# 2004 Supplement to *Making Care Less Taxing*[1]

| State | Basic Provision | Eligible Expenses | Refundable | Maximum: One Child/Dependent | Maximum: Two or More Children/Dependents |
|---|---|---|---|---|---|
| AR | A *credit* of 20% of the "allowable"[2] federal CADC credit.[3] | Expenses eligible for the federal CADC credit. | Yes, but only for care for children under age 6 in an "appropriate early childhood program."[4] | $210 | $420 |

[1] This chart is a supplement to Appendix A of the National Women's Law Center's 2002 report, *Making Care Less Taxing: Improving State Child and Dependent Care Tax Provisions*, which describes state child and dependent care (CADC) provisions in effect for tax year 2001. *Making Care Less Taxing* is available at www.nwlc.org/mclt. The changes described in this chart occurred in 2002 or 2003, for the most part, and are in effect in tax year 2003. This supplement to Appendix A and Appendix A, taken together, provide a complete picture of state CADC provisions in effect for tax year 2003.

[2] When a state credit is calculated as a percentage of the federal credit for Child and Dependent Care expenses – as is the case in most states with CADC tax provisions – an issue arises regarding calculation of the state credit for taxpayers who received only part or none of the federal credit because the federal credit exceeds their federal income tax liability and is not refundable. Is the state credit based on the amount of federal credit actually received, or is it based on the amount the taxpayer could have received if the federal credit had not seen limited by the taxpayer's federal tax liability? A number of states clearly provide that the state credit is based on the federal credit for which the taxpayer is potentially eligible, without regard to the taxpayer's federal tax liability, and one state makes clear that it is based only on the amount of the credit actually received. In the remaining states with credits based on a percentage of the federal CADC credit, the statutory provision is ambiguous, referring to a percentage of the "allowable," "allowed," "provided," "claimed," or "eligible" federal credit. In most instances, the forms and/or instructions clarify this ambiguity.

[3] The nonrefundable portion of Arkansas' credit references the federal CADC credit "in effect on January 1, 2003," and the refundable portion references the federal CADC credit "in effect on January 1, 1993." Thus the improvements in the federal CADC credit in the Economic Growth and Tax Reduction and Reconciliation Act (EGTRRA) that took effect in tax year 2003 automatically resulted in improvements in the nonrefundable, but not the refundable, portion of the Arkansas CADC credit. The distinction in the Arkansas statute is not reflected in the Arkansas tax forms or instructions for tax year 2003, however, which direct taxpayers eligible for the refundable portion simply to claim a percentage "of the Federal Child Care Credit."

[4] An "appropriate early childhood program" is defined as a "developmentally appropriate program for young children . . . approved by the Department of Education as complying with regulatory guidelines to be issued by the department. . . ."

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| CA | A *credit* of a specified percentage of the "allowable"[5] federal CADC credit as follows:<br>• 50% if California AGI is $40,000 or less<br>• 43% if California AGI is $40,001-$70,000<br>• 34% if California AGI is $70,001-$100,000.<br>No credit is allowed if California AGI is over $100,000. | Expenses eligible for the federal CADC credit. | Yes | $525 | $1,050 |
| DC | A *credit* of 32% of the "allowed"[6] federal CADC credit. | Expenses eligible for the federal CADC credit. | No | $336 | $672 |
| LA | A *credit* for child care of a specified percentage of the federal CADC credit for "child care expenses claimed" by the taxpayer as follows:<br>50% if federal AGI is $25,000 or less<br>30% if federal AGI is $25,001-$35,000<br>10% if federal AGI is $35,001-$60,000<br>10% but no more than $25 if federal AGI is over $60,000.[7] | Expenses eligible for the federal CADC credit.[8] | Yes, if federal AGI is $25,000 or less.[9] | $525 | $1,050 |

[5] The California statute specifically says that the state credit is based on the amount of the federal credit allowable, "without taking into account whether there is federal tax liability."

[6] The District of Columbia statute specifically states that the D.C. credit is based on the amount of the federal credit allowed, "regardless of the amount of the credit that is actually used to offset federal tax liability," but for some years prior to tax year 2003 the D.C. forms and instructions directed D.C. taxpayers to take 32% of only the amount of the federal credit actually used to offset federal liability. The D.C. forms and instructions were corrected to comply with the authorizing statute beginning in tax year 2003.

[7] Louisiana also has a nonrefundable credit for "dependents physically or mentally incapable of self-care," which is 100% of the federal CADC credit. See *Making Care Less Taxing*, *supra* at Appendix A, p. 36.

[8] The Louisiana forms and instructions for tax year 2003 do not require taxpayers to disaggregate their child care expenses from any care expenses they may have for dependents physically or mentally incapable of self-care in order to claim either Louisiana credit.

[9] For taxpayers with AGI over $25,000, if the credit exceeds the income tax due, the unused amount of the credit may be carried forward as a credit against tax liability in subsequent years, for up to five years.

