



CHILD CARE & EARLY LEARNING

TRUMP'S CHILD CARE PROPOSAL WOULD PROVIDE MOST OF ITS BENEFITS TO HIGHER-INCOME FAMILIES AND DO LITTLE FOR FAMILIES WHO NEED HELP THE MOST

High-quality child care is fundamental to the economic security of women and families, but it is out of reach for too many families. The Trump child care proposal¹ would do little to help families meet the costs of child care and would provide by far most of that help to higher-income families, including families with no out-of-pocket child care expenses. The proposal's child care deduction, by definition, is worth more to high-income than low- or middle-income families, as are the proposal's dependent care savings accounts. The parts of the Trump proposal described as particularly benefiting low-income families, the government match for dependent care savings accounts and the child care spending rebate, would provide little help to those families.

This analysis is limited to the child care components of the Trump tax proposal, but it is important to assess the proposal in its entirety for its effect on families with children. For example, the proposal increases the standard deduction, but eliminates the personal exemptions and head-of-household filing status.² It also lowers the top tax rate but increases the bottom tax rate.³ As a result, some families would face higher taxes under the Trump tax proposal than under current law, even if they receive more benefit from the proposal's child care tax provisions than they do from current-law child care tax provisions.⁴ A Tax Policy Center analysis concludes that despite its cost of \$6 trillion over ten years, the Trump proposal "would actually significantly raise taxes for millions of low- and middle-income families with children, with especially large tax increases for working single parents."⁵

Instead of giving more tax breaks to higher-income families, we should make child care investments that help all families, especially through direct assistance to the low- and middle-income families who need it most.

1. The Trump Proposal's Child Care Tax Deduction Would Benefit High-Income Families More Than Low-Income or Middle-Income Families, Including Families With No Out-of-Pocket Child Care Expenses.

Under the Trump proposal, married couples with incomes of \$500,000 or less, and single individuals with incomes of \$250,000 or less, would be able to claim a tax deduction "capped at" the value of the average cost of care in the state for the age of the child, for up to four children under the age of 13.⁶ Families do not have to have out-of-pocket child care expenses to claim the deduction, nor do their care expenses have to be work-related – the deduction would be available to "families who use stay-at-home parents or grandparents as well as those who use paid caregivers."⁷ The proposal describes child care broadly to include "institutional, private, nursery school, afterschool care, and enrichment activities,"⁸ as well as the uncompensated care provided by a parent or grandparent.

It is unclear from the proposal whether all families eligible for the deduction could, without regard to whether they have out-of-pocket child care expenses, claim a deduction of the average cost of care in their state for their children, or whether families with out-of-pocket child care expenses could claim a deduction of only the amount of their expenses, up to the average cost of care.⁹ Because the proposal is unclear, the examples in this analysis assume that a family's out-of-pocket child care expenses are the same as the average cost of care in the state for children the age of the family's children.

A tax deduction by definition provides more benefits to higher-income families than lower-income families in a progressive tax system, because the higher a family's tax bracket (and therefore marginal tax rate), the higher the



value of the deduction. Under the Trump proposal, which collapses the seven current-law tax brackets into three, the value of the deduction would vary from 12% of expenses/average cost of care at the bottom bracket to 25% at the middle bracket to 33% at the top bracket.¹⁰ For example, a married couple with two children, in a state in which the average cost of care for those children is \$6,000,¹¹ could receive a deduction worth \$720 at taxable incomes under \$75,000 (12% of \$6,000), but worth \$1,500 at taxable incomes between \$75,000 and \$225,000 (25% of \$6,000), and \$1,980 at taxable incomes over \$225,000 (33% of \$6,000). Families without tax liability (without regard to the deduction) could receive no benefit from it. For example, a married couple with \$30,000 in gross income, equal to the standard deduction under the Trump proposal, would receive no benefit from the deduction.

