NATIONAL WOMEN'S LAW CENTER
EXPANDING THE POSSIBILITIES

MEMORANDUM

To: Individuals and Organizations Interested in Child Care
From: Nancy Duff Campbell, Amy Matsui, and Jillian Edmonds
Date: May 16, 2017
Re: Developments in Federal and State Child and Dependent Care Tax Provisions in 2016

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 26 states, including the District of Columbia, currently contain a total of 32 child and dependent care (CADC) provisions that reduce the amount of tax owed by families and, in some instances, increase their tax refunds. While some state legislatures have reduced or even eliminated benefits provided to families through CADC provisions in recent years, other states have maintained or improved their 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 2016. The federal Child and Dependent Care Tax Credit remained unchanged in 2016, but there were changes in three state credits. In 2016, Hawaii increased the income levels and corresponding CADC credit amounts for some tax filers, effective for tax year 2016. Maine made its CADC credit nonrefundable for nonresidents in 2015, effective for tax year 2016. Oregon allowed its Necessary Dependent Care Expenses credit and its Working Family Child Care credit to sunset in 2015 and replaced them both with the Working Family Child and Dependent Care credit, effective for tax year 2016.

Nebraska created two new tax credits in 2016, the School Readiness Tax Credit for the Early Childhood Workforce and the School Readiness Credit for Early Childhood Programs, effective in tax year 2017.[1] Although these are not CADC credits that help families meet their work-related child care expenses, they are related credits intended to improve the quality of child care and therefore of interest.

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*[2] and its accompanying state-by-state report card *Making the Grade for Care*,[3] which together present a comprehensive overview of CADC provisions in effect through tax year 2010.

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[1] These credits are in addition to Nebraska's CADC credit. *See* NEB. REV. STAT. ANN. §2715.07(2)(a) – (b) (2016).
[2] 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*].
[3] 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.

This memorandum and the Center's memoranda of August 5, 2016, February 11, 2015, February 10, 2014, March 8, 2013, and February 10, 2012, summarizing developments in federal and state CADC provisions in 2015,[4] 2014,[5] 2013,[6] 2012,[7] and 2011[8] provide information on changes since 2010.

This memorandum also reminds advocates of the materials available as a part of the Center's 2016 Tax Credits Outreach Campaign to increase the number of eligible families claiming these and other family-related federal and state tax benefits.

Changes to State CADC Provisions Effective in 2016

Changes to Hawaii's CADC credit were enacted and took effect in 2016, and previously enacted changes in Maine's and Oregon's credits took effect in 2016.

Hawaii

In 2016, Hawaii increased the income levels of its sliding scale, which determines the amount of its CADC credit, to allow some tax filers to receive higher credit amounts. This change is effective for tax year 2016.[9] The maximum credit amount remains the same – \$600 for one qualifying child or dependent and \$1,200 for two or more qualifying children or dependents.[10] The following table shows the applicable income levels and percentages for the previous statute and the statute as amended, as well as the maximum credit amounts for tax year 2016.

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[4] Nat'l Women's Law Ctr., *2016 Supplement to Making Care Less Taxing: Improving State Child and Dependent Care Tax Provisions* (2016), *available at* https://nwlc.org/wp-content/uploads/2016/08/FINAL-MCLT-TY-2015-Update.pdf.

[5] Nat'l Women's Law Ctr., *2015 Supplement to Making Care Less Taxing: Improving State Child and Dependent Care Tax Provisions* (2015), *available at* https://nwlc.org/wp-content/uploads/2015/08/mclt_update_memo_2015.pdf.

[6] Nat'l Women's Law Ctr., *2014 Supplement to Making Care Less Taxing: Improving State Child and Dependent Care Tax Provisions* (2014), *available at* https://nwlc.org/wp-content/uploads/2015/08/mclt_ty_2013_update_2.pdf.

[7] Nat'l Women's Law Ctr., *2013 Supplement to Making Care Less Taxing: Improving State Child and Dependent Care Tax Provisions* (2013), *available at* https://nwlc.org/wp-content/uploads/2016/08/final_cadc_ty_2012_memo.pdf.

