

Making Care Less Taxing

Improving State Child and Dependent Care Tax Provisions

2	Enter your standard deduction (see left margin).	
3	Subtract line 22 from line 20. If line 22 is more than line 20, enter -0-.	
4	Multiply \$2,900 by the total number of exemptions claimed on line 6d.	
5	Subtract line 24 from line 23. If line 24 is more than line 23, enter -0-. This is your taxable income .	▶
6	Tax , including any alternative minimum tax (see page 45).	
7	Credit for child and dependent care expenses. Attach Schedule 2.	27
8	Credit for the elderly or the disabled. Attach Schedule 3.	28
9	Education credits. Attach Form 8863.	29
0	Rate reduction credit. See the worksheet on page 36.	30
1	Child tax credit (see page 36).	31
2	Adoption credit. Attach Form 8839.	32
3	Add lines 27 through 32. These are your total credits .	

April 2011

The National Women's Law Center is a non-profit organization that has been working since 1972 to advance and protect women's legal rights. The Center focuses on major policy areas of importance to women and their families, including employment, education, reproductive rights and health, and family economic security — with special attention given to the needs of low-income women. Nancy Duff Campbell, the principal author of this report, is Co-President, Amy K. Matsui is Senior Counsel, Julie G. Vogtman is Counsel, and Anne W. King is a Fellow at the National Women's Law Center. The authors wish to acknowledge and thank National Women's Law Center Senior Policy Analysts Katherine Gallagher Robbins and Karen Schulman, and law student intern Janine Herring for their research assistance in preparing this report, and Executive Assistant Nancy Boyd and Program Assistant Rio Romero for their production assistance. The authors also wish to thank the generous funders whose financial support made this report possible: the Annie E. Casey Foundation, Ford Foundation, George Gund Foundation, Georgetown Women's Law and Public Policy Fellowship Program, McKnight Foundation, Moriah Fund, Ms. Foundation for Women, William Penn Foundation, Rockefeller Foundation, and an anonymous donor.

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Nancy Duff Campbell, Amy K. Matsui
Julie G. Vogtman, Anne W. King

April, 2011

	<ul style="list-style-type: none"> • Single—4,150 • Married filing jointly or Qualifying widow(er)—6,900 • Head of household—6,050 • Married filing separately—3,450 	19	
20	Subtract line 19 from line 17. If line 19 is more than line 17, enter 0.	20	
21	Multiply \$2,650 by the total number of dependents claimed on line 6d.	21	
22	Subtract line 21 from line 20. If line 21 is more than line 20, enter 0. This is your taxable income . If you want the IRS to figure your tax, see page 24.	22	
23	Find the tax on the amount on line 22 (see page 24).	23	
24a	Credit for child and dependent care expenses. Attach Schedule 2.	24a	
b	Credit for the elderly or the disabled. Attach Schedule 3.	24b	

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22	Subtract line 21 from line 20. If line 21 is more than line 20, enter 0. This is your taxable income. If you want the IRS to figure your tax, see page 24.	
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24a	Credit for child and dependent care expenses. Attach Schedule 2.	
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Improving State Child and Dependent Care Tax Provisions

Paying for care for children or adult dependents takes a big bite out of many families' already limited budgets. Yet without such care, married-couple and single-parent families alike have difficulty entering or remaining in the labor force. As a result, families across the country are caught in a bind: finding the financial resources to pay for the child and dependent care necessary for them to earn a living. The tax codes of the federal government and over half the states provide some assistance to families in meeting their employment-related care expenses. However, many states provide little or no tax assistance to families struggling to pay for the care that is so essential to their economic wellbeing.

This report is designed to help state policy makers and advocates rectify this situation and assist them in developing the best child and dependent care (CADC) income tax provisions possible for their states.¹ By analyzing and evaluating tax policies relating to care for children and adult dependents, this report can help states lacking such provisions enact them, and help other states improve CADC provisions already on the books. The report reviews the reasons supporting enactment of CADC tax provisions; describes the federal child and dependent care tax credit, which serves as the basis for many state provisions; and provides an overview of the state CADC tax provisions in effect for tax year 2010.² Finally, the report identifies policy decisions commonly made when enacting and implementing CADC income tax provisions and makes recommendations designed to help policy makers and advocates identify and pursue the best decisions for families.