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| MD | A *deduction*[10] of expenses up to the dollar amount of expenses allowed under the federal CADC credit.[11] | Expenses eligible for the federal CADC credit. | No | $143 | $285 |

[10] Maryland's top tax rate is 4.75%.

[11] Maryland also has a tax credit of a specified percentage of the federal CADC credit. Eligible taxpayers may claim both this credit and Maryland's deduction for CADC expenses.

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| MA | A *deduction*[12] of expenses equal to the amount of expenses allowed under the federal CADC credit, except that expenses are capped at $4,800 for one child or dependent and $9,600 for two or more children or dependents. | Expenses eligible for the federal CADC credit. | No | $255 | $509 |
| ME | A *credit* of 21.5%[13] of the "allowable" federal CADC credit, increasing to 43%[14] for "quality child care."[15] | Expenses eligible for the federal CADC credit. | Yes, up to $500. | $452 | $903 |

[12] Massachusetts has a 5.3% tax rate for all income levels.
[13] After tax year 2005 this percentage reverts to 25%.
[14] After tax year 2005 this percentage reverts to 50%.
[15] "Quality child care" is defined as care provided at a child care site that meets minimum licensing standards; is accredited by an independent, nationally recognized program approved by the Maine Department of Human Services, Office of Head Start and Child Care; utilizes recognized quality indicators for child care services approved by the Maine Department of Human Services, Office of Head Start and Child Care: and includes provisions for parent and client input, a review of the provider's policies and procedures, a review of the provider's program records, and an on-site program review.

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| MT | A *deduction*[16] of eligible expenses for taxpayers with AGI under $22,800, if one child, spouse or dependent, $25,200 if two such individuals, and $27,600 if three or more such individuals. Expenses are limited to $2,400 for one child, spouse, or dependent, $3,600 for two such individuals, and $4,800 for three or more such individuals. For taxpayers with AGI over $18,000, eligible expenses are reduced by one half of the amount of income over $18,000. | Expenses necessary for gainful employment for in-home and out-of-home care for:<br>• children under age 15<br>• spouses physically or mentally incapable of self-care, and<br>• dependents physically or mentally incapable of self-care.[17] | No | $120 | $144 for two, $192 for three or more |

[16] Montana's top tax rate is 5% for taxpayers with one child or dependent, and 4% for taxpayers with two or three children or dependents, with Montana AGI of $18,000 – the highest AGI level at which a taxpayer can take the full Montana deduction.

[17] The Montana statute seems to make distinctions between expenses (and, arguably, expense limits) for in-home and out-of-home care for children and other dependents. However, the Montana tax form does not make these distinctions.

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| NC | A *credit* of a specified percentage of allowed federal CADC expenses, except that expenses are capped at $2,400 for one child or dependent and $4,800 for two or more children or dependents, as follows:<br>• For children under age 7 and other qualifying dependents incapable of self-care:<br>•13% if federal AGI is 0-$25,000, depending on the filing status of the taxpayer<br>•11.5% if federal AGI is $12,501-$40,000, depending on the filing status of the taxpayer<br>•10% if federal AGI is $20,000-$40,000 and over, depending on the filing status of the taxpayer.<br>• For children age 7 and over:<br>•9% if federal AGI is 0-$25,000, depending on the filing status of the taxpayer<br>•8% if federal AGI is $12,501-$40,000, depending on the filing status of the taxpayer<br>•7% if federal AGI is $20,000-$40,000 and over, depending on the filing status of the taxpayer. | Expenses eligible for the federal CADC credit. | No | $312 | $624 |
| OH | A *credit* of a specified percentage of the federal credit for which the taxpayer is "eligible,"[18] as follows:<br>• 100% if Ohio AGI is less than $20,000<br>• 25% if Ohio AGI is $20,000-$39,999.<br>No credit is allowed if Ohio AGI is equal to or more than $40,000. | Expenses eligible for the federal CADC credit. | No | $1,050 | $2,100 |

[18] The Ohio statute specifically states that the state credit is based on the amount of the federal credit for which the taxpayer is eligible, "without regard to any limitation imposed by section 26 of the Internal Revenue Code," but for some years prior to tax year 2003 the Ohio forms and instructions directed Ohio taxpayers to take a percentage of

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| RI | A *credit* of 25% of the federal CADC credit. | Expenses eligible for the federal CADC credit. | No | $263 | $525 |
| VT | A "low-income *credit*"[19] equal to a specified percentage of the "allowed" federal CADC credit as follows:<br>50% if federal AGI is less than $30,000, if single<br>50% if federal AGI is less than $40,000, if married. | Expenses eligible for the federal CADC credit, except that the expenses must be for services provided in a "registered home or licensed facility certified by the human services agency as meeting national accreditation or national credential standards endorsed by the agency." | Yes | $525 | $1,050 |

only the amount of the federal credit actually used to offset federal tax liability. The Ohio forms and instructions were corrected to comply with the authorizing statute beginning in tax year 2003.

[19] Vermont also has a nonrefundable CADC credit of 24% of the federal CADC credit, *see Making Care Less Taxing*, *supra* at Appendix A, p. 44; taxpayers may take either credit but not both.