The Trump proposal preserves existing tax provisions for child care and allows families to claim whichever provision benefits them more, or more than one provision, as long as they do not double-count their expenses.¹² Consequently, some low- and middle-income families with out-of-pocket child care expenses would in fact not receive any benefit from the deduction because they would receive more benefit from the current Child and Dependent Care Tax Credit (CDCTC),¹³ to the extent they have tax liability.

The CDCTC helps families meet their out-of-pocket, work-related child care expenses.¹⁴ Families can claim up to \$3,000 in expenses for one child, and up to \$6,000 in expenses for two or more children. The credit is calculated by taking a percentage of those expenses – ranging from 35% of expenses for families with adjusted gross incomes (AGIs)¹⁵ of \$15,000 or less to 20% of expenses for families with AGIs of \$43,000 or more, and is thereby targeted to provide more benefit to lower- than higher-income families,¹⁶ the opposite of the Trump proposal's deduction. However, the CDCTC is not refundable, so families without tax liability could benefit from neither the CDCTC nor the proposed deduction.

Whether a family with out-of-pocket child care expenses would benefit more from the CDCTC or the proposed deduction depends on its income and tax bracket, its out-of-pocket child care expenses, and the average cost of child care in the state for children the age of the family's children. As a result, the AGI that such a family has to have to benefit from the deduction may be significantly higher than \$43,000, the AGI at which the value of the CDCTC drops to 20% of expenses.¹⁷ For example, a married couple with two children and \$6,000 in out-of-pocket child care expenses, in a state in which the average cost of child care

for those children is \$6,000, would not benefit from the deduction until its AGI reached \$105,000.¹⁸ The couple's benefit at AGI of \$105,000 would be \$1,500 (25% of \$6,000), compared to its CDCTC benefit of \$1,200 (20% of \$6,000).¹⁹ In contrast, if a family has out-of-pocket child care expenses that are higher than the CDCTC's expense limits but within the average cost of care in the state for those children, the family would receive more benefit from the deduction, or from a combination of the deduction and the CDCTC, than from the CDCTC, at lower AGI levels. For example, a married couple with AGI of \$70,000, two children, and \$12,000 in out-of-pocket child care expenses, in a state in which the average cost of care for those children is \$12,000, would receive more from the deduction (\$1,440), or a combination of the deduction and the CDCTC (\$720 from the deduction and \$1,200 from the CDCTC, for a total of \$1,920), than from the CDCTC (\$1,200).²⁰

Families with no out-of-pocket child care expenses could not benefit from the CDCTC and so could benefit from the Trump proposal's deduction to the extent they have tax liability. But higher-income families would benefit more (33% of expenses/average cost of care) than middle- or low-income families (25% and 12%, respectively, of expenses/average cost of care).²¹

In sum, the proposed deduction would not benefit some low- and middle-income families with out-of-pocket child care expenses. For the families it benefits, including families with no out-of-pocket child care expenses, it would benefit higher-income families more than low- and middle-income families.

2. The Trump Proposal's Dependent Care Savings Accounts Would Provide Even More Benefit to Higher-Income Families, Including Families With No Out-of-Pocket Child Care Expenses.

Under the Trump proposal, families or individuals could create tax-favored individual dependent care savings accounts (DCSAs) for specific individuals – children under 18 and elderly dependents – to pay for current or future care expenses.²² Immediate family members and employers of account owners could contribute a total of up to \$2,000 per year per account.²³ These contributions would be tax-deductible and appreciation in the account balances would not be subject to federal payroll or income taxes.²⁴ Indeed, it appears that the funds in the accounts might never be subject to tax, including at the time they are withdrawn.²⁵



Similar to the Trump proposal's child care deduction, the value of a contribution to a DCSA would vary according to the marginal tax rate of the individual or family making the contribution (from 12% at the bottom to 33% at the top), with higher-income individuals and families receiving more tax benefits than lower-income individuals and families, except that for some unspecified "lower-income" families, the government would provide a match of 50% of up to \$1,000 in parental contributions.²⁶ Unlike the Trump proposal's tax deduction, however, there would be no income limit on those who could make a contribution to a DCSA, and no limit on the number of individuals for whom they could make such a contribution.