The tax codes of the federal government and over half the states provide some assistance to families in meeting their employment-related care expenses.

¹This report examines only state tax credits or deductions for child and dependent care expenses that are incurred in order for the tax filer (and the tax filer's spouse, if married) to be gainfully employed or actively look for gainful employment. A few states provide tax credits for a portion of expenses incurred for in-home or out-of-home care or other services for a child or an aged or disabled dependent without regard to whether the expenses are employment-related. Several states provide tax credits, deductions, additional exemptions, or additional standard deductions for tax filers with children and/or aged or disabled dependents that are calculated without regard to the amount of any expenses the tax filer may have incurred and without regard to whether the expenses are employment-related. Finally, some states provide credits or deductions for low-income tax filers, often limited to tax filers with children, that are also calculated without regard to the amount of any expenses the tax filer may have incurred and without regard to whether the expenses are employment-related. All of these provisions are beyond the scope of this report and not referenced further unless their calculation in some way relates to the calculation of a state's employment-related child and dependent care credit or deduction.

²When applicable, changes in the provisions scheduled for later tax years are also noted.

I. Policies Served by Child and Dependent Care Tax Provisions

There are a number of good reasons to adopt CADC income tax provisions.

- **Assistance for Families with Large Employment Expenses.** Many families have employment-related care expenses³ that put a severe strain on the family budget. The average fee for full-time, center-based child care today ranges from over \$4,050 to over \$18,750 annually, depending on geographic location and whether the care is for an infant or preschool-age child.⁴ Indeed, for families with a child ages three through five, child care represents the second greatest expense (after housing).⁵ Employment-related care expenses for adult dependents are also very high. The average fee for full-day, adult day care

³In 2005, the most recent year for which data are available, 50% of families with employed mothers whose youngest child is under age five, and 30% of families with employed mothers whose youngest child is ages five through fourteen, paid for child care. U.S. Census Bureau, *Who's Minding the Kids? Child Care Arrangements: Spring 2005*, PPL Table 5: Families with Employed Mothers that Make Child Care Payments, by Age Groups and Selected Characteristics: Spring 2005 (2008), <http://www.census.gov/population/www/socdemo/child/ppl-2005.html> [hereinafter *Who's Minding the Kids*]. (The detailed tables only provide breakouts by income, age of child, and other subcategories for families based on whether the mother was employed, not on whether the father was employed.) Although there are not reliable data on the number of individuals in the labor force with adult dependents unable to care for themselves, in one study 42% of employed individuals (both men and women) reported that they had cared for a relative or in-law age sixty-five or older in the past year. Kerstin Aumann et al., *Families & Work Inst., National Study of the Changing Workforce 2008: The Elder Care Study: Everyday Realities and Wishes for Change 2* (2010), available at http://familiesandwork.org/site/research/reports/elder_care.pdf.

⁴Nat'l Ass'n of Child Care Resource & Referral Agencies (NACCRRA), *Parents and the High Cost of Child Care: 2010 Update 1* (2010) [hereinafter *Parents and the High Cost of Child Care*], available at http://www.naccrra.org/docs/Cost_Report_073010-final.pdf. The NACCRRA study was based on a survey of 2009 cost data collected from child care resource and referral networks or agencies in all fifty states and the District of Columbia; NACCRRA collected 2009 data from all states except Nebraska and New Mexico, for which 2008 data were used. *Id.* at 6. The study found that the average annual fee for full-time, center-based care for a four-year-old child ranged from \$4,056 in Mississippi to \$13,158 in Massachusetts; the average fee was below \$5,000 in only six states (Arkansas, Louisiana, Mississippi, Missouri, South Carolina, and Tennessee). *Id.* at 26-27. The average annual fee for full-time, center-based care for an infant ranged from \$4,560 in Mississippi to \$18,773 in Massachusetts; the average fee was above \$5,000 in every state except Mississippi. *Id.* The study also found that the average annual fee for full-time, family child care ranged from \$3,380 to \$11,475 for care for a preschool-age child and from \$3,582 to \$11,940 for care for an infant. *Id.*

