NATIONAL WOMEN'S LAW CENTER
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# What Child Care Advocates Need to Know about the Upcoming Tax Debate

The Tax Cuts and Jobs Act (TCJA) was enacted during the Trump administration in 2017. This law overwhelmingly benefits the wealthy at the expense of women, people of color, and families with low- and moderate-incomes. It also limits revenues that could be used to invest in women and families, including child care. Many provisions of this 2017 tax law are set to expire in 2025. Over the next two years, there will be intense negotiations around which existing provisions should be extended or modified, and whether new provisions should be introduced.

This debate provides an opportunity for child care advocates to push for a more progressive, equitable tax code that can better support children, families, and early educators. Allowing tax cuts for the wealthiest to expire, and making additional changes so that those at the top pay a fairer share of taxes, would generate more revenue to invest in child care and other supports for families. Expanding the refundable tax credits—including the Child Tax Credit and the Child and Dependent Care Tax Credit—would play a role in helping families with low incomes meet their child care costs, as a complement to significant direct investments in the child care system.

But not all tax proposals related to child care will help the families who need it most. Here's what child care advocates need to know.

## Ensuring the wealthy pay their fair share would raise more revenues to fund priorities that help women and families succeed—like child care.

In order to tackle the child care crisis in this country, we need to greatly expand investments in the child care system and significantly increase direct child care assistance. Tax cuts for the rich—such as those in the 2017 tax law—limit the revenue available for public investments in child care and other supports for families, like paid leave, aging and disability care, housing, or health care. The 2017 tax law contains numerous provisions that benefit the richest, including lowering the top income tax rates and slashing taxes on wealthy estates. Significant amounts of tax revenue are at stake: It is estimated that extending all of the expiring 2017 tax law's provisions will reduce federal revenues by $3.1 trillion over 10 years.[1]

Lawmakers should allow tax cuts for the wealthiest to expire on schedule and introduce new legislation that will tax the wealthy more equitably, including by allowing the top income tax rate to go back to where it was in 2017, increasing the taxes that wealthy estates pay, closing other loopholes that benefit the wealthiest, raising the corporate tax rate, and taxing wealth directly.[2] This would bring in more revenues to invest in the child care system and give more families direct child care assistance.

## Expanding the Child Tax Credit for those who need it most will help families manage their caregiving responsibilities in the ways that work best for them.

In 2021, the American Rescue Plan Act (ARPA) temporarily expanded the Child Tax Credit (CTC), a tax benefit that helps families meet the costs of raising children.[3] It is distinct from the Child and Dependent Care Tax Credit (CDCTC), which helps families offset their out-of-pocket child care expenses and will be discussed later in this brief.[4]

Through the expanded CTC, millions of families received $250 to $300 per child every month in 2021, including families with little to no income, who previously had been shut out of the full credit. Research from multiple sources, such as the U.S. Census Bureau Household Pulse Survey, found that the monthly CTC payments were spent on necessities like food and also helped families pay for child care, which is often one of the most expensive household bills.[5] In fact, following the monthly payments of the CTC, the number of families reporting they were unemployed because they had child care responsibilities dropped from about 26 percent to 20 percent.[6]

Policymakers expanded the CTC in the 2017 tax law, but unfortunately focused on changes that benefited households with high incomes rather than the families most in need of support. In addition, the 2017 tax law blocked more than a million children in immigrant families—many of whom are "Dreamers," young immigrants who were brought to the country as children[7] —from receiving the CTC.[8] Congress should let the provision limiting eligibility for children in immigrant families expire, and should build on the success of the 2021 CTC expansions in 2025 to reach more families with low incomes.

## Making the Child and Dependent Care Tax Credit available to families with moderate and low incomes will help more families with their child care expenses.

The Child and Dependent Care Tax Credit (CDCTC) allows families to get a percentage of their work-related child and dependent care expenses back as a tax credit. The credit is theoretically worth up to $2,100. Unfortunately, in practice, the credit does not meaningfully help working families, particularly families with low incomes. In 2022, about 5 percent of the total benefit amount from the CDCTC went to families with incomes of $30,000 or less,[9] even though these families represented roughly 20 percent of the population.[10]

In 2021, the ARPA temporarily made the CDCTC fully available to families who owed little to no taxes and increased the amount of the credit. Under ARPA, more than 770,000 additional families with incomes of $30,000 or less received the CDCTC than the previous year—and families with $30,000 or less received $2.3 billion more in benefits than they had the year before, with their total CDCTC benefits representing roughly 19 percent of the total CDCTC benefit.[11]

The 2017 tax law made no changes to the CDCTC, but the tax debates offer an opportunity to advocate for improvements. Improving the CDCTC, first and foremost by making it fully refundable, would help more families meet their child care expenses. However, the CDCTC is, at best, a complement to the robust public investments needed to bolster the child care system so that it works for all families, as well as early educators. The national annual average cost of child care in 2022 was $10,853, so even if all the families who need help with their child care costs could access the CDCTC, systemic investments in child care would still be needed to ensure that all families can afford the care.[12] Improving the CDCTC without making other tax changes that would raise more revenues would fail to take full advantage of the opportunity that these tax debates offer for child care advocates.

