in lines 23 and 25 through 31 on only one Form 8839. The amount on line 23 of that Form 8839 should be the combined total of the amounts on line 22 of all the Forms 8839. The amount on line 25 of that form should be the combined total of the amounts on line 24.

### Column (c)

A child is disabled if the child is physically or mentally unable to take care of himself or herself.

### 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 process began.
2. A state (including the District of Columbia) has determined that the child cannot or should not be returned to his or her parents' home.
3. The state has determined that the child will not 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.

You may be able to claim a credit or exclusion for the adoption of a child with special needs even if you did not have any qualified adoption expenses. See line 24 and the instructions for line 5.



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 was not a citizen or resident of the United States or its possessions at the time the adoption process began.

**Special rules.** If you paid qualified adoption expenses after 1996 in connection with the adoption of a foreign child and the adoption became final in 2008, you can use the total expenses paid after 1996 in determining the amount to enter on line 5. But you cannot include more than \$5,000 of expenses paid before 2002 in determining the total. If you and another person (other than your spouse if filing jointly) each paid qualified adoption expenses to adopt the same child, the total qualified expenses (including those subject to the \$5,000 limit) must be divided between the two of you. You can divide it in any way you both agree.

If the adoption did not become final by the end of 2008, you cannot take the adoption credit for that child in 2008. If the adoption becomes final in a later year, you may be able to take a credit for the expenses in that year.

To find out when a foreign adoption is treated as final, see Rev. Proc. 2005-31, 2005-26 I.R.B. 1374, available at [www.irs.gov/irb/2005-26\\_IRB/ar01.html](http://www.irs.gov/irb/2005-26_IRB/ar01.html).

If you received employer-provided adoption benefits in 2008 in connection with the adoption of a foreign child and the adoption did not become final by the end of 2008, you must include the benefits in the total entered on Form 1040, line 7, or Form 1040NR, line 8. Also, enter "AB" (adoption benefits) next to Form 1040, line 7, or Form 1040NR, line 8. If the adoption becomes final in a later year, you may be able to exclude the benefits from your income in that year.

**Exclusion of prior year benefits.** If you received employer-provided adoption benefits after 1996 in connection with the adoption of a foreign child and the adoption became final in 2008, you may be able to exclude part or all of those benefits from your 2008 income. To find out if you can, complete the worksheet on page 4. You also must use the worksheet to complete Form 8839, Part III, and to figure any taxable benefits to enter on Form 8839, line 31.

If the adoption of more than one foreign child became final in 2008, complete lines 1 through 7 of the worksheet on page 4 separately for each foreign child and use the combined totals to complete lines 8 through 13 of the worksheet.

## 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 cannot get an SSN for the child in time to file your return, apply for an ATIN using Form W-7A. However, if the child is not a U.S. citizen or resident alien, apply instead for an ITIN using Form W-7.

## Part II—Adoption Credit

### Line 2

The maximum adoption credit is \$11,650 per child. If you and another person (other than your spouse if filing jointly) each paid qualified adoption expenses to adopt the same child, the \$11,650 limit must be divided between the two of you. You can divide it in any way you both agree. Cross out the preprinted entry on line 2 and enter above line 2 your share of the \$11,650 limit for that child.

### Line 3

If you filed Form 8839 in any year from 1998 through 2007, enter the total of the amounts shown for the child on lines 3 and 6 of the last form you filed. Otherwise, enter the amount shown for the child on line 4 of your 1997 Form 8839.

### Line 5



**Special rules apply if you paid expenses in connection with the adoption of an eligible foreign child. See the instructions for line 1, column (e), that begin on page 2 for details.**

Enter on line 5 the total qualified adoption expenses (as defined on page 1) you paid in:

- 2007 if the adoption was not final by the end of 2008,
- 2007 and 2008 if the adoption became final in 2008, or
- 2008 if the adoption became final before 2008.

**Special needs adoption.** If you adopted a child with special needs and the adoption became final in 2008, enter on line 5:

- \$11,650, 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 did not claim any adoption credit for the child in a prior year, enter \$11,650 on line 5 even if your qualified adoption expenses for the child were less than \$11,650 (and even if you did not have any qualified adoption expenses for this child).

**Unsuccessful adoption.** If you paid qualified adoption expenses in an attempt to adopt a 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 qualifying adoption expenses in 2007 in an attempt to adopt a child. You paid \$2,000 in qualified adoption expenses early in 2008. However, the adoption attempt is unsuccessful. Enter \$3,000 on line 5. The \$2,000 paid in 2008 may qualify in 2009.

## Line 8

Use the following chart to find your modified adjusted gross income to enter on line 8.

IF you file . . .	THEN enter on line 8 the amount from . . .
Form 1040	Form 1040, line 38, increased by the total of any: <ul style="list-style-type: none"> <li>• Exclusion of income from Puerto Rico and</li> <li>• Amounts from—               <ul style="list-style-type: none"> <li>• Form 2555, lines 45 and 50,</li> <li>• Form 2555-EZ, line 18, and</li> <li>• Form 4563, line 15.</li> </ul> </li> </ul>
Form 1040NR	Form 1040NR, line 36.