[8] Nat'l Women's Law Ctr., *2012 Supplement to Making Care Less Taxing: Improving State Child and Dependent Care Tax Provisions* (2012), *available at* https://nwlc.org/wp-content/uploads/2016/08/cadc_ty_2011_memo_02_10_12.pdf.

[9] Income Tax Credit – Expenses for Child and Dependent Care Services Necessary for Gainful Employment, 2016 Haw. Sess. Laws 235, § 3.

[10] Nat'l Women's Law Ctr. calculations based on HAW. REV. STAT. ANN. § 235-55.6(a)(2), (c) (West 2016).

Previous Hawaii Statute adjusted gross income (AGI) Levels[11]	Current Hawaii Statute AGI Levels[12]	Applicable Percentage[13]	Maximum Credit Amount for TY 2016[14]
Not over $22,000	Not over $25,000	25%	$1,200
Over $22,000 but not over $24,000	Over $25,000 but not over $30,000	24%	$1,152
Over $24,000 but not over $26,000	Over $30,000 but not over $35,000	23%	$1,104
Over $26,000 but not over $28,000	Over $35,000 but not over $40,000	22%	$1,056
Over $28,000 but not over $30,000	Over $40,000 but not over $45,000	21%	$1,008
Over $30,000 but not over $32,000	Over $45,000 but not over $50,000	20%	$960
Over $32,000 but not over $34,000	N/A	19%	N/A
Over $34,000 but not over $36,000	N/A	18%	N/A
Over $36,000 but not over $38,000	N/A	17%	N/A
Over $38,000 but not over $40,000	N/A	16%	N/A
Over $40,000	Over $50,000	15%	$720

Maine

In 2015, Maine enacted a change to its CADC credit that reduces its value to nonresident tax filers, effective for tax year 2016. The credit remains refundable up to $500 for resident tax filers and part-year resident tax filers, but is nonrefundable for nonresident tax filers.[15] Prior to this change, the credit was partially refundable for both part-year resident and nonresident tax filers, with a maximum refund available to nonresident tax filers of $500 multiplied by the ratio of the nonresident tax filer's Maine AGI to the tax filer's federal AGI.

[11] Nat'l Women's Law Ctr. calculations based on HAW. REV. STAT. ANN. § 235-55.6(a)(2) (West 2015) (amended 2016).
[12] HAW. REV. STAT. ANN. § 235-55.6(a)(2) (West 2016).
[13] *Id.*
[14] Nat'l Women's Law Ctr. calculations based on HAW. REV. STAT. ANN. § 235-55.6(a)(2) (West 2016).
[15] ME. REV. STAT. ANN. tit. 36, § 5218(4) (2016).

Oregon

In 2015, Oregon enacted a new Working Family Child and Dependent Care (WFCADC) credit,[16] to replace two credits that were allowed to sunset at the end of 2015.[17] This new credit takes effect in tax year 2016. Under the new WFCADC credit tax filers may claim a partial reimbursement of employment-related expenses "allowable" under the federal CADC credit, that is, of expenses incurred for care of the tax filer's child under age 13, or spouse or dependent who is physically or mentally incapable of self-care, in order for the tax filer to work or look for work.[18] If the tax filer is married, the expenses must be incurred to allow both the tax filer and the filer's spouse to work or look for work, unless one spouse is a full-time student or is incapable of self-care.[19]

Under the WFCADC credit, tax filers with federal or Oregon AGI at or below 300% of the federal poverty level (FPL) may claim a credit for a percentage of allowable care expenses.[20] Tax filers may claim allowable care expenses of up to $12,000 for one qualifying individual and up to $24,000 for two or more qualifying individuals.[21] The credit is fully refundable,[22] meaning that tax filers with limited or no income tax liability can fully benefit from the credit. The percentage of care expenses that may be claimed varies according to (1) the tax filer's AGI, (2) whether the care is for a child or an adult, and (3) if the care is for a child, the age of the youngest child.