⁵Mark Lino, Ctr. for Nutrition Policy & Promotion, U.S. Dep't of Agriculture, *Expenditures on Children by Families, 2009*, at 26 tbl.1, 32 tbl.7 (2010), *available at* <http://www.cnpp.usda.gov/Publications/CRC/crc2009.pdf>. Depending on income, families with employed mothers that pay for care for children under age fifteen spend an average of 5% to 33% of their income on child care. Who's Minding the Kids, *supra* note 3, at PPL Table 6: Average Weekly Child Care Expenditures of Families with Employed Mothers That Make Payments, by Age Groups and Selected Characteristics: Spring 2005. Families with annual income of \$54,000 and over with employed mothers that pay for care spend an average of 5% of their income on child care, and families with annual income of less than \$18,000 with employed mothers that pay for care spend an average of 32.7% of their income on child care. *Id.* Age of children is also a factor in the amount families spend on child care. Families with employed mothers that pay for care and that only have children under age five spend an average of 8.9% of their income on child care; families with employed mothers that pay for care and that only have children ages five through fourteen spend an average of 4.1% of their income on child care; and families with employed mothers that pay for care and that have both children under age five and children ages five through fourteen spend an average of 8.2% of their income on child care. *Id.*

is \$61.71 a day, or \$16,045 a year.⁶ Many families simply do not have the financial resources to pay for care of children or adult dependents; as a result, the cost of employment-related care keeps many individuals out of the job market.

- **Equitable Income Tax Treatment of Families.** Treating tax filers according to their ability to pay is a cornerstone of tax fairness. A family that earns \$30,000 a year but must spend over \$3,000 for child care in order to earn that income has less available income than a family that earns \$30,000 and has no employment-related care expenses. Because employment-related care expenses can cut deeply into a family’s income, CADC tax provisions recognize that a family with such expenses should pay less tax than a family with the same income but no employment-related care expenses. The federal tax code recognizes a number of large, employment-related expenses — such as office furnishings, automobiles used in a trade or business and business meals and entertainment — and excludes them, or a portion of them, from taxed income. CADC tax provisions apportion tax liability more equitably among families and embody the important principle that employment-related care expenses are a genuine cost of earning income.
- **Higher-Quality Care.** All children and adults unable to care for themselves need care that protects their well-being and promotes their development. Such higher-quality care costs families more money.⁷ These care payments go toward making facilities safe and providing activities, equipment, and staff ratios that promote children’s and adults’ development. These payments also help child and adult care programs pay the wages needed to attract and retain well-qualified

Average fees for full-time, center-based child care range from over \$4,050 to over \$18,750 annually.

⁶MetLife Mature Mkt. Inst., Nat’l Adult Day Servs. Ass’n (NADSA) & The Ohio State Univ. Coll. of Soc. Work, *The MetLife National Study of Adult Day Services: Providing Support to Individuals and Their Family Caregivers* 15 (2010) [hereinafter *MetLife National Study of Adult Day Services*], available at http://www.nadsa.org/assets/library/600_mmiaduldayservices.pdf (annual cost calculated by the National Women’s Law Center from daily cost assuming care is used five days a week for fifty-two weeks a year). Adult day care programs generally provide health, social, and personal care, and related support services for functionally or mentally impaired adults.

⁷For example, a comparison of accredited and non-accredited child care center costs in fifteen zip code areas in low-income urban areas in 2005 found that accredited centers had a higher average fee for infant care than non-accredited centers in eleven of the areas; in these eleven areas, the average annual fee for accredited infant care was \$156 to \$4,056 (2% to 45%) higher than the average annual fee for non-accredited care. Nat’l Ass’n of Child Care Resource & Referral Agencies, *Breaking the Piggy Bank: Parents and the High Price of Child Care* 24 tbl.4 (2006), available at http://www.naccrra.org/docs/policy/breaking_the_piggy_bank.pdf (calculations of percentage difference by the National Women’s Law Center based on average costs). Accredited centers also had a higher average fee for preschool care than non-accredited centers in twelve of the areas; in these twelve areas, the average annual fee for accredited preschool care was \$52 to \$5,244 (1% to 90%) higher than the average annual fee for non-accredited preschool care. *Id.*

[illegible]

staff.⁸ Tax code provisions that put more money in families' hands for employment-related care expenses help them to purchase better care for their children and other dependents.