## Line 16

If you are claiming the child tax credit for 2008, include on this line the amount from line 12 of the Line 11 Worksheet in Pub. 972.



**If you are not claiming the child tax credit for 2008, you do not need Pub. 972.**

**Exclusion of Prior Year Benefits Worksheet  
(for the adoption of a foreign child that became final in 2008)**

Keep for Your Records



1. Did you receive employer-provided adoption benefits before 2002 for the adoption of the foreign child?
  - No.** Skip lines 1 and 2; enter -0- on line 3 and go to line 4.
  - Yes.** Enter the total **1997 through 2001** employer-provided adoption benefits you received for the adoption of the foreign child . . . . . **1.** \_\_\_\_\_
2. Enter **\$5,000**. If you and another person (other than your spouse if filing jointly) each received employer-provided adoption benefits after 1996 and before 2002 to adopt the same child, see instructions below . . . . . **2.** \_\_\_\_\_
3. Enter the **smaller** of line 1 or line 2 . . . . . **3.** \_\_\_\_\_
4. Enter the total **2002 through 2008** employer-provided adoption benefits you received for the adoption of the foreign child . . . . . **4.** \_\_\_\_\_
5. Add lines 3 and 4 . . . . . **5.** \_\_\_\_\_
6. Enter **\$11,650**. If you and another person (other than your spouse if filing jointly) each received employer-provided adoption benefits in 2002 through 2008 to adopt the same child, see instructions below. **6.** \_\_\_\_\_
7. Enter the **smaller** of line 5 or line 6 here and on Form 8839, line 19. If necessary, cross out the preprinted amount on line 19 and enter the result above the preprinted amount . . . . . **7.** \_\_\_\_\_

**Next:**

- Enter -0- on Form 8839, line 20.
  - Enter the amount from line 7 above on Form 8839, line 21.
  - On Form 8839, line 22, enter the total amount of employer-provided adoption benefits received in **1997 through 2008**. On the dotted line next to line 22, enter "PYAB" and the total amount of benefits you received in **1997 through 2007**.
  - Complete Form 8839 through line 30. Then, complete lines 8 through 13 below to figure the amount of any prior year benefits you can exclude and the taxable benefits, if any, to enter on Form 8839, line 31.
8. Is the amount on your 2008 Form 8839, line 30, less than the amount on Form 8839, line 23?
    - No.** Skip lines 8 through 10 and go to line 11.
    - Yes.** Subtract line 30 from line 23 . . . . . **8.** \_\_\_\_\_
  9. Enter the total **1997 through 2007** employer-provided adoption benefits included on Form 8839, line 22, for all children . . . . . **9.** \_\_\_\_\_
  10. **Taxable benefits.** Subtract line 9 from line 8. If zero or less, enter -0-. Enter the result here and on Form 8839, line 31. If more than zero, also include this amount on line 7 of Form 1040 or line 8 of Form 1040NR, and enter "AB" on the dotted line . . . . . **10.** \_\_\_\_\_
  11. Enter the amount from Form 8839, line 30 . . . . . **11.** \_\_\_\_\_
  12. Enter the total **2008** employer-provided adoption benefits included on Form 8839, line 22, for all children . . . **12.** \_\_\_\_\_
  13. **Prior year excluded benefits.** Subtract line 12 from line 11. If zero or less, **stop**; you cannot exclude any of your prior year benefits . . . . . **13.** \_\_\_\_\_  
**Next.** Figure the total you would enter on line 7 of Form 1040 or line 8 of Form 1040NR **before** you exclude the amount from line 13 above. Then, subtract the amount from line 13 above from that total. Enter the result on line 7 of Form 1040 or line 8 of Form 1040NR. On the dotted line next to the line for wages, enter "PYAB" and the amount from line 13 above.

**Worksheet Instructions**

**Line 2.** The maximum amount of employer-provided adoption benefits received after 1996 and before 2002 that can be excluded from income is \$5,000 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 \$5,000 limit must be divided between the two of you. You can divide it in any way you both agree. Enter your share of the \$5,000 limit on line 2 of the worksheet above.

**Line 6.** The maximum amount of employer-provided adoption benefits that can be excluded from income is \$11,650 per child (including up to \$5,000 of benefits received after 1996 and before 2002). If you and another person (other than your spouse if filing jointly) each received employer-provided adoption benefits to adopt the same child, the \$11,650 limit must be divided between the two of you. You can divide it in any way you both agree. Enter your share of the \$11,650 limit on line 6 of the worksheet above.