The following table shows the applicable percentage and provides the maximum credit amount available for a single tax filer with two qualifying individuals under the WFCADC credit, if the filer claims the maximum amount of eligible expenses, $24,000.[23] More filers are likely to be eligible for the WFCADC credit than the sunset credits, but some eligible filers – including some low-income filers – may receive less under the WFCADC credit than they did under the sunset credits, and some low- and moderate-income filers may receive more under the WFCADC credit than they did under the sunset credits.[24]

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[16] OR. REV. STAT. ANN. § 315.264 (West 2016).
[17] The WFCADC replaced the Working Family Child Care credit, OR. REV. STAT. ANN. § 315.262 (expired 2015), and the Necessary Dependent Care Expenses credit, OR. REV. STAT. ANN. § 316.078 (expired 2015).
[18] OR. REV. STATE. ANN. § 315.264(1)(a) (West 2016).
[19] *See id.*
[20] *Id.* § 315.264(2).
[21] *Id.* § 315.264(1)(b).
[22] *Id.* § 315.264(11).
[23] Many tax filers, especially those at the low end of the income scale are, of course, unable to spend $24,000 on care expenses.
[24] *See generally* Nat'l Women's Law Ctr., *2016 Supplement to Making Care Less Taxing, supra* note 3 at 3–6.

AGI as a Percentage of FPL (dollar amount for a family of three in 2016)[25]		Applicable Percentage, Based on Age of Youngest Qualifying Individual at Close of Tax Year (maximum credit available to a single adult with two qualifying individuals)[26]			
Greater than	**Less than or equal to**	**Up to 3 years**	**At least 3 but less than 6 years**	**At least 6 but less than 13 years (or less than 18 years if disabled)**	**18 years or older, if disabled[27]**
0% ($0)	10% ($2,016)	10% ($2,400)	8% ($1,920)	5% ($1,200)	5% ($1,200)
10% ($2,016)	20% ($4,032)	20% ($4,800)	18% ($4,320)	15% ($3,600)	5% ($1,200)
20% ($4,032)	30% ($6,048)	30% ($7,200)	28% ($6,720)	25% ($6,000)	10% ($2,400)
30% ($6,048)	40% ($8,064)	40% ($9,600)	38% ($9,120)	35% ($8,400)	20% ($4,800)
40% ($8,064)	50% ($10,080)	50% ($12,000)	48% ($11,520)	45% ($10,800)	30% ($7,200)
50% ($10,080)	60% ($12,096)	55% ($13,200)	53% ($12,720)	50% ($12,000)	35% ($8,400)
60% ($12,096)	70% ($14,112)	60% ($14,400)	58% ($13,920)	55% ($13,200)	40% ($9,600)
70% ($14,112)	80% ($16,128)	65% ($15, 600)	63% ($15,120)	60% ($14,400)	45% ($10,800)
80% ($16,128)	90% ($18,142)	70% ($16,800)	68% ($16,320)	65% ($15,600)	50% ($12,000)
90% ($18,142)	110% ($22,176)	75% ($18,000)	73% ($17,520)	70% ($16,800)	55% ($13,200)
110% ($22,176)	120% ($24,192)	71% ($17,040)	69% ($16,560)	66% ($15,840)	50% ($12,000)
120% ($24,192)	130% ($26,208)	66% ($15,840)	64% ($15,360)	61% ($14,640)	45% ($10,800)
130% ($26,208)	140% ($28,224)	61% ($14,640)	59% ($14,160)	56% ($13,440)	39% ($9,360)
140% ($28,224)	150% ($30,240)	55% ($13,200)	53% ($12,720)	50% ($12,000)	33% ($7,920)
150% ($30,240)	160% ($32,256)	50% ($12,000)	48% ($11,520)	45% ($10,800)	28% ($6,720)
160% ($32,256)	200% ($40,320)	47% ($11,280)	45% ($10,800)	42% ($10,080)	25% ($6,000)
200% ($40,320)	210% ($42,336)	45% ($10,800)	43% ($10,320)	40% ($9,600)	22% ($5,280)
210% ($42,336)	220% ($44,352)	40% ($9,600)	38% ($9,120)	35% ($8,400)	20% ($4,800)
220% ($44,352)	230% ($46,368)	35% ($8,400)	33% ($7,920)	30% ($7,200)	15% ($3,600)
230% ($46,368)	240% ($48,384)	30% ($7,200)	28% ($6,720)	25% ($6,000)	10% ($2,400)
240% ($48,384)	250% ($50,400)	20% ($4,800)	18% ($4,320)	15% ($3,600	5% ($1,200)
250% ($50,400)	260% ($52,416)	10% ($2,400)	8% ($1,920)	5% ($1,200)	5% ($1,200)
260% ($52,416)	280% ($56,448)	6% ($1,440)	6% ($1,440)	4% ($960)	4% ($960)
280% ($56,448)	300% ($60,480)	4% ($960)	4% ($960)	4% ($960)	4% ($960)
300% ($60,480)	–	0% ($0)	0% ($0)	0% ($0)	0% ($0)