Contributions to DCSAs could accumulate and would not be required to be used in the year in which they are made. Funds from a DCSA for a child could be applied to expenses for child care, enrichment activities, and private school tuition.²⁷ When established for children, the funds remaining in a DCSA when the child reaches 18 could be used for higher education expenses.²⁸

The Trump proposal would not eliminate Dependent Care Assistance Plans (DCAPs).²⁹ Under current law, employers may establish such plans to help employees meet their work-related child and dependent care expenses,³⁰ funded either by the employer or by the employee through salary reduction, with salary reduction being by far the most common arrangement.³¹ Contributions to a DCAP are limited to \$5,000 annually and not subject to federal payroll or income taxes, either when contributed or when used to meet child care costs. The value of the benefit to the employee varies according to whether the employer makes a contribution (worth up to \$5,000) or the DCAP is funded by employee salary reduction. In the latter case, the value – as with a tax deduction – varies according to the employee's marginal tax rate, with higher-income employees receiving more tax benefits than lower-income employees. Funds in a DCAP must be expended for work-related child and dependent care expenses in the year in which the contributions are made or they will be forfeited, with some limited exceptions, and in the case of child care they may be expended only for care for up to two children under age 13. Employees may both participate in a DCAP and claim the CDCTC as long as they do not double-count their expenses.

The Trump DCSA proposal permits individuals to contribute far more to a DCSA than to a DCAP, because the contributions may be made for an unlimited number of children, at \$2,000 per child, and for a greater number of years, during which the contributions grow tax-free.

DCSAs are also more valuable than DCAPs because they can be used for a greater range of expenses. The proposal expressly provides that contributions may be made on behalf of a child before the child is born and until a child is 18, and may be used not only for child care expenses (whether or not work-related) but also for private school tuition, enrichment activities – like violin or horseback riding lessons – and higher education. Families could claim both the Trump proposal's tax deduction (and/or the current Child and Dependent Care Tax Credit) for current-year expenses and contribute to one or more DCSAs for current- and/or future-year expenses and receive a deduction of an additional \$2,000 per account. Individuals could also contribute to a DCAP, increasing their tax benefit even more.³²

Although the proposal includes a government match of 50% of up to \$1,000 in contributions for certain unspecified low-income families, both low-income and many middle-income families are hard-pressed to spare the income to contribute to a savings account. Low-income families generally have less than two weeks' income in savings and checking accounts and cash on hand.³³ A study found that, even when offered a 50 percent match of contributions, only 14 percent of low-income families made contributions to a tax-favored savings account.³⁴ Although the proposal states that families could deposit Earned Income Tax Credit (EITC) refunds into DCSAs, families receiving the EITC typically use tax refunds to pay current bills and past debt.³⁵

In contrast, the higher a family's income, the more likely it would be able to contribute annually to one or more DCSAs and to shelter (potentially permanently) both its contributions and the appreciation on those contributions from taxes. For example, a family that began to make contributions to a DCSA for a child before a child is born, could contribute at least \$36,000 to a DCSA for that child, as well as to a DCSA for each of its additional children,³⁶ and reap years of appreciation on these contributions. This is a major new tax break for families with the financial ability to make such contributions – and the accounting and investment advice to maximize that ability.

In sum, the proposed DCSAs, even with a limited government match, would overwhelmingly benefit higher-income families, including those with no out-of-pocket child care expenses, and do little for lower-income families.



3. The Trump Proposal's Child Care Spending Tax Rebate, Although Targeted to Low-Income Families, Would Provide Little Help to These Families.

