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# STATE CHILD AND DEPENDENT CARE TAX CREDIT UPDATE: 2017 LEGISLATIVE SESSION CHANGES

Families across the country face rising costs for child and dependent care. A limited number of eligible families who need help paying for child care can access direct child care assistance through the Child Care and Development Block Grant.

While direct child care assistance is the most effective way to help families access child care, tax provisions for child and dependent care expenses can provide some help to many families struggling to pay for the child care they need to support their children. These tax provisions can reduce the amount of tax owed by families and, in some instances, provide or increase tax refunds.

The federal government and more than half of states have some type of child and dependent care (CADC) tax provision. Every year, NWLC provides an update about legislative changes to CADC provisions; this update covers state changes made in 2017.

In 2017, Congress and the Administration missed an opportunity to provide tax relief for families struggling to pay for child care when they failed to improve the federal Child and Dependent Care Tax Credit (CDCTC) as part of the Tax Cuts and Jobs Act (TCJA) that was signed into law in December. This law, which made significant changes to the federal tax code, could have included important improvements to the CDCTC for low-income families, such as by making it refundable so more low-income families could have benefited from the credit.

However, six states did modify their CADC tax provisions in their 2017 legislative sessions. Some of the changes are effective for tax year 2017, which means that they impact taxes filed in 2018. Other changes are not effective until tax year 2018, which means they impact how expenses paid in 2018 are claimed when families file their taxes in early 2019.

**Definitions**

- **Refundable credits** lower the amount of taxes a family owes by a set amount and provide a payment (refund) if the credit amount exceeds the family's tax liability. Refundable tax credits provide the most benefit to low-income families.
- **Nonrefundable credits** lower a family's tax liability by a set amount but do not provide a refund. The amount of the credit the family receives cannot exceed the family's tax liability.
- **Deductions** lower a family's tax liability by reducing the income that is taxed. The value of tax deductions depends on the family's tax rate, making deductions worth more to higher-income families than lower-income families.

**Illustration**

A family is in a 12% tax bracket and has $100 in tax liability.

- A $200 refundable tax credit would eliminate their $100 in tax liability and provide a $100 refund.
- A $200 nonrefundable tax credit would wipe out their $100 tax liability. They would not receive a refund.
- A $200 tax deduction would reduce their tax liability by $24 ($200 x .012), down to $76.

Three states have CADC provision changes effective for tax year 2017:

- **Colorado** did not have enough revenue to continue its refundable Low-Income Child Care Expenses Credit for tax year 2017, so families who were eligible for this tax credit when filing their 2016 taxes will not be able to claim it for expenses incurred in 2017. The credit will be available again for tax years 2018, 2019, and 2020.[1]
- **Louisiana** amended its dependent care tax credit, adding an expiration date of 2020.[2]
- **Minnesota** expanded its CADC credit to reach more middle-class families, increasing the income level at which the phase out of the credit begins from federal adjusted gross income (AGI) of $25,860 to federal AGI exceeding $50,000.[3]

Three states have CADC provision changes effective for tax year 2018:

- **Kansas** reinstated a nonrefundable CADC credit that will become effective for tax year 2018.[4] Five years ago, Kansas repealed their CADC credit, but some Kansas families will once again receive some tax benefits based on their child care expenses in 2018.
- **New York** increased the value of its CADC credit for middle-class families with New York AGI between $50,000 and $150,000, and increased the value for larger families.[5]
- **Oregon** expanded access to the Working Family Household and Dependent Care credit, which was enacted in 2016, to unmarried taxpayers seeking employment or attending school and made technical corrections to the credit.[6] These provisions take effect in tax years starting in 2018.[7]

More information about these changes is provided below.

## State CADC Provision Changes Effective in Tax Year 2017

### *Colorado*

The Colorado Child Care Credit is calculated as a specified percentage of the federal CDCTC based on the family's federal AGI. Because some low-income families with child care expenses do not have sufficient tax liability to claim the federal CDCTC, they do not benefit from the Colorado Child Care Credit. To help these families, Colorado created the Low-Income Child Care Expenses Credit in 2014.[8] This credit is worth 25 percent of eligible child care expenses, for a maximum of $500 for one child or dependent and $1,000 for two or more and was effective for tax years 2014-2016.[9]

The tax credit expired at the end of 2016. Colorado did not extend this credit for tax year 2017 because there was insufficient revenue in Colorado's Fiscal Year (FY) 2016-2017 General Fund to do so. So low-income families who are not eligible for the Colorado Child Care Credit because they did not have enough federal tax liability to claim the federal CDCTC cannot claim Colorado's low-income credit in tax year 2017. The credit will be available again for tax years 2018 through 2020.[10]

### *Louisiana*

Louisiana has several CADC tax provisions. One provision is a dependent care tax credit for employment-related expenses associated with care for one or more dependents physically or mentally incapable of caring for themselves.[11] In 2017, Louisiana amended this dependent care credit, adding an expiration date of January 1, 2020.[12]

### *Minnesota*

For tax year 2016, Minnesota's refundable CADC credit started phasing out (or decreasing in value) for families with federal AGI of $25,860 and fully phased out (or decreased to zero) for families with a federal AGI at or above $39,510. For tax year 2017, Minnesota expanded its CADC credit to reach more middle-class families, increasing the income level at which the phase-out of the credit begins to federal AGI above $50,000.[13] The credit is fully phased out for families with federal AGI of $62,000 (if claiming one dependent) or $74,000 (if claiming two or more dependents).

