NATIONAL WOMEN'S LAW CENTER
EXPANDING THE POSSIBILITIES

M E M O R A N D U M

To: Individuals and Organizations Interested in Child Care
From: Nancy Duff Campbell, Amy K. Matsui, and Katherine Wallat
Date: February 27, 2013
Re: Developments in Federal and State Child and Dependent Care Tax Provisions in 2012

Tax provisions for child and dependent care expenses provide valuable help to many families struggling to pay for the care necessary for them to earn a living. The tax codes of the federal government and 28 states, including the District of Columbia, currently contain a total of 35 child and dependent care (CADC) provisions that reduce the amount of tax owed by families and, in some instances, increase their tax refunds. While many state legislatures have continued to improve their provisions, progress has slowed in recent years, and some states have even reduced benefits provided to families through CADC provisions. Advocates can help to expand the number of provisions, improve existing provisions, and inform families about these and other federal and state tax provisions that can help them meet their CADC expenses.

This memorandum summarizes changes to state and federal child and dependent care tax provisions that took effect or were enacted in 2012. There was one change in a state CADC credit and one change in the federal CADC credit in 2012. Kansas repealed its credit, effective for tax year 2013, and the federal credit was made permanent, effective January 1, 2013.

This memorandum supplements the National Women's Law Center's April 2011 edition of its publication *Making Care Less Taxing: Improving State Child and Dependent Care Tax Provisions*[1] and its accompanying state-by-state report card *Making the Grade for Care*,[2] which together present a comprehensive overview of CADC provisions in effect through tax year 2010. This memorandum and the Center's February 10, 2012 memorandum summarizing developments in federal and state CADC provisions in 2011[3] provide information on changes since 2010.

This memorandum also reminds advocates of the materials available as a part of the Center's Tax Credits Outreach Campaign to increase the number of eligible families claiming these and other family-related federal and state tax benefits. These materials explain federal and

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[1] Nancy Duff Campbell et al., Nat'l Women's Law Ctr., *Making Care Less Taxing: Improving State Child and Dependent Care Tax Provisions* (2011), *available at* http://www.nwlc.org/sites/default/files/pdfs/nwlc-mclt2011-without_report_card_inside_and_bookmarked.pdf [hereinafter *Making Care Less Taxing*].
[2] Nat'l Women's Law Ctr., *Making the Grade for Care: Ranking State Child and Dependent Care Tax Provisions* (2011), *available at* http://www.nwlc.org/sites/default/files/pdfs/nwlc-makinggradeforcare2011.pdf.
[3] Nat'l Women's Law Ctr., *2012 Supplement to Making Care Less Taxing: Improving State Child and Dependent Care Tax Provisions* (Feb. 2012), *available at* http://www.nwlc.org/resource/2012-supplement-making-care-less-taxing-improving-state-child-and-dependent-care-tax-provis.

state tax provisions and assist advocates in reaching families who are eligible to claim the benefits of these provisions.

Improvements to Federal CADC Credit Made Permanent

In the American Tax Relief Act of 2012 (ATRA),[4] Congress made permanent the CADC credit improvements that were enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA),[5] effective in tax year 2003 but expiring at the end of 2010.[6] These improvements had been extended through 2012 by Congress in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (TRUIRJCA).[7] If the 2001 improvements had been allowed to expire at the end of 2012, many families would have seen a substantial decrease in the value of their federal CADC credit beginning in tax year 2013. In addition, many states with CADC tax provisions linked to the federal credit would have seen a parallel automatic decrease in the value of their state provisions.[8]

Although Congress made the improvements in the federal CADC credit permanent along with many other provisions of the Bush-era tax cuts in the 2012 year-end tax deal, it is likely that a broad discussion about reforming the tax code will continue. The National Women's Law Center is monitoring legislative developments and will continue to lay the groundwork for additional improvements in the federal CADC credit that might be part of a broader tax reform effort. Please contact Amy Matsui at amatsui@nwlc.org if you are interested in joining advocacy efforts related to the federal credit.

Changes to State CADC Provisions in 2012

Only one state, Kansas, made changes in its CADC provision in 2012 and the change was significant. Kansas repealed its CADC credit as part of a broader tax overhaul,[9] effective for tax year 2013.