[25] Nat'l Women's Law Ctr. calculations based on Annual Update of the HHS Poverty Guidelines, 81 Fed. Reg. 4036 (Jan. 25, 2016) and OR. REV. STAT. ANN. § 315.264(2) (West 2016). The FPL varies by family size. For simplicity, this table uses a family of three in its FPL calculations.

[26] Nat'l Women's Law Ctr. calculations based on OR. REV. STAT. ANN. § 315.264(2). The Oregon Department of Revenue has created an online calculator for tax filers, which filers are required to use to determine the correct applicable percentage. OR. DEP'T OF REVENUE – WORKING FAMILY HOUSEHOLD AND DEPENDENT CARE CREDIT INFO., http://www.oregon.gov/DOR/programs/individuals/Pages/working-family-credit-information.aspx (last visited May 15, 2017).

[27] Nat'l Women's Law Ctr. calculations using Oregon Revenue Online WFHDC Calculator, https://revenueonline.dor.oregon.gov/tap/_/ (follow "WFHDC Calculator" hyperlink) (last visited May 15, 2017). The WFCADC statute does not include the applicable percentages for claims for adult dependents and spouses incapable of self-care. *See* OR. REV. STAT. ANN. § 315.264(2) (West 2016). However, the Department of Revenue's online calculator treats adult dependents and spouses incapable of self-care as "18 years or older if disabled." *See* OR. DEP'T OF REVENUE, *supra* note 26.

New Nebraska Credits Effective in 2017

Nebraska

In 2016, Nebraska passed the School Readiness Tax Credit Act, which created two new tax credits that will be available for tax year 2017: the School Readiness Tax Credit for Early Childhood Programs[28] and the School Readiness Tax Credit for the Early Childhood Workforce.[29] The credits are modeled on two of the similarly named Louisiana School Readiness Tax Credits, a package of five tax credits intended at its enactment to improve the quality of care in Louisiana and that had a measurable impact on quality – including for low-income children – in its first four years.[30]

The School Readiness Tax Credit for Early Childhood Programs is a nonrefundable tax credit for providers who own or operate[31] eligible child care and early education programs.[32] A program is eligible, for the purposes of this credit, if it has applied to participate in Nebraska's Step Up to Quality rating system,[33] has been assigned a Step Three, Four, or Five quality rating, and serves children age five or under who participate in the state's child care subsidy program.[34] The credit is calculated based on the average monthly number of children who participate in Nebraska's child care subsidy program and are attending the eligible child care and early education program, multiplied by a dollar amount based on the program's quality rating. Programs with a Step Three, Four, or Five rating are eligible to receive a credit worth $250, $500, or $750 per child, respectively.[35]

The School Readiness Tax Credit for the Early Childhood Workforce is a refundable tax credit for eligible child care and early education program staff.[36] Staff are eligible, for the purposes of this credit, if they have worked at a child care and early education program participating in Nebraska's Step Up to Quality rating system for at least six months of the taxable year, are listed in the Nebraska Early Childhood Professional Record System,[37] and have