The Trump proposal provides a child care spending rebate through the EITC for some lower-income families – married couples with earnings of \$62,400 or less and single individuals with earnings of \$31,200 or less.³⁷ The rebate is “equal to 7.65 [%] of remaining eligible childcare expenses, subject to a cap of half of the payroll taxes paid by the taxpayer (based on the lower-earning parent in a two-earner household).”³⁸ The limits would be the same as under the deduction – the average cost of child care in the state, varying by age of child, for up to 4 children under age 13.³⁹

The rebate would offer little tax assistance to low-income families. Because the rebate is worth, at most, 7.65% of eligible expenses,⁴⁰ it would at best provide a smaller benefit to these families than the Trump proposal offers families in every tax bracket who can claim the proposed deduction (12 to 33% of expenses/average cost of care), the proposed DCSA (12 to 33% of permitted contributions), the CDCTC (20 to 35% of permitted work-related expenses) and/or DCAPs (12 to 33% of permitted contributions). In addition, because the rebate is

only available to families with “remaining” expenses after application of these other child care tax provisions, many eligible families with tax liability would presumably have to (and should, because they are more valuable) claim one or more of these other tax provisions before they could claim the rebate.

Families without tax liability before application of any of the other child care tax provisions could not claim the other provisions and therefore could benefit from the rebate. For example, married couples with earnings of \$30,000 or less and single individuals with earnings of \$15,000 or less who claim the standard deduction could claim the rebate because they would have no tax liability, and therefore could not claim any of the other tax provisions. If expenses/average cost of care in their state for their children is \$6,000, their rebate would be, at most, \$459,⁴¹ providing them with very little help in meeting their child care expenses.

In sum, the proposed rebate's benefit to low-income families is small, and so is its reach.

- 1 This analysis is limited to the child care proposal that provides benefits to families through the federal income tax code, which candidate Trump announced on September 13, 2016; his proposals for paid maternity leave, reducing child care regulation, and an increased employer tax credit for child care are not included in this analysis. See DONALD J. TRUMP – TAX PLAN, <https://web.archive.org/web/20170205141827/https://www.donaldjtrump.com/policies/tax-plan> (accessed via the Internet Archive Index).
- 2 *Id.* The proposal increases the standard deduction from \$9,300 to \$15,000 for single individuals and from \$12,600 to \$30,000 for married couples; it eliminates the personal exemptions of \$4,050 per family member.
- 3 LILY L. BATCHELDER, TAX POL'Y CTR., FAMILIES FACING TAX INCREASES UNDER TRUMP'S TAX PLAN 3 (2016) available at <http://www.taxpolicycenter.org/sites/default/files/alfresco/publication-pdfs/2000983-Families-Facing-Tax-Increases-Under-Trumps-Plan.pdf>.
- 4 *Id.* at 2–8.
- 5 *Id.* at 1.
- 6 DONALD J. TRUMP – TAX PLAN, *supra* note 1. The deduction may also be claimed for work-related care for elderly dependents, capped at \$5,000 per year, but this analysis is generally limited to a discussion of the proposal for child care. The proposal refers to the \$250,000/\$500,000 limit as a cap on “total income,” which is presumably gross income in tax parlance. The deduction would be taken from gross income, without regard to whether a family claimed the standard deduction or itemized its deductions. *Id.* A deduction of this sort is commonly referred to as an “above-the-line” deduction or an exclusion, terms that the proposal uses interchangeably. See, e.g., *id.*
- 7 *Id.* In contrast, the deduction for care for elderly dependents must be for “costs necessary to keep a family member working outside the home...like home care or adult day care costs for elderly dependents when those expenses are needed to keeping (*sic*) family members in the workforce.” *Child Care Reforms That Will Make America Great Again*, DONALD TRUMP CAMPAIGN 3 (2016), https://assets.donaldjtrump.com/Childcare_Reform.pdf.
- 8 *Child Care Reforms That Will Make America Great Again*, *supra* note 7.
- 9 It appears that all families with children under age 13 could take a deduction equal to the average cost of care, if “capped at” is interpreted to mean that average cost would be determined by state and by age of child, rather than to mean that families with out-of-pocket child care expenses could only deduct the amount of their expenses that is less than the amount of the cap. Language in the different descriptions of the proposal supports this interpretation of “capped” – for example, that the deduction is “for children under age 13,” DONALD J. TRUMP – TAX PLAN, *supra* note 1, allows families “to fully deduct the average cost of child care from their taxes, including stay-at-home parents,” *id.*, and “ensure[s] stay-at-home parents will receive the same tax deduction as working parents, offering compensation for the job they’re already