- **Equity for Women.** Women continue to bear the bulk of responsibility for care of children and adult dependents. Tax code provisions that assist women in paying for care for children and adult dependents take some of the burden off women and lessen barriers to women's participation in the workforce, enabling them to support themselves and their families.⁹ Assistance with employment-related care is especially important for single mothers, who are more likely to be poor than married couples or single fathers.¹⁰ In addition, by enabling families to pay more for care, CADC tax provisions can raise the income of child and

⁸Several studies suggest a link between low salaries and high turnover rates among child care staff. For example, a study of child care centers in California revealed that the average turnover rate between 1999 and 2000 was 30% for all teaching staff. Marcy Whitebook *et al.*, Ctr. for the Child Care Workforce, *Then and Now: Changes in Child Care Staffing 1994–2000*, at v (2001) [hereinafter *Then and Now 1994–2000*]. Teaching staff who had left their jobs said that improving wages and benefits would reduce turnover rates at their former centers and in the child care field. *Id.* at vi. The average salary for teachers was \$24,606 per year. *Id.* In a survey of North Carolina child care centers, 22% of the teachers planned to leave the child care field in three years. Child Care Servs. Ass’n & FPG Child Dev. Inst., *Working in Child Care in North Carolina: The North Carolina Child Care Workforce Survey 2003*, at 20 (2004), available at http://www.fpg.unc.edu/~NCNR_Assessment/pdfs/2003WFRReport.pdf. Over three-quarters (78%) of these teachers said that higher earnings would motivate them to stay. *Id.*

⁹Nearly 71% of American women with children under eighteen — 77% of women with children ages six to seventeen, 64% of women with children under age six, and 57% of women with children under age one — are in the paid labor force. News Release, Bureau of Labor Statistics, U.S. Dep't of Labor, Employment Characteristics of Families – 2010, at tbls.5 & 6 (Mar. 24, 2011), *available at* <http://www.bls.gov/news.release/pdf/fameec.pdf>. (These percentages understate how many women raising children are in the paid labor force because they reflect only women raising their *own* children, and do not include the many women who are raising grandchildren, nieces and nephews, or other related children.)

¹⁰For 2009, the median income of families with children headed by a woman (with no husband present) was \$25,172, well below the median income of \$36,085 of families with children headed by a man (with no wife present) and the median income of \$76,649 of married-couple families with children. The median income of families with children headed by a black (\$22,167) or Hispanic (\$22,033) woman (with no husband present) is even lower than that for all families headed by a woman (with no husband present). U.S. Census Bureau, U.S. Dep't of Commerce & Bureau of Labor Statistics, U.S. Dep't of Labor, Current Population Survey 2010 Annual Social and Economic Supplement, Table FINC-03: Presence of Related Children Under 18 Years Old – All Families by Total Money Income in 2009 (2010), http://www.census.gov/hhes/www/cpstables/032010/faminc/new03_000.htm. Moreover, 39.9% of individuals in families with children headed by a woman (with no husband present) were poor in 2009, compared to 24% of individuals in families with children headed by a man (with no wife present) and 9.6% of individuals in married-couple families with children. *Id.* at Table POV03: People in Families with Related Children Under 18 by Family Structure, Age, and Sex, Iterated by Income-to-Poverty Ratio and Race: 2009 (2010), http://www.census.gov/hhes/www/cpstables/032010/pov/new03_100.htm. The poverty rate for individuals in families with children headed by a black (46.2%) or Hispanic (46.3%) woman (with no husband present) is even higher than that for individuals in all families headed by a woman (with no husband present). *Id.*

dependent care workers, who are mostly women and are grossly underpaid.¹¹

II. The Federal Child and Dependent Care Tax Credit

The federal tax code has had a child and dependent care tax credit since 1976.¹² The credit permits a tax filer with employment-related child and dependent care expenses to subtract a portion of these expenses from federal tax liability to reduce the amount of tax actually owed the federal government. The federal credit is important to state CADC tax provisions for two reasons. First, most states' CADC tax provisions are tied to the federal credit, using some or all of the provisions of the federal credit to determine the state tax benefit. Second, the federal credit can serve as a model for states to develop CADC tax provisions that are independent of the federal provision.