This means that families can claim the Kansas CADC credit, worth up to $525, when they file their taxes for 2012 in early 2013. However, they will not be able to claim the state

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[4] American Taxpayer Relief Act of 2012, Pub. L. No. 112-240, 126 Stat 2313 (2012) (codified as amended in scattered sections of 26 U.S.C.).
[5] Pub. L. No. 107-16, § 204, 115 Stat. 38, 49 (2001) (codified as amended at 26 U.S.C.A. § 21 (West, Westlaw through Pub. L. No. 112-86 (excluding Pub. L. No. 112-55, 112-56, 112-74, 112-78, and 112-81)).
[6] Congress in EGTRRA increased the expense limits for the credit from $2,400 for one child or dependent and $4,800 for two or more children or dependents to $3,000 for one child or dependent and $6,000 for two or more children or dependents. *See* EGTRRA § 204(a). In addition, Congress increased the maximum percentage of eligible expenses a taxpayer may claim from 30% to 35% of expenses, and increased the adjusted gross income (AGI) at and below which a taxpayer may claim the maximum percent of qualifying expenses from $10,000 to $15,000, and the AGI above which a taxpayer may claim the minimum 20% of expenses from $28,000 to $43,000. *See* EGTRRA § 204(b). As a result of these changes, the maximum potential credit amount increased from $1,440 to $2,100.
[7] Pub. L. No. 111-312, § 101(a), 124 Stat. 3296, 3298 (2010).
[8] Eighteen states provide a credit whose amount is a percentage of the federal CADC credit, four states provide a tax deduction for expenses eligible for the federal credit, and four states provide a tax credit whose amount is a percentage of the expenses eligible for the federal credit. *See Making Care Less Taxing*, *supra* note 1, at 14-17.
[9] 2012 Kan. Sess. Laws, ch. 135, sec. 40 (H.B. 2117).

credit for any expenses they pay in 2013 when they file their taxes in 2014 or thereafter, unless the credit is reinstated. In tax year 2010, the most recent year for which data are available, 66,882 tax filers claimed the Kansas CADC credit for a total of $9,123,847.[10] This change in the law thus will result in a significant loss for Kansas families who incur employment-related child and dependent care expenses.

Tax Credits Outreach Campaign for Tax Year 2012

Each year, the Center conducts a national Tax Credits Outreach Campaign in partnership with state advocates and service providers to help families take advantage of federal and state child and dependent care tax provisions and other valuable tax benefits. Campaign partners work to get the word out to families through child care services and other networks, the media, large employers, and state agencies. Similar campaigns in previous years have significantly increased the number of families claiming these tax benefits and the amount of benefits they receive.

In order to assist advocates, the Center has redesigned its outreach materials for tax year 2012. These materials include fliers, available in Spanish, English, Mandarin Chinese and Vietnamese, and other informational materials to inform families about the benefits available for tax year 2012 from the federal CADC credit, Earned Income Tax Credit, and Child Tax Credit. The Center has also prepared state-specific fliers in English and Spanish for every state, describing parallel state tax provisions, as well as a variety of other informational and campaign materials. All of these materials are available on the Center's tax credits outreach campaign web page, www.nwlc.org/loweryourtaxes.

You can help spread the word to eligible families by distributing outreach fliers, including an article about tax credits in your newsletter, and linking to the Center's tax credits outreach web page on your own website. To find out more about how you can spread the word about valuable federal and state tax benefits, check out the Center's Toolkit for Child Care Advocates, also available at www.nwlc.org/loweryourtaxes.

The Center invites you to become a Community Partner in the campaign. The Center is providing its Community Partners with tailored materials, including media materials, and technical assistance upon request. To sign up to be a Community Partner, please contact Amy Qualliotine at aqualliotine@nwlc.org.

Conclusion

For more information about federal and state tax credits for which eligible families may be eligible, please visit www.nwlc.org/loweryourtaxes. Center staff would be happy to work with you to establish or expand a child and dependent care tax provision in your state, conduct a conference call or webinar for advocates in your state, or connect your organization with tax credits outreach campaigns in your area. Please contact Amy Matsui at amatsui@nwlc.org for more information.

[10] Phone Interview with Richard Cram, Dir. of Policy & Research, Kansas Dep't of Revenue (Feb. 13, 2013).