1. Enter the amount from Form 8839, line 12 . . . . .	1. _____
Did you use the <b>Credit Carryforward Worksheet</b> in the <b>2007</b> Form 8839 instructions?	
<input type="checkbox"/> <b>No.</b> Skip lines 2 through 6. Enter the amount from line 1 above on line 7.	
<input type="checkbox"/> <b>Yes.</b> Have that worksheet handy and go to line 2.	
2. Enter any 2003 credit carryforward (line 12 of your 2007 worksheet) . . . . .	2. _____
3. Enter any 2004 credit carryforward (line 14 of your 2007 worksheet) . . . . .	3. _____
4. Enter any 2005 credit carryforward (line 16 of your 2007 worksheet) . . . . .	4. _____
5. Enter any 2006 credit carryforward (line 18 of your 2007 worksheet) . . . . .	5. _____
6. Enter any 2007 credit carryforward (line 20 of your 2007 worksheet) . . . . .	6. _____
7. Add lines 1 through 6. . . . .	7. _____
8. Enter the amount from Form 8839, line 18 . . . . .	8. _____
9. Subtract line 8 from line 7 . . . . .	9. _____
Did you enter an amount on line 2, 3, 4, 5, or 6 above?	
<input type="checkbox"/> <b>No.</b> Enter the amount from line 9 on lines 20 and 23 below; skip all the other lines.	
<input type="checkbox"/> <b>Yes.</b> <i>Continue to line 10.</i>	
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. <b>2004 credit carryforward to 2009.</b> 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. <b>2005 credit carryforward to 2009.</b> 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. <b>2006 credit carryforward to 2009.</b> 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. <b>2007 credit carryforward to 2009.</b> Subtract line 17 from line 6. If zero or less, enter -0-	18. _____
19. Add lines 10, 12, 14, 16, and 18 . . . . .	19. _____
20. <b>2008 credit carryforward to 2009.</b> 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. <b>Total credit carryforward to 2009.</b> Subtract line 22 from line 21 . . . . .	23. _____

**Line 18—Credit Carryforward to 2009**

If Form 8839, line 17, 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 worksheet above to figure the amount of your credit carryforward. If you have any unused credit to carry forward to 2009, be sure you keep the worksheet. You will need it to figure your credit for 2009.

**Part III—Employer-Provided Adoption Benefits**  
**Line 19**

The maximum amount that can be excluded from income for employer-provided adoption benefits is \$11,650 per child. 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 \$11,650 limit must be divided between the two of you. You can divide it in any way you both agree. Cross out the preprinted entry on line 19 and enter above line 19 your share of the \$11,650 limit for that child.



**Before you begin:**

- ✓ If you file Form 1040, complete lines 8a through 21, 23 through 32, and 36 if they apply.
  - ✓ If you file Form 1040NR, complete lines 9a through 21, 24 through 31, and 34 if they apply.
1. Enter the amount you would enter on line 7 of Form 1040 or line 8 of Form 1040NR if you could exclude the total amount on Form 8839, line 23 . . . . . **1.** \_\_\_\_\_
  2. Enter the amount from Form 8839, line 23 . . . . . **2.** \_\_\_\_\_
  3. **Form 1040 filers**, enter the total of lines 8a, 9a, 10 through 14, 15b, 16b, 17 through 19, 20b, and 21. **Form 1040NR filers**, enter the total of lines 9a, 10a, 11 through 15, 16b, 17b, and 18 through 21 . . . . . **3.** \_\_\_\_\_
  4. Add lines 1, 2, and 3 . . . . . **4.** \_\_\_\_\_
  5. **Form 1040 filers**, enter the total of lines 23 through 32, and any write-in adjustments entered on the dotted line next to line 36. **Form 1040NR filers**, enter the total of lines 24 through 31 and any write-in adjustments entered on the dotted line next to line 34. . . . . **5.** \_\_\_\_\_
  6. Subtract line 5 from line 4 . . . . . **6.** \_\_\_\_\_

**Form 1040 filers**, increase the amount on line 6 above by the total of the following amounts. Enter the total on Form 8839, line 26.


- Any amount from **Form 2555**, lines 45 and 50, **Form 2555-EZ**, line 18, and **Form 4563**, line 15, and
- Any exclusion of income from Puerto Rico.

**Form 1040NR filers**, enter on Form 8839, line 26, the amount from line 6 above.

**Line 20**


Use the chart below to find the amount to enter on line 20.

IF the last year you filed Form 8839 for the child was...	THEN enter on line 20 the total of the amounts for the child from that Form 8839...
1999, 2002, 2003, 2004, 2005, 2006, or 2007	Lines 20 and 24
2000 or 2001	Lines 16 and 20
1998	Lines 18 and 22
1997	Line 15

 *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 2008. See Exclusion of prior year benefits on page 3.*

**Line 26**

Use the worksheet above to figure your modified adjusted gross income.

 *Your modified adjusted gross income (AGI) for the adoption credit may not be the same as the modified AGI figured in the worksheet above. If you are taking the credit, be sure to read the instructions for line 8 on page 3 before you enter an amount on that line.*

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The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.