

Attorney Timothy P. Crawford, CPA, CELA*, CAP**
wanted to share this information with you.

TAX TIPS FOR PARENTS OF A CHILD WITH SPECIAL NEEDS

GREATER MILWAUKEE AREA OFFICES IN BROOKFIELD, GLENDALE, MILWAUKEE, OAK CREEK & RACINE

Your Asset Protection Law Firm

840 Lake Avenue, Suite 200
Racine, WI 53403
(262) 634-6659

E-mail: tpc@execpc.com
Website: www.TpcLaw.com

Do you have a child with a disability? If so, there may be income tax deductions, exemptions or credits available to you. Some of the available income tax benefits are unfamiliar even to tax preparers, and some of the favorable treatment options are available to people who provide care for other family members, as well. Let's explore a few of the important tax benefits and rules.

Deducting Your Child As A Dependent

If your child is a minor and you provide at least half of his support, you can claim him as a dependent, which will give you a significant income tax exemption. Of course, there can be special concerns if your child has significant income himself, or if you are divorced and the deduction rules were negotiated as part of your divorce, or if your child does not live with you. Normally, though, the deduction for a minor child (whether he has special needs or not) is straightforward.

When your child reaches age 19, however, the rules change (for students, the rules change at age 24). You may still be able to deduct him as a dependent - provided that a few requirements are met. First, he must be permanently and totally disabled (if he is receiving Supplemental Security Income or Social Security Disability benefits he has been determined to be disabled).

Generally speaking, he must also live with you for at least half of the year (although there are a number of exceptions to that requirement), you must provide at least half of his support, and he cannot be claimed as a dependent on anyone else's tax return.

These rules apply to your child whether biological or adopted. They also apply to your stepchild, foster child, grandchild, brother, sister, niece, nephew or a descendent of any of those people.

There is actually another way your child can and certain other relatives may qualify as your dependent, and it does not require a finding of permanent and total disability. A "qualifying relative" can be a dependent even if he does not live with you (he has to be on a lengthy list of specific relatives, including children, siblings, parents and many more), so long as you provide half of his support and he does not have income over \$4,000 (in 2015 - this number will change each year).

The Internal Revenue Service has an excellent publication listing the finer details of claiming a child or other relative as a dependent. Look for Publication 501: Exemptions, Standard Deduction and Filing Information. It is updated annually.

What does it get you to claim a special needs child as a dependent? In 2015 that means you get a \$4,000 reduction in your taxable income (this amount shrinks for higher-income taxpayers). As of 2014 there will be another issue to consider: if you claim your child as a dependent on the tax return you will also need to make sure he has qualifying health coverage under the Affordable Care Act. Of course, if he is on Medicare or Medicaid that requirement is easily met.

One other thing to keep in mind: if you do provide enough support for your adult child to claim him as a dependent, that might have some effect on his eligibility for other benefits. If, for instance, your child lives with you, that providing of food and shelter might reduce (or even eliminate) his Supplemental Security Income (SSI) payments. Some other kinds of support, however, might have no effect on SSI. It's a complicated interrelationship, and you should talk with your special needs lawyer to figure out how the rules apply to you.

Itemized Deductions

If you have a child with special needs you already know it can be expensive to provide care. One small bit of good news: many of the expenses you incur will be deductible on your income tax return (if you claim your child as a dependent). Most of the special needs items will be deductible as medical expenses, and total deductions must be at least 10% of your income before they begin to qualify. Still, it can be helpful to keep track of deductible expenses. A few of the more notable items that families often overlook:

- Special school instruction (which can include lodging, meals, transportation and other expenses not normally deductible). This deduction requires the school to focus on adaptive education for people with neurological or physical limitations.
- Home modifications required by your child's condition. For example, air conditioning construction costs might be deductible if required for respiratory illness. Accessibility remodeling is normally deductible, too. Some kinds of modifications may be only partially deductible if they also increase the value of your home.
- Travel and registration costs for conferences and seminars. If your child's doctor will write a letter explaining how the conference will help you and your child deal with his special needs, the costs may be deductible as a medical expense.
- Attendant care at work. If your child has a job that requires attendant care, the portion of those costs not covered by other programs may be deductible. Of course, if your child has a job that may mean that the deduction is on his return, not on yours, depending on how much of his support he can provide with his own earnings.

Special Needs Trusts

The existence of a special needs trust can be a tremendous benefit to a person with special needs. It can also complicate the family's income tax situation.

Depending on the type of special needs trust, trust income might be taxed as if your child received it (even though the trust may not even permit the distribution of income directly to your child). That can sometimes mean that you cannot claim your child as a dependent. In other cases, the total tax savings will be higher if you and the trustee agree to let your child list himself as a dependent on his own tax return.

Sometimes the existence of a special needs trust may make it difficult for you to show that you provided at least half of your child's support. It is important to work out the most advantageous tax treatment; you should work hand-in-hand with the trustee of your child's special needs trust to figure out the proper way to handle deductions and exemptions.

More Information

There are many more tax tips for families with a child with special needs. You can get some additional suggestions from the IRS's excellent (if sometimes confusing) Publication 907, Tax Highlights for Persons with Disabilities. You might also contact your special needs attorney or your accountant for more information.

“Those Who Plan Ahead Win. Those Who Don’t Plan Ahead Lose.”

This article is for informational purpose only and is not intended as legal advice. It is recommended that you call Timothy P. Crawford for a free conference to discuss your situation in more detail. Attorney Crawford can be reached at 1-262-634-6659. Please refer to this article when you call.

*Attorney Timothy P. Crawford is a Nationally Board Certified Elder Law Attorney (CELA). He has been Board Certified by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

**Timothy P. Crawford was invited to join the Council of Advanced Practitioners (CAP) of the National Academy of Elder Law Attorneys (NAELA) in August of 2005. CAP is a small group of premier elder law attorneys, all of whom have been members of NAELA for at least 10 years, are certified as elder law attorneys by the National Elder Law Foundation, and are AV rated by Martindale Hubbell, a service that provides an independent rating of the quality of attorneys, as one of the top attorneys in the nation.

Attorney Timothy P. Crawford has been selected as a **Fellow** of NAELA. **Fellow** is the highest honor bestowed by the Academy. Selection as a **Fellow** signifies that his peers recognize the lawyer as a model for others and as an exceptional lawyer and leader.

Attorney Timothy P. Crawford has a superb rating of 10 out of 10 with A V V O.

A V V O has awarded to Attorney Timothy P. Crawford the A V V O Client’s Choice Award.

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“A majority of text has come from an article prepared by Attorney Robert B. Fleming who is a friend of Attorney Timothy P. Crawford, and was printed in *The Voice Newsletter*, and is used here with permission.”

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