

Tax Year 2011 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 “in effect on January 1, 2011.” ⁴	Expenses eligible for the federal CADC credit.	No	\$210	\$420

¹ This chart is a supplement to Appendix A of the National Women’s Law Center’s April 2011 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 2010. *Making Care Less Taxing* is available at http://www.nwlc.org/sites/default/files/pdfs/nwlc-mclt2011-without_report_card_inside_and_bookmarked.pdf. The changes described in this chart occurred since December 2010 and are in effect for tax year 2011, unless otherwise noted. This supplement to Appendix A and Appendix A, taken together, provide a complete picture of state CADC provisions in effect for tax year 2011, except to the extent that indexing of some provisions since 2010 may have affected their values.

² When a state credit is calculated as a percentage of the federal credit for Child and Dependent Care (CADC) expenses – as is the case in most states with CADC tax provisions – an issue arises regarding calculation of the state credit for tax filers 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 tax filer could have received if the federal credit had not been limited by the tax filer’s federal tax liability? A number of state statutes clearly provide that the state credit is based on the amount of the federal credit for which the tax filer is potentially eligible, without regard to the tax filer’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 federal CADC credit allows tax filers to claim a portion of their employment-related expenses for in-home and out-of-home care for:

- children under age thirteen,
- spouses physically or mentally incapable of self-care, and
- dependents physically or mentally incapable of self-care.

The portion of expenses allowed for the federal credit decreases as the tax filer’s income increases, and the credit is not refundable. The Economic Growth and Tax Reduction and Reconciliation Act (EGTRRA) of 2001 increased both the dollar limits on eligible expenses to \$3,000 for one child or dependent, and \$6,000 for two or more children or dependents, and the percentage of eligible expenses that may be claimed as a credit for tax filers with adjusted gross income up to \$43,000. The maximum federal credit is \$1,050 for one child or dependent and \$2,100 for two or more children or dependents. These changes took effect in tax year 2003 but, unless extended beyond the extension in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act (TRUIRJA) of 2010, expire after tax year 2012.

⁴ Arkansas has an additional “early childhood program” credit, which is 20% of the “allowed” federal “child care credit” in effect on January 1, 1993, for care for a child under age six in an “approved child care facility.” The date distinctions between this and the other Arkansas CADC credit mean that the improvements in the federal CADC credit in EGTRRA automatically resulted in improvements in the other Arkansas credit, but not the early childhood program credit. The date distinctions in the Arkansas statute between this and the other Arkansas CADC credit are not reflected in the Arkansas tax forms and instructions for tax year 2011, however, which do not require a tax filer to recalculate the filer’s federal credit amount without the EGTRRA improvements in order to claim the refundable early childhood program credit.

CA	<p>A credit of a specified percentage of the “allowable”⁵ federal CADC credit as follows:</p> <ul style="list-style-type: none"> • 50% if federal AGI⁶ is \$40,000 or less • 43% if federal AGI is \$40,001-\$70,000 • 34% if federal AGI is \$70,001-\$100,000. <p>No credit is allowed if federal AGI exceeds \$100,000.</p>	Expenses eligible for the federal CADC credit, except that the expenses must be incurred for care provided in California.	No	\$525	\$1,050
MD	A deduction ⁷ of expenses up to the dollar amount of expenses allowed under the federal CADC credit.	Expenses eligible for the federal CADC credit.	No	\$165	\$330

⁵ The California statute expressly states that the state credit is based on the amount of the federal credit allowable, “without taking into account whether there is a federal tax liability.”

⁶ AGI is adjusted gross income.

⁶ Maryland’s top tax rate is 5.50%.