

MEMORANDUM

To: Individuals and Organizations Interested in Child Care
From: Nancy Duff Campbell, Amy K. Matsui, and Susanna Birdsong
Date: February 10, 2014
Re: Developments in Federal and State Child and Dependent Care Tax Provisions in 2013

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 27 states, including the District of Columbia, currently contain a total of 34 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 reduced or even eliminated 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 federal and state child and dependent care tax provisions that were enacted or took effect in 2013. There was one change in the federal CADC credit and one change in a state CADC credit in 2013, and there was one change in a state CADC credit that took effect in 2013. The 2001 improvements to the federal CADC credit were made permanent, effective January 1, 2013. North Carolina repealed its CADC credit in 2013, effective for tax year 2014, and Kansas put into effect for tax year 2013 the 2012 repeal of its CADC credit.

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 March 8, 2013 and February 10, 2012 memoranda summarizing developments in federal and state CADC provisions in 2012³ and 2011⁴ provide information on changes since 2010.

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., *2013 Supplement to Making Care Less Taxing: Improving State Child and Dependent Care Tax Provisions* (Mar. 2013), available at <http://www.nwlc.org/resource/2013-supplement-making-care-less-taxing-improving-state-child-and-dependent-care-tax-provis>.

⁴ 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>.

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 state tax provisions and assist advocates in reaching families who are eligible to claim the benefits of these provisions. New this year, the materials also include information on the Premium Tax Credit that is available to help families pay for health insurance beginning in 2014.

Improvements to Federal CADC Credit Made Permanent

In the American Taxpayer Relief Act of 2012 (ATRA),⁵ enacted on January 2, 2013, and effective for tax year 2013, Congress made permanent the CADC credit improvements that were enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA),⁶ effective in tax year 2003 but expiring at the end of 2010.⁷ These improvements had been extended through 2012 by Congress in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (TRUIRJA).⁸ 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.⁹

A number of proposals to further improve the federal credit – including by making it refundable – have been introduced in this Congress.¹⁰ The National Women's Law Center is monitoring legislative developments and supporting additional improvements in the federal CADC credit, which would also have the effect of increasing the value of many state credits. Please contact Amy Matsui at amatsui@nwlc.org if you are interested in joining advocacy efforts related to the federal credit.

⁵ 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.). ATRA also permanently extended improvements to the Child Tax Credit (CTC) enacted as part of EGTRRA, and temporarily extended other CTC and Earned Income Tax Credit improvements enacted as part of the American Recovery and Reinvestment Act (ARRA), Pub. L. No. 111-5, 123 Stat. 312-13 (2009) (codified as amended in scattered sections of 26 U.S.C.). American Taxpayer Relief Act, 126 Stat. 2319. The CTC and EITC improvements of ARRA now expire in 2017. *Id.*

⁶ 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))).

⁷ 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.

⁸ Pub. L. No. 111-312, § 101(a), 124 Stat. 3296, 3298 (2010).

⁹ Seventeen 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. *Compare Making Care Less Taxing*, *supra* note 1, at 14-17 with 2012 Kan. Sess. Laws, ch.135, sec. 40 (H.B. 2117).

¹⁰ *See, e.g.*, Right Start Child Care and Education Act, H.R. 3101, S. 56, 113th Cong. (2013); Child CARE Act, H.R. 3740, 113th Cong. (2013).

Changes to State CADC Provisions in 2013

State CADC tax provisions faced additional setbacks in 2013. As part of broader tax overhaul efforts, Kansas repealed its CADC in 2012, and that change took effect in tax year 2013.¹¹ This means that families in Kansas can no longer claim the Kansas CADC credit, which was worth up to \$525. In tax year 2011, the most recent year for which data are available, 66,908 tax filers claimed the Kansas CADC credit for a total of \$9,420,476.¹²

Similarly, as part of a broader tax overhaul, North Carolina repealed its CADC in 2013, and that change will take effect in tax year 2014.¹³ Families in North Carolina can claim the North Carolina CADC credit, worth up to \$780, when they file their taxes for 2013 in early 2014. However, they will not be able to claim the state credit for any expenses they pay in 2014 or later years when they file their taxes for 2014 in 2015 or later years, unless the credit is reinstated. In tax year 2012, 237,755 tax filers claimed the North Carolina CADC credit, for a total of \$53,642,500.¹⁴

These changes in law will result in a significant loss for families in Kansas and North Carolina who incur employment-related child and dependent care expenses.

Tax Credits Outreach Campaign for Tax Year 2013

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.

The Center provides outreach materials to Campaign partners, including fliers available in Spanish, English, Mandarin Chinese and Vietnamese, and other informational materials to inform families about the benefits available for tax year 2013 from the federal CADC credit, Earned Income Tax Credit, and Child Tax Credit. These fliers also include information on the new Premium Tax Credit that is available to help families pay for health insurance in 2014 and beyond. 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

¹¹ 2012 Kan. Sess. Laws, ch. 135, sec. 40 (H.B. 2117).

¹² Email from Kathleen Smith, Tax Specialist, Office of Policy and Research, Kansas Dep't of Revenue, to Amy Matsui (Feb. 6, 2014).

¹³ 2013 N.C. Sess. Laws 316, § 1.1(b) (2013).

¹⁴ Telephone Interview with Thomas Beam, Tax Specialist, North Carolina Dep't of Revenue (February 6, 2014).

outreach web page on your 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 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.