



# QUESTIONS AND ANSWERS ABOUT THE CHILD AND DEPENDENT CARE TAX CREDIT TAX YEAR 2010

The federal **Child and Dependent Care Tax Credit** can help working families pay for the child care they need to work. The following questions and answers will help you feel more comfortable spreading the word about the federal **Child and Dependent Care Tax Credit**. But you should not try to answer specific questions about any individual's or family's taxes!

## 1. What is the federal Child and Dependent Care Tax Credit?

The federal **Child and Dependent Care Tax Credit** provides up to \$2,100 in tax assistance to families who pay for care for a qualifying child or dependent in order to work in paid employment.

The amount of the credit is based on the family's income, the number of the family's dependents in care, and the amount the family pays for the care. Families of all income levels are eligible. In general, the higher the child care expenses and the lower the family's income, the larger the family's credit.

Note: The **Child and Dependent Care Tax Credit** also covers employment-related care expenses for a spouse or other qualifying person (including a child of any age) who is incapable of caring for himself or herself. If a tax filer paid for care for such an individual, he or she should get more information about the circumstances under which such care is covered by reading Publication 503 on the Internal Revenue Service (IRS) website, at [www.irs.gov](http://www.irs.gov). The rules that govern claims for care expenses for these individuals are very different than those for claims for care expenses for children, and consequently, tax filers claiming the former should not rely on the answers below.

## 2. Who is eligible for the Child and Dependent Care Tax Credit?

To be eligible for the **Child and Dependent Care Tax Credit**, a family must:

- Have paid for child care in 2010 for a qualifying child who was under age 13 when the care was provided; *and*
- Have needed the child care to enable the tax filer to work or look for work (if he or she is married, both he or she and his or her spouse must have needed the care to work or look for work, or one spouse must have been a full-time student, or unable to care for himself or herself); *and*
- Have paid less for care than the amount of the family's 2010 earned income. If the tax filer is married and filing a joint return, he or she must have paid less for care than the amount of his or her earned income or his or her spouse's earned income,

whichever is smaller. (There are special rules for calculating the earned income of a spouse who was a full-time student or unable to care for himself or herself.)

“Earned income” includes wages, salaries, and tips; net earnings from self-employment; and scholarships and fellowships. It generally does not include bank interest, Social Security or TANF benefits, alimony, or unemployment compensation. (Special rules for determining earned income apply to persons with 2010 nontaxable combat pay).

In general, a family can only claim the credit for a child who can be claimed as a dependent on the family’s tax return for 2010, but there are special rules for children of certain divorced or separated parents (see Question 6).

### **3. When is a child a qualifying child who can be claimed for the Child and Dependent Care Tax Credit?**

A qualifying child for the **Child and Dependent Care Tax Credit** is an individual who:

- Is the tax filer’s child, stepchild, adopted child (or child lawfully placed with the tax filer for legal adoption), foster child (placed with the tax filer by an authorized placement agency or court action), sibling, half-sibling, step-sibling, or a descendant of any of these individuals (e.g., grandchild, niece); *and*
- Is under age 13; *and*
- Did not provide over half of his or her own support for 2010; *and*
- Is claimed as a dependent by the tax filer (with certain exceptions – see Question 5), *and*
- Lived with the tax filer in his or her main home for more than half the year (there are special rules for children who were born or died during 2010, were temporarily absent, or were kidnapped); *and*
- Is a U.S. citizen or national, or a resident of the U.S., Mexico or Canada (except for certain adopted children).

### **4. What if a tax filer’s qualifying child is also the qualifying child of another person?**

If the other person is the tax filer’s spouse with whom he or she is filing a joint return, the answer is simple: the tax filer and his or her spouse can claim the child together on their joint return. But there are other situations in which a child might be the qualifying child of more than one person.

If more than one person can claim a child as a “qualifying child” in 2010, the following rules generally apply:

<b>If more than one tax filer can claim a child and...</b>	<b>Then the child will be treated as the qualifying child of the...</b>
Only one is the child's parent,	parent.
Two are parents and they do not file a joint return,	parent who lived with the child for the longer period of time in 2010.
Two are parents, they do not file a joint return, and the child lived with each parent the same amount of time in 2010,	parent with the higher adjusted gross income in 2010.
None is the child's parent,	person with the highest adjusted gross income in 2010.

Under some limited circumstances, when more than one tax filer is eligible to claim a child as his or her “qualifying child,” the tax filers can decide together which one of them will claim the child on his or her tax return. For example:

- If both a parent and a non-parent meet the requirements for claiming a child as a “qualifying child” (see Question 3), they can decide together who will claim the child as a “qualifying child” *only if* the non-parent’s adjusted gross income (AGI) is higher than the AGI of any of the child’s parents who can claim the child. For example, if a child lived with her mother and grandmother for more than six months during the tax year, the mother could agree to let the grandmother claim the child as a qualifying child – if, and only if, the grandmother’s AGI is higher than the mother’s.
- If the married parents of a child, both of whom meet the requirements for claiming the child as a “qualifying child” (see Question 3), live apart, but are not divorced or legally separated, the parents can decide together who will claim the child as a “qualifying child.”
- If both unmarried parents of a child meet the requirements for claiming the child as a “qualifying child” (see Question 3), the parents can decide together who will claim the child as a “qualifying child.”