## State CADC Provision Changes Effective in Tax Year 2018

As noted above, the Colorado Low-Income Child Care Expenses Credit will become available again in tax year 2018 and continue through 2020.[14]

*Kansas*

Kansas used to have a nonrefundable CADC credit, but the Kansas legislature repealed it in 2012, effective for tax year 2013.[15] In 2017, Kansas reinstated a nonrefundable CADC credit that will become effective for tax year 2018.[16] For Kansas residents who claim the federal CDCTC on their 2018 taxes (filed in 2019), they can then claim Kansas's nonrefundable CADC credit that equals 12.5 percent of the amount they claimed on the federal CDCTC.[17] The Kansas credit will increase to 18.75 percent of the federal CDCTC amount for tax year 2019 and then to 25 percent for tax year 2020 and beyond.[18]

In order to claim the Kansas CADC credit, the individual, the individual's spouse (if applicable), and every dependent must have a valid Social Security Number (SSN).[19] Immigrant workers who do not have a SSN must still pay taxes and use an Individual Tax Identification Number (ITIN). If the individual, spouse, or a dependent have an ITIN instead of a SSN, then they cannot claim the Kansas CADC credit.

*New York*

New York increased the value of its CADC credit for middle-class families by adding a special calculation for incomes between $50,000 and $150,000 that increases the credit's value for these families compared to previous tax years.[20] This special calculation will be effective for tax years after 2017.[21] In addition, the amended CADC credit increases the value of the credit for larger families by increasing the child care expenses cap from $6,000 to $9,000 for five or more qualifying individuals ($8,500 if there are four qualifying individuals and $7,500 for three qualifying individuals).[22]

*Oregon*

In 2016, Oregon replaced two separate CADC tax credits with a single Working Family Household and Dependent Care (WFHADC) credit. In the 2017 legislative session, Oregon amended the WFHADC credit so that unmarried taxpayers seeking employment or attending school can claim the credit, starting in tax year 2018.[23]

In addition, Oregon passed several technical modifications to the WFCADC credit for tax years in 2018 and beyond. One change clarifies that dependent care expenditures made with pre-tax dollars, such as from a dependent care Flexible Spending Account (FSA), cannot count towards the credit.[24] Another clarifies that in order to claim the credit, families must have earned income taxable by Oregon, and that qualifying expenses are limited to the amount of income earned in Oregon (similar to federal CDCTC requirements).[25] The 2017 legislative changes also prohibit interest from accruing on the credit's refundable portion.[26]

## Conclusion

Families need all the help they can get affording child and dependent care, and CADC tax provisions are one important strategy for making care more affordable. Advocates can help enact new CADC provisions, improve and expand existing provisions, and inform families about these and other federal and state tax provisions that can help them meet their child or dependent care expenses. Check out NWLC's summaries of federal and state CADC developments for 2011 through 2015, as well as the maximum values of each state CADC provision for tax year 2017. NWLC will offer a comprehensive overview of state CADC provisions later this spring!

We are eager to help and can work with you to establish or expand a child and dependent care tax provision in your state – including by making policy recommendations, drafting or reviewing legislative language, or conducting a conference call or webinar for advocates in your state. Please contact Amy Matsui at amatsui@nwlc.org for more information.

1 Colo. Rev. Stat. § 39-22-119.5(3)(a.5) (Lexis Advance 2017).
2 La. Rev. Stat. Ann. § 47:297.2(B) (2017).
3 Minn. Stat. Ann. § 290.067(1)(h) (2017).
4 Kan. Stat. Ann. § 79-32,111c (2017).
5 N.Y. Tax Law § 606(c) (2017).
6 Or. Rev. Stat. § 315.264 (2017).
7 2017 Or. Laws Ch. 638, § 3 (S.B. 162) (to be codified at Or. Rev. Stat. Ann. § 315.264).
8 Colo. Rev. Stat. § 39-22-119.5 (Lexis Advance 2017).
9 *Id.*
10 Colo. Rev. Stat. § 39-22-119.5(3)(a.5) (Lexis Advance 2017).
11 La. Rev. Stat. Ann. § 47:297.2 (2017). Louisiana also has a Child Care Credit, La. Rev. Stat. Ann. § 47:297.4 (2017), and the School Readiness Tax Credits, a package of tax benefits for higher quality child care for parents, child care providers, and others. The School Readiness Tax Credits have continued based on their effectiveness, and the legislature recommended increasing the value of the Child Care Staff Credit.
12 La. Rev. Stat. Ann. § 47:297.2(B) (2017).
13 Minn. Stat. Ann. § 290.067(1)(h) (2017).
14 Colo. Rev. Stat. § 39-22-119.5(3)(a.5) (Lexis Advance 2017).
15 2012 Kan. Sess. Laws, ch. 135, sec. 40 (H.B. 2117).
16 Kan. Stat. Ann. § 79-32,111c (2017).
17 Kan. Stat. Ann. § 79-32,111c(a) (2017).
18 *Id.*
19 Kan. Stat. Ann. § 79-32,111c(c) (2017).
20 N.Y. Tax Law § 606(c)(1-a) (2017).
21 *Id.*
22 N.Y. Tax Law § 606(c)(1-b) (2017).
23 2017 Or. Laws Ch. 638 (S.B. 162) (to be codified at Or. Rev. Stat. Ann. § 315.264).
24 Or. Rev. Stat. § 315.264(1)(d) (2017).
25 Or. Rev. Stat. § 315.264 (2017).
26 Or. Rev. Stat. § 315.264(12) (2017).