- doing,” Press Release, Donald J. Trump Campaign, Fact Sheet: Donald J. Trump’s New Child Care Plan (Sept. 13, 2016), available at <https://www.donaldjtrump.com/press-releases/fact-sheet-donald-j.-trumps-new-child-care-plan>. The absence of language that only expenses “up to” the cap would qualify for the deduction also supports this interpretation. In addition, it would be anomalous if families with out-of-pocket child care expenses could only deduct the amount of their expenses up to the average cost of care, but families without such expenses could deduct the full amount of the average cost of care. Under such an interpretation, families with out-of-pocket expenses could receive less benefit from the deduction than families at the same income level without those expenses, even though the former families have less disposable income than the latter families and the former families, too, are deserving of “compensation for the job they are already doing” during the hours of days in which they are providing care without pay. However, language in the most detailed description of the proposal that refers to families’ child care “costs” or “expenditures” suggests that families could only be able to deduct their actual out-of-pocket expenses, up to the average cost of child care in their state. See *Child Care Reforms That Will Make America Great Again*, *supra* note 7. It is unclear whether this language means that only families with out-of-pocket expenses – defined broadly to include expenses that a stay-at-home parent could have – could claim the deduction, or whether families with such expenses could only deduct the amount of these expenses, up to the average cost of care, but families without these expenses could deduct the full amount of the average cost of care.
- 10 The proposal establishes the following brackets for married couples: less than \$75,000 in taxable income, 12%; more than \$75,000 but less than \$225,000 in taxable income, 25%; and more than \$225,000, 33%; the brackets for single individuals are half of these amounts. DONALD J. TRUMP – TAX PLAN, *supra* note 1. As previously described, the proposal eliminates head-of-household filing status, which under current law has tax rates between the rates for single individuals and married couples. Taxable income is income after all exclusions and deductions from gross income have been claimed but before tax credits are claimed. See *supra* note 6.
- 11 CHILD CARE AWARE OF AM., PARENTS AND THE HIGH COST OF CHILD CARE: 2016 REPORT 36 (2016), available at http://usa.childcareaware.org/wp-content/uploads/2016/12/CCA_High_Cost_Report.pdf.
- 12 Press Release, Donald J. Trump Campaign, *supra* note 9.
- 13 26 U.S.C.A. § 21 (2016).
- 14 The CDCTC also helps families meet their out-of-pocket, work-related expenses for the care of a dependent or spouse who is incapable of self-care. 26 U.S.C.A. §§ 21 (b)(1)(B)–(C) (2016).
- 15 For most people, AGI is the same as gross income, because only limited (above-the-line) deductions may be claimed to reduce gross income to AGI. See Internal Revenue Service, 2016 Form 1040, <https://www.irs.gov/pub/irs-pdf/f1040.pdf>. As previously described, *supra* note 6, the Trump proposal’s deduction would be taken from gross income, without regard to whether a family claimed the standard deduction or itemized its deductions, and would therefore result in AGI that is lower than gross income.
- 16 Because the CDCTC is not refundable, and all families with children and AGI of \$15,000 or less do not have tax liability under current law, many low-income families receive either no benefit from the CDCTC or less than its maximum benefit of 35%.
- 17 This analysis assumes that the proposal contemplates three distinct tax brackets, rather than graduated increases in tax rates between the 12% bracket and the 33% bracket.