The person who properly claims the child as a “qualifying child” will be able to claim both the **Child and Dependent Care Tax Credit** and other tax benefits for that child (including the **Child Tax Credit**, **EITC**, dependent exemption, and head of household filing status) for 2010. Family members cannot decide to split them up for that child, unless the special rules for divorced and separated parents apply (see Question 5).

“Adjusted gross income” is the amount a tax filer enters on line 37 of Form 1040, line 21 of Form 1040A, or line 4 of Form 1040EZ. In general, adjusted gross income is gross income, minus certain allowable deductions. It includes wages, salaries, and tips; net income from self-employment; unemployment compensation; alimony and taxable interest received. It generally does not include child support payments received, TANF benefits, or student loan interest and alimony paid.

For more information, see IRS Publication 501.

**5. The tax filer has custody of his or her child, but is releasing his or her claim to the dependency exemption for 2010 to the noncustodial parent. Can he or she still claim the Child and Dependent Care Tax Credit?**

Yes. If a tax filer had custody for the greater portion of 2010 and meets the other requirements for the credit (see Questions 2 and 3), he or she may claim the **Child and Dependent Care Tax Credit** for that child, even though he or she signed Form 8332 or a similar statement agreeing not to claim the child as a dependent for 2010.

**6. What kind of child care expenses qualify?**

Expenses for any type of child care—in a center, a family day care home, a church, or by a neighbor, for example—qualify as long as the family paid the expenses, the primary purpose of the care was for the child’s well-being and protection, and the care was necessary for the tax filer to work or look for work in paid employment. The care may be provided by a relative, but not by a parent of the qualifying child or by the tax filer’s spouse, dependent, or child who was under age 19 at the end of 2010. If the provider cares for more than six persons, the provider must comply with applicable state and local laws and regulations.

**7. How much is a family eligible to receive from the Child and Dependent Care Tax Credit?**

The **Child and Dependent Care Tax Credit** is calculated as a percentage of qualified child and dependent care expenses. The amount that a family is eligible to receive depends on the family’s AGI, the number of children in care, and the amount of qualified expenses. Qualified expenses for 2010 may not exceed \$3,000 for one qualifying child or other qualifying person and \$6,000 for two or more qualifying children or other qualifying persons. Families with 2010 AGIs of \$15,000 or less receive a credit equal to 35 percent of eligible expenses, for a maximum of \$2,100. The rate decreases as AGI increases above \$15,000 until it reaches 20 percent for families with AGIs above \$43,000. **The maximum value of the credit is \$2,100 for a family with an AGI of \$15,000 or less and two or more dependents (\$1,050 for one dependent), and \$1,200 for a family with an AGI above \$43,000 and two or more dependents (\$600 for one dependent).**

The following table gives a general idea of the value of the credit by showing the amount of the credit available for families at different income levels with varying child care expenses. The amount a family will actually receive from the credit may be limited by its federal income tax liability since the credit is not refundable.

Sample Child and Dependent Care Tax Credit Amounts for Tax Year 2010						
	Care Expenses for One or More Qualifying Children or Persons*			Care Expenses for Two or More Qualifying Children or Persons		
Adjusted Gross Income	\$1,000	\$2,000	\$3,000	\$4,000	\$5,000	\$6,000+
\$0-\$15,000	\$350	\$700	\$1,050	\$1,400	\$1,750	\$2,100
\$15,001-\$17,000	\$340	\$680	\$1,020	\$1,360	\$1,700	\$2,040
\$17,001-\$19,000	\$330	\$660	\$990	\$1,320	\$1,650	\$1,980
\$19,001-\$21,000	\$320	\$640	\$960	\$1,280	\$1,600	\$1,920
\$21,001-\$23,000	\$310	\$620	\$930	\$1,240	\$1,550	\$1,860
\$23,001-\$25,000	\$300	\$600	\$900	\$1,200	\$1,500	\$1,800
\$25,001-\$27,000	\$290	\$580	\$870	\$1,160	\$1,450	\$1,740
\$27,001-\$29,000	\$280	\$560	\$840	\$1,120	\$1,400	\$1,680
\$29,001-\$31,000	\$270	\$540	\$810	\$1,080	\$1,350	\$1,620
\$31,001-\$33,000	\$260	\$520	\$780	\$1,040	\$1,300	\$1,560
\$33,001-\$35,000	\$250	\$500	\$750	\$1,000	\$1,250	\$1,500
\$35,001-\$37,000	\$240	\$480	\$720	\$960	\$1,200	\$1,440
\$37,001-\$39,000	\$230	\$460	\$690	\$920	\$1,150	\$1,380
\$39,001-\$41,000	\$220	\$440	\$660	\$880	\$1,100	\$1,320
\$41,001-\$43,000	\$210	\$420	\$630	\$840	\$1,050	\$1,260
\$43,001+	\$200	\$400	\$600	\$800	\$1,000	\$1,200
*Individuals or couples with only one qualifying child or person may claim no more than \$3,000 in qualifying expenses.						
Note that the amount a family actually receives from this credit may be limited by its tax liability.						