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[28] NEB. REV. STAT. ANN. § 77-3604 (West 2016).
[29] *Id.* § 77-3605. The credits will sunset on January 1, 2020. *Id.* § 77-3603(2).
[30] *See generally* Nancy Duff Campbell et al., Nat'l Women's Law Ctr., *Extra Credit: How Louisiana is Improving Child Care* (2015), *available at* http://nwlc.org/wp-content/uploads/2015/08/final_nwlc_louisianataxcreditsreport.pdf (explaining the details of the Louisiana School Readiness Tax Credits, and evaluating their effectiveness in Louisiana).
[31] NEB. REV. STAT. ANN. § 77-3603(2) (West 2016).
[32] *Id.* § 77-3604(1). Advisory guidance issued by the Nebraska Department of revenue states that the credit may be claimed by individuals, corporations, and fiduciaries. Neb. Dep't of Revenue, School Readiness Tax Credit Act (Mar. 2017), *available at* http://www.revenue.nebraska.gov/info/School_Readiness_Notice.pdf.
[33] *See* NEB. DEP'T OF EDUC. – STEP UP TO QUALITY, https://www.education.ne.gov/StepUptoQuality/ (last visited May 15, 2017).
[34] NEB. REV. STAT. ANN. §§ 77-3603(1), (4), 77-3604(1), (2) (West 2016).
[35] *Id.* § 77-3604(2).
[36] *Id.* § 77-3605.
[37] *See id.* § 71-1962. The classification levels of this program are based on the "employees' educational degrees and professional credentials held, relevant training completed, and work history" and range from level one to level four (with level four representing the highest level of qualifications). *Id*.

received a classification of Level One through Four.[38] The amount of the credit is based on the eligible staff member's classification level: staff members with a Level One classification are eligible to receive a tax credit worth $500, while staff members with a Level Two, Three, or Four classification are eligible to claim a credit worth $750, $1,250, or $1,500, respectively.[39] The credit amounts are indexed for inflation in tax years beginning on or after January 1, 2018.[40]

Eligible child care providers and staff members must apply to the Department of Revenue to receive the relevant School Readiness Tax Credit *before* claiming the credit on their individual income tax return.[41] If the Department determines that the provider or staff member qualifies for a credit, it will approve the application and certify the amount of the credit.[42] The Department may approve claims of the School Readiness Tax Credits in the order they are received until the total amount of credits approved for the tax year reaches $5 million.[43] Once the Department of Revenue certifies the amount of the tax credit, the provider or staff member may then claim the credit by attaching that certification to her or his tax return.[44]

Tax Credits Outreach Campaign for Tax Year 2016

For tax year 2016, as in the past, the Center conducted a national Tax Credits Outreach Campaign to help families take advantage of federal and state child and dependent care tax provisions and other valuable tax benefits. The Center prepared outreach materials, including state-specific fliers available in Spanish and English that inform families about the benefits available from the federal CADC credit, Earned Income Tax Credit, Child Tax Credit, state versions of these credits, and the federal Premium Tax Credit that is available to help families pay for health insurance. These materials are available on the Center's tax credits outreach campaign web page, www.nwlc.org/loweryourtaxes.

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[38] *Id.* § 77-3603(5). Eligible staff does not include certified teachers and administrative staff. *Id.*
[39] *Id.* § 77-3605(1).
[40] *Id.* § 77-3605(6).
[41] *Id.* §§ 77-3604(3), -3605(2). An application for the School Readiness Tax Credit for Early Childhood Programs certification must include documentation showing the number of children receiving child care subsidies who attended the program during each month of the taxable year, the quality rating of the child care program, and any other information that the Department of Revenue may require. *Id.* § 77-3604(3). An application for the School Readiness Tax Credit for the Early Childhood Workforce certification must include the eligible staff member's name and place of employment, an attestation form from the Nebraska Early Childhood Professional Recording System verifying the level of the staff member's classification, and any other information that the Department of Revenue chooses to require. *Id.* § 77-3605(2).
[42] *Id.* §§ 77-3604(4), -3605(3).
[43] *Id.* § 77-3606(1).
[44] *Id.* § 77-3606(2).

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.