- 18 The calculation is as follows: \$75,000 in taxable income (the minimum needed for the couple to be in the 25% bracket and therefore receive more from the deduction than the CDCTC) + \$30,000 standard deduction = \$105,000 AGI.
- 19 Below that AGI, the Trump proposal’s changes in the standard deduction would either make the CDCTC more valuable to the couple than the proposed new child care deduction, or eliminate the couple’s tax liability. From AGI of \$105,000 to AGI of \$30,000, when the couple would have no tax liability, its benefit from the CDCTC would be higher than its benefit from the deduction, ranging from \$1,620 (27% of \$6,000) to \$1,200 (20% of \$6,000), compared to \$720 (12% of \$6,000) for the deduction. At AGI below \$30,000, with no tax liability, the couple would be ineligible for help in meeting its out-of-pocket child care expenses from either the CDCTC or the proposed new deduction.
- 20 The couple’s AGI of \$70,000 would put it in the 12% tax bracket, yielding a deduction worth \$1,440 (12% of \$12,000). The couple could only claim the CDCTC for \$6,000 of these expenses, yielding \$1,200 (20% of \$6,000), but it could claim the deduction for the other \$6,000 of expenses, yielding \$720 (12% of \$6,000), for a total value of \$1,920. Especially at lower-income levels, the proposed deduction would provide little, if any, additional value to families eligible for the CDCTC.
- 21 DONALD J. TRUMP – TAX PLAN, *supra* note 1.
- 22 *Id.*
- 23 *Child Care Reforms That Will Make America Great Again*, *supra* note 7.
- 24 Press Release, Donald J. Trump Campaign, *supra* note 9.
- 25 The proposal is silent on this, but describes the tax benefits of DCSAs broadly (“[A]ll deposits and earnings thereon will be free from taxation.”). DONALD J. TRUMP – TAX PLAN, *supra* note 1; see also *Child Care Reforms That Will Make America Great Again*, *supra* note 7 (“Annual contributions to a dependent care savings account and earnings on the account will not be subject to tax.”). It also describes the benefits of DCSAs as an improvement on accounts established under current-law Dependent Care Assistance Plans, the contributions to which – both when deposited and withdrawn – are totally excluded from federal payroll and income taxes. Press Release, Donald J. Trump Campaign, *supra* note 9 (“These new accounts are available to everyone, and allow both tax-deductible contributions and tax-free appreciation year-to-year unlike current law Dependent Care Flexible Spending Accounts (FSAs), which are available only if it (*sic*) is offered by an employer and does not allow balances to accumulate.”). The reference to FSAs is to one form of Dependent Care Assistance Plans. See *infra* note 31 and accompanying text.
- 26 *Child Care Reforms That Will Make America Great Again*, *supra* note 7. The proposal refers to “parental” contributions, so it is not clear if contributions by other individuals (employers or other immediate family members) would qualify for the match.
- 27 See Press Release, Donald J. Trump Campaign, *supra* note 9; *Child Care Reforms That Will Make America Great Again*, *supra* note 7. Funds from a DCSA for an elderly dependent could be used for adult day care, in-home care, or long-term care. *Child Care Reforms That Will Make America Great Again*, *supra* note 7. Unlike the proposed tax deduction for care for elderly dependents, use of the funds in a DCSA for elder care does not have to be to enable a family member to work. See *id.* In addition, as with a child, it appears that an account may be set up for an elderly dependent before that individual is elderly or in need of care, as the purpose of the accounts is to “plan for future expenses relat-