## Other child care-related tax benefits should not be prioritized in upcoming tax debates.

Policymakers have recently shown renewed interest in expanding the Dependent Care Assistance Program (DCAP), which allows employees to put aside pre-tax dollars for child care expenses if their employers permit, and the Employer-Provided Child Care Credit (EPCCC), which offers a nonrefundable tax credit to businesses that make child care related contributions. Neither of these provisions were part of the 2017 tax law. Moreover, neither of these tax benefits meaningfully help families who need the most help accessing or affording child care. They also do not support early educators, and have not substantially expanded the child care supply or increased the quality of care. For these reasons, they are not a solution to the child care crisis and should not be prioritized in the upcoming tax debates.

*DCAPs don't reach the families who need help most.*

Employees whose employers offer DCAPs can elect to set aside up to $5,000 of pre-tax income from their paychecks for work-related child and dependent care expenses. But if an employer does not offer a DCAP, its employees cannot utilize this benefit. DCAPs are available mostly to higher earners in specific industries. In 2020, families with $100,000 or more a year in income received 88 percent of the benefit from DCAPs.[13] In contrast, in 2020, families with $30,000 or less in annual income received roughly 1.1 percent of the benefit from DCAPs.[14] And in 2021, 60 percent of workers in management and professional occupations had access to DCAPs, compared to 18 percent of workers in service occupations.[15]

DCAPs also offer limited assistance to families with low and moderate incomes: They provide tax savings, but don't give families more resources to pay for care expenses. In addition, families who want to use both DCAPs and claim the CDCTC will receive a smaller CDCTC, because the money put into their DCAP cannot be claimed for the credit.[16] For example, if an individual with two eligible children put the maximum amount of $5,000 into their DCAP, then they would only be able to claim $1,000 in child care expenses for the CDCTC.

Moreover, tax exemptions and deductions are only useful to families who can afford to set money aside out of their paychecks—not the folks who are struggling to make ends meet from paycheck to paycheck and need the most help accessing and affording child care.

*The EPCCC is not widely utilized and is ineffective for growing the child care supply.*

The EPCCC allows a business to claim a tax credit if it provides child care benefits to its employees, including on-site child care centers or slots or spaces at local child care programs, or contributes to child care centers or resource and referral agencies. This tax credit is purported to incentivize employers to provide child care supports—but research shows that these credits aren't widely used.[17]

On the federal level, the IRS estimated that 169 to 278 corporate income tax returns claimed $15.7 to $18.8 million in EPCCCs in 2016, the most recent year available.[18] In comparison, over five million tax returns claimed the CDCTC in 2022 and those families received over $3 billion in benefits.[19] Nineteen states currently provide tax credits for employers and businesses that provide child care benefits.[20] However, there is evidence that these benefits are underutilized,[21] and since 2002, ten states have repealed or discontinued their employer tax credits.[22]

Additionally, according to a 2022 GAO report, the credit is also most likely to benefit big, corporate employers, because small employers struggle with the significant upfront and on-going costs for providing on-site child care.[23] This limits the credit's impact on the child care labor supply, as many employers cannot afford to invest in new child care facilities, even with the credit. Moreover, employers who do offer child care may not provide the services to all their employees. For example, employers are more likely to offer child care at corporate headquarters, but not in warehouse, distribution, or retail locations.[24] Finally, directing public dollars towards employer-provided child care could lock parents into jobs they might otherwise leave because they do not want to lose care, or create instability in children's care if the company cuts the

benefit or a parent changes jobs.[25]

While these tax provisions exist and are related to child care, they offer limited potential to meaningfully help working families with low and moderate incomes to afford child care – much less expand child care supply at scale or support the child care workforce. It doesn't make sense to double down on strategies that haven't worked for most families when there are robust alternatives. Advocates should not prioritize expansions of the DCAP or EPCCC, in lieu of improving refundable tax credits for families or raising revenues for systemic investments, in upcoming tax debates.

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The expiration of TCJA provisions in 2025 offers an opportunity to enact tax policies that could support increased public investments in child care and more, in order to support more women and families. Child care advocates should prioritize rolling back tax cuts for the wealthiest and expanding refundable tax credits for families to make the biggest difference for the women, children, educators, and families who struggle the most under the current child care system.

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2 Amy Royce and Amy Matsui, "Taxing the Rich Will Make the Tax Code More Equitable and Support Investments in Women and Families" (National Women's Law Center, April 2023), https://nwlc.org/wp-content/uploads/2023/03/UPDATED-APRIL-2023_nwlc_RevenueRaisers.pdf.

3 Internal Revenue Service, "Child Tax Credit" (last updated January 2024), https://www.irs.gov/credits-deductions/individuals/child-tax-credit.

4 Internal Revenue Service, "Child and Dependent Care Credit Information" (last updated January 2024), https://www.irs.gov/credits-deductions/individuals/child-and-dependent-care-credit-information.

5 Brooke LePage and Sarah Javaid, "Black, non-Hispanic Women and Latinas Use Advance Child Tax Credit to Cover Necessities and Pay Down Debt in the Last Month of Payments" (National Women's Law Center, January 2022), https://nwlc.org/wp-content/uploads/2022/01/PulseWeek40FS-1.pdf.