The federal credit has the following key features:

- **The credit covers employment-related expenses for both children and adult dependents.** The federal credit covers employment-related expenses¹³ for the care of a dependent child under the age of thirteen who lives with the tax

The federal child and dependent care tax credit is one of the largest sources of federal child care assistance.

¹¹The child care workforce is 95% female. Bureau of Labor Statistics, U.S. Dep't of Labor, Labor Force Statistics from the Current Population Survey, Table 18: Employed persons by detailed industry, sex, race, and Hispanic or Latino ethnicity (2010), *available at* <http://www.bls.gov/cps/cpsaat18.pdf>. A significant proportion of child care providers are women of color. A study of early childhood programs for three- and four-year-olds across the United States found that almost one-quarter of child care teachers are women of color. Gitanjali Saluja, Diane M. Early, & Richard M. Clifford, *Demographic Characteristics of Early Childhood Teachers and Structural Elements of Early Care and Education in the United States*, 4 *Early Childhood Research & Practice* 4 (2002), *available at* <http://ecrp.uiuc.edu/v4n1/saluja.html>. Similarly, a study of child care centers in California showed that more than one-third of child care workers are women of color. *Then and Now 1994-2000*, *supra* note 8, at 22. In 2009, the most recent year for which data are available, the average annual wage for a child care worker was \$20,940. Bureau of Labor Statistics, U.S. Dep't of Labor, May 2009 National Occupational Employment and Wage Estimates, Personal Care and Service Occupations, http://www.bls.gov/oes/current/oes_nat.htm#39-0000 (last modified July 27, 2010). Child care workers earn less annually than costume attendants (\$32,180), barbers (\$27,650), and pet sitters (\$21,830). *Id.*

¹²The origin of the credit was a 1954 provision establishing a tax deduction for certain employment-related child and dependent care expenses. Act of Aug. 16, 1954, Pub. L. No. 83-591, § 214, 68A Stat. 3, 70-71 (codified at I.R.C. § 214 (1954)). The deduction was converted to a credit in 1976. Tax Reform Act of 1976, Pub. L. No. 94-455, § 504, 90 Stat. 1520, 1563-66 (codified at I.R.C. § 44A (1976)). The current federal CADC credit is found at I.R.C. § 21 (West 2010).

¹³Employment-related expenses are expenses incurred to enable the tax filer to be gainfully employed. I.R.C. § 21(b)(2)(A). If the tax filer is married, the expenses must also be incurred to enable the tax filer's spouse to be gainfully employed, unless the spouse is a full-time student or incapable of self-care. *See* I.R.C. § 21(d)(2).

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filer and for the care of a spouse or dependent who lives with the tax filer and is physically or mentally incapable of self-care.¹⁴

- **The credit covers a range of care options.** The federal credit permits flexibility in care arrangements, covering both in-home and out-of-home care in a variety of settings. However, care for spouses and dependents age thirteen and older who are incapable of self-care is covered only if the spouse or dependent spends at least eight hours a day in the tax filer's household.¹⁵ This prevents families from claiming the credit for care in a residential facility, such as a nursing home. In addition, expenses paid to a "dependent care center," defined as a facility that provides care for more than six individuals, are covered only if the center complies with applicable state and local laws.¹⁶
- **The credit places a limit on eligible expenses.** A tax filer (and the tax filer's spouse, if married) may claim employment-related expenses of up to \$3,000 annually for one child or dependent, and up to \$6,000 annually for two or more children or dependents.¹⁷ Any expenses above these amounts are not eligible for the credit. In addition, the expenses may not exceed the earned income of the tax filer or the tax filer's spouse, whichever is less.¹⁸
- **The credit targets the greatest amount of assistance to lower-income families.** A tax filer may claim only a portion of eligible expenses as a credit, the portion dropping on a sliding scale as the tax filer's income rises, from 35%

¹⁴⁷The child under age thirteen and the spouse and dependent incapable of self-care