- ing to child and elder care.” *Id.*
- 28 *Child Care Reforms That Will Make America Great Again*, *supra* note 7.
- 29 Press Release, Donald J. Trump Campaign, *supra* note 9.
- 30 26 U.S.C.A. § 129 (2016).
- 31 DCAPs funded by salary reduction are typically referred to as flexible spending accounts (FSAs).
- 32 The fact that contributions to a DCAP may be made and spent over several years but may never be subject to tax is in contrast not only to contributions to a DCAP (which are never subject to tax but must be spent in the year in which they are made), but also to contributions to an Individual Retirement Account (IRA). Contributions to an IRA may be made over several years but must either be excluded from tax when made and subject to tax when withdrawn, 26 U.S.C.A. § 408 (2016), or made with after-tax income and not subject to tax when withdrawn, 26 U.S.C.A. § 408A (2016).
- 33 Ann Carrns, *The Dangerous State of Americans’ Savings*, N.Y. TIMES (Jan. 31, 2015), http://www.nytimes.com/2015/01/31/your-money/the-dangerous-state-of-americans-savings.html?_r=0.
- 34 See LILY L. BATCHELDER, *supra* note 3, at 13.
- 35 CHUCK MARR, CHYE-CHING HUANG, ARLOC SHERMAN, & BRANDON DEBOT, CTR. ON BUDGET & POL’Y PRIORITIES, EITC AND CHILD TAX CREDIT PROMOTE WORK, REDUCE POVERTY, AND SUPPORT CHILDREN’S DEVELOPMENT, RESEARCH FINDS 15 (2015), available at <http://www.cbpp.org/sites/default/files/atoms/files/6-26-12tax.pdf>.
- 36 If the family had or expected to have one or more elderly dependents, it could also establish DCSAs for these individuals. See *supra* notes 22, 27 and accompanying text.
- 37 DONALD J. TRUMP – TAX PLAN, *supra* note 1. It is unclear from the proposal whether the earnings limits represent a cliff (that is, for married couples, if they earn \$62,400, they would be eligible for the full rebate, but if they earn \$62,401, they would be ineligible for any rebate), or the end of a phase-out range (in which case married couples earning \$62,400 would receive only a very small rebate). Because the proposal is described as part of the EITC, and the EITC phases down as income rises, it is likely that the rebate income limits represent the end of a phase-out range. Families with elderly dependents or elder care expenses do not appear to be eligible for the rebate. See *id.*
- 38 *Id.* It is unclear whether the cap of half the payroll taxes paid by the lower-earning spouse means that, in the case of married couples, only couples with two earners would be eligible for the rebate, because if one spouse does not have earnings, that parent’s payroll taxes would be zero. This cap likely only applies to couples with two earners, for several reasons. First, the language of the proposal – “based on the lower-earning parent in a two-earner household” – seems to say that the cap only applies to couples with two earners. Second, if the intent is to exclude couples with only one earner from the rebate, it would be easier to say so directly rather than indirectly through the proposed cap. Third, the Trump proposal otherwise benefits couples with only one earner and couples with only one earner are otherwise eligible for the EITC. If this cap only applies to couples with two earners, couples with one earner could benefit more from the rebate than couples with two earners, because the former would not be subject to the cap. Conversely, if the cap applies to couples with one earner as well, married couples with one earner could not benefit from the rebate at all. In addition, as with the Trump proposal’s deduction, it is not clear if the amount of the rebate depends on a family’s actual out-of-pocket child care expenses or the average cost of care in the state for their children, if the average cost of care is higher. See *supra* note 9 and accompanying text.
- 39 *Id.*
- 40 This analysis assumes that the amount of the rebate would be determined using tax liability before application of the EITC and Child Tax Credit. If instead these two credits were used to reduce tax liability first, many families would receive no rebate or a reduced rebate.
- 41 For a married couple with \$30,000 in earnings, the rebate would be \$459 if only one spouse had earnings, assuming such a couple is eligible for the rebate. See *supra* note 38. If both spouses had earnings, however, and the earnings of one spouse were considerably lower than the earnings of the other spouse, the couple’s rebate would be considerably smaller. For example, if one spouse earned \$20,000 and the other spouse earned \$10,000, the couple’s rebate would be just \$382.50 (3.825% of \$10,000). If one spouse earned \$25,000 and the other spouse earned \$5,000, the couple’s rebate would be just \$191.25 (3.825% of \$5,000). If one spouse earned \$29,000 and the other spouse earned \$1,000, the couple’s rebate would be just \$38.25.