6 Humanity Forward, Study Finds the Expanded Monthly Child Tax Credit Supports Work and Promotes Small Business Formation" (2021), https://humanityforward.com/wp-content/uploads/2021/11/Humanity-Forward-Report-One-Pager-v4.pdf.

7 The White House, "Fact Sheet: President Biden Announces Plan to Expand Health Coverage to DACA Recipients" (April 2023), https://www.whitehouse.gov/briefing-room/statements-releases/2023/04/13/fact-sheet-fact-sheet-president-biden-announces-plan-to-expand-health-coverage-to-daca-recipients/.

8 Center on Budget and Policy Priorities, "2017 Tax Law's Child Credit: A Token or Less-Than-Full Increase for 26 Million Kids in Working Families" (August 2018), https://www.cbpp.org/research/2017-tax-laws-child-credit-a-token-or-less-than-full-increase-for-26-million-kids-in.

9 National Women's Law Center calculations based on Internal Revenue Service, "SOI Tax Stats - Filing Season Statistics" (last updated January 2024), https://www.irs.gov/statistics/filing-season-statistics, using data from "Mid-November Filing Season Statistics by AGI" for Tax Years 2021 and 2022.

10 Gloria Guzman and Melissa Kollar, "Income in the United States: 2022: Current Population Reports" (Census Bureau, September 2023), https://www.census.gov/content/dam/Census/library/publications/2023/demo/p60-279.pdf.

11 National Women's Law Center calculations based on Internal Revenue Service, "SOI Tax Stats," using data from "Mid-November Filing Season Statistics by AGI" for Tax Years 2021 and 2022.

12 ChildCare Aware, "Catalyzing Growth: Using Data to Change Child Care" (2022), https://www.childcareaware.org/catalyzing-growth-using-data-to-change-child-care-2022/#PriceofCare.

13 Department of Treasury, "Estimated Benefit from the Child and Dependent Care Credit and Dependent Care Flexible Spending Accounts, Taxable Year 2020" (January 2022), https://home.treasury.gov/system/files/131/Estimated-Benefit-fr-CDCTC-and-FSA-for-2020-01142020.pdf.

14 Ibid.

15 Department of Labor, Bureau of Labor Statistics, "Employee Benefits: Benefits in the Workplace" (September 2021), https://www.bls.gov/ebs/factsheets/flexible-benefits-in-the-workplace.htm#chart1.

16 Office of Personnel Management, "Are dependent care expenses paid with a DCFSA tax deductible?" (last accessed March 2024), https://fsafeds.com/support/faq/all/312.

17 Government Accountability Office, "Employer-Provided Child Care Credit: Estimated Claims and Factors Limiting Wider Use" (February 2022), https://www.gao.gov/products/gao-22-105264.

18 Ibid.

19 National Women's Law Center calculations based on Internal Revenue Service, "SOI Tax Stats," using data from "Mid-November Filing Season Statistics by AGI" for Tax Year 2022.

20 The 19 states that currently have tax credits for employers or businesses providing child care benefits are Arkansas, Colorado, Connecticut, Georgia, Illinois, Iowa, Kansas, Louisiana, Maryland, Mississippi, Nebraska, New Mexico, New York, Ohio, Oregon, Rhode Island, South Carolina, Virginia, and West Virginia.

21 Christina Smith Fitz Patrick and Nancy Duff Campbell, "The Little Engine That Hasn't: The Poor Performance of Employer Tax Credits for Child Care" (November 2002), https://nwlc.org/resource/little-engine-hasnt-poor-performance-employer-tax-credits-child-care/.

22 The ten states that have repealed or discontinued all of their tax credits for employers providing child care benefits since 2002 (and the years in which the states repealed their tax credits) are Nevada (2003), Nebraska (2007), Texas (2008), Florida (2009), Pennsylvania (2009), Tennessee (2009), California (2012), Oklahoma (2014), Maine (2015) and Montana (2019). See 2003 Nev. Stat. ch. 5, § 186; 2007 Neb. Laws ch. 367, § 30; 2006 Tex. Gen. Laws 79th Leg. 3rd C.S., ch. 1, §18(a)(3); 2009 Fla. Laws ch. 2009-20, §§ 5, 19; 2013 Fla. Laws ch. 252, § 29; 2004 Pa. Laws 116; 2009 Tenn. Pub. Acts, ch. 530, §2; 2006 Cal. Stat. ch. 712, §§ 1-2; 2013 Okla. Sess. Laws ch. 363, § 7; 2015 Me. Laws ch. 390, § 6; Mont. Code Ann. § 15-31-133.

23 Government Accountability Office, "Employer-Provided Child Care Credit."

24 Government Accountability Office, "Employer-Provided Child Care Credit."

25 Elliot Haspel, "Questioning the Promise of Employer-Sponsored Child Care Benefits" (New America, February 2024), https://www.newamerica.org/better-life-lab/reports/questioning-the-promise-of-employer-sponsored-child-care-benefits/practical-considerations/.