**8. If a family receives benefits through a Dependent Care Assistance Program, can it still claim the Child and Dependent Care Tax Credit?**

In some cases a family is allowed both to claim the **Child and Dependent Care Tax Credit** and to receive benefits through a Dependent Care Assistance Program. For example, if a tax filer's family spent more for child and dependent care than the tax filer received in Dependent Care Assistance Program benefits, the family may be able to claim the **Child and Dependent Care Tax Credit** for the difference. If all of a family's child and dependent care expenses are covered by benefits received through a Dependent Care Assistance Program, the family cannot claim the **Child and Dependent Care Tax Credit**. The amount of any Dependent Care Assistance Program benefits received in 2010 should be shown in Box 10 of the tax filer's W-2 form.

**9. Can a family still claim the Child and Dependent Care Tax Credit if it owes no taxes?**

No. If a family owes no federal income taxes, it cannot claim the **Child and Dependent Care Tax Credit**. But even if a family only owes a small amount of taxes, claiming the **Child and Dependent Care Tax Credit** can increase the amount of any refund it may be eligible for from the **Earned Income Tax Credit**, the **Making Work Pay Credit**, or the **Child Tax Credit**.

**10. If a child has a scholarship or the government pays for child care, can the child's family claim the Child and Dependent Care Tax Credit?**

The **Child and Dependent Care Tax Credit** is based on the amount of qualified care expenses *paid*. Therefore, if a family's child care is free, the family will not be eligible for the credit. However, if only part of the cost of child care is subsidized and the family pays for part of the care, the family can claim the credit based on the actual amount it paid. For example, if a child care center charges \$2,000 a year and the child received a scholarship for \$1,500, and the family paid the rest (\$500), then the family may claim the credit based on \$500 in child care expenses.

**11. Can a family claim the Child and Dependent Care Tax Credit if it also claims the Making Work Pay Credit, the Child Tax Credit and the Earned Income Tax Credit?**

Yes. If a family is eligible for these credits, it can claim benefits under all four provisions and decrease its taxes or increase its refund.

**12. How does a family claim the Child and Dependent Care Tax Credit?**

To claim the **Child and Dependent Care Tax Credit**, a family must file either Form 1040 or 1040A (not 1040EZ) and a separate form, Form 2441, with its tax return. Note that if the tax filer was married at the end of 2010, he or she generally must file a joint return in order to claim the credit, although special rules may apply if he or she lived apart from his or her spouse during 2010.

The tax filer must provide a Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN) for him or herself, his or her spouse if married, and any qualifying child(ren) or dependent(s). If a tax filer is claiming the credit for a child who was placed in his or her home for adoption for whom he or she cannot get an SSN, the tax filer must get an Adoption Taxpayer Identification Number (ATIN).

If a tax filer is eligible for an SSN, he or she should apply for it rather than for an ITIN. The tax filer must get the SSN before filing the family's tax return. It can take some time to receive an SSN, so the tax filer should apply well in advance. To apply for an SSN, the tax filer must complete Form SS-5 from the Social Security Administration, available at <http://www.ssa.gov/online/ss-5.html>. If the tax filer is applying for an ITIN, he or she may file his or her application for an ITIN at the same time as he or she files the family's tax return. To apply for an ITIN, the tax filer must complete Form W-7 from the Internal Revenue Service, available at <http://www.irs.gov/pub/irs-pdf/fw7.pdf>. To apply for an ATIN, the tax filer must file

Form W-7A, available from the Internal Revenue Service at <http://www.irs.gov/pub/irs-pdf/fw7a.pdf>, several weeks before he or she plans to file a tax return.

Families should keep records, such as check stubs, receipts, or bills from providers, that show the amounts paid for care during the year.

A family must also provide basic information about the child's provider, including the provider's name, address, and, if the provider is not a tax-exempt organization, an identification number (the provider's SSN or Employer Identification Number). If a family has tried to get the provider's identification number but has not been successful, the tax filer can explain on his or her tax return that the provider was asked for the information but did not comply with the request.

#### **FOR MORE INFORMATION**

Information about other tax benefits available to families with children is available on the National Women's Law Center's website at [www.nwlc.org/loweryourtaxes](http://www.nwlc.org/loweryourtaxes). Further information is also available from the Internal Revenue Service on its website, [www.irs.gov](http://www.irs.gov), by calling 1-800-TAX-1040 toll free or by contacting a local Volunteer Income Tax Assistance (VITA) clinic for free assistance.