

Tax Benefit Checklist for Families Caring for Special Needs Children



Deducting the cost of a Special School or Institution

What is a Special School?

- ❖ *Schools with programs to “mainstream” children with neurological disabilities (i.e., autism spectrum disorders)*

What is deductible?

- ❖ Lodging
- ❖ Meals
- ❖ Transportation
- ❖ Incidental educational costs provided by the institution
- ❖ Costs of supervision, care, treatment, and training

When can regular Schools be classified as a “Special School” for an individual?

- ❖ *Where School has special curriculum for neurologically disabled individual*

Private tutoring by a specially trained teacher

- ❖ *Therapeutic and behavioral support services*

(see Revenue Rulings 70-285 and 78-340)

Special education for dyslexic children

- ❖ *Provided program enables children to deal with disability caused by medical condition (2005’s Letter Ruling 200521003)*



Deduction for Medical Conferences and Seminars

- ❖ Both transportation and conference fees deductible (under Revenue Ruling 2000-24)



Special Diet Foods

- Generally, only the cost of special diet food over and above normal food (i.e., the premium; see Revenue Rulings 02-19 and 55-261)



Prescribed Vitamin Therapy; Hyperbaric Oxygen Therapy; Chelation Therapy; Equestrian Therapy; Individualized or Group Art, Dance, Music, and Play Therapies; Summer Camps, etc.



Medical Travel and Transportation

- ❖ For 2021 tax returns: .16 per mile (17 cents per mile for 2020)
- ❖ Lodging costs (but not meals) up to \$50 per day are deductible for the TP and one additional person if an overnight stay is necessary

Note: Un-reimbursed Medical Expenses are deductible only to the extent the TP itemizes their deductions (Schedule A) and they exceed 7.5% of AGI.



Consider FSA Health Care Plan if ineligible for medical expense deduction!

However, the maximum pre-tax contribution is \$2,750 for 2020 and 2021 (was \$2,700 for 2019). The CARES Act of 2020 now allows individuals enrolled in these pre-tax accounts to pay for OTC drugs and medicines without a prescription (no current expiration date).



Impairment Related Work Expenses

- ❖ Business deduction in lieu of a medical deduction for attendant care services at place of employment (ordinary and necessary expense to help in performing job)
- ❖ *Avoids AGI limitation imposed on un-reimbursed medical expenses*
- ❖ *NOT subject to prior law's 2% AGI limitation imposed on un-reimbursed employee business expenses*



Expanded definition of a “qualifying child”

- ❖ *An individual with special needs can be older than 19 or 24 and qualify as a “dependent”*
- ❖ *No gross income limitation for a “qualifying child” (The “gross income” limitation applies to a “qualifying relative” and is \$4,300 for 2020 and 2021 ...review ALL requirements!)*
- ❖ *Prior to 2009, a taxpayer could claim a dependency exemption for an older sibling. This option is not available for tax years beginning in 2009 and later unless the older sibling is permanently and totally disabled (The Fostering Connections to Success and Increasing Adoptions Act of 2008).*
- ❖ ***NOTE: Personal and Dependency Exemption Deductions have been suspended (reducing the exemption amounts to ZERO) under 2017's Tax Cuts and Jobs Act (TCJA) for 2018 through 2025. However, the definition of a dependent is still key for other deductions and credits such as the expanded child and dependent credits (\$500). The American Rescue Plan Act has increased the child tax credit for children 17 or younger to \$3,000 and for children under 6 to \$3,600 for 2021 ONLY. The credit is now entirely refundable, but with lower AGI***

phase-outs. The TCJA had increased the child tax credit from \$1,000 to \$2,000 per qualifying child under the age of 17 and increased the refundable portion of the credit to \$1,400. The TCJA also provides a \$500 nonrefundable credit for a qualifying dependent other than a qualifying child (i.e., a 17 year-old child or a parent).

- ❖ *Under the American Rescue Plan Act, the excess amount of the credit over TCJA's \$2,000 phases-out at AGIs of \$75,000 on single returns, \$112,500 on head of household returns and \$150,000 on joint returns. Families who aren't eligible for the higher child credit would claim the regular credit of \$2,000 per child, less the amount of any monthly payments received, provided their AGI is below the TCJA current thresholds of \$400,000 on joint returns and \$200,000 on other returns.*



Credit for Special Needs Adoption Expenses

- ❖ *\$14,440 for a child with special needs in 2021 (\$14,300 for 2020)...regardless of adoption expenses*
- ❖ *An eligible child is an individual who is under the age of 18, or is physically or mentally incapable of self-care.*
- ❖ *Must be a U.S. citizen or resident and requiring adoption assistance as determined by state authorities*
- ❖ *Qualifying expenses include: legal fees, court costs, and other related adoption costs*
- ❖ *The limit is per child, not per year (The credit is non-refundable with a c/o of 5 years)*
- ❖ *Credit is phased-out for taxpayers with adjusted gross income exceeding \$216,660 (\$214,520 in 2020)*

- ❖ *The credit is completely phased-out at \$40,000 above the threshold*
- ❖ *For a “special needs” adoption, the credit is claimed in the year the adoption becomes finalized regardless of actual expenses paid or incurred in the year the adoption becomes final.*



10% Penalty Exception for Retirement Plan and IRA Distributions

- ❖ *10% penalty does not apply to a distribution that is less than or equal to the allowable medical expense deduction on Schedule A (regardless of whether the individual actually itemizes deductions) if the distributions are used to pay for the medical care during the year.*
- ❖ *Penalty waiver only applies to taxable amount of the distribution. The income tax still applies to the taxable component of the distribution.*

Where to Get More Information

Contact a CPA or an attorney specializing in special needs planning, or a financial planner with a practice focusing on families caring for those with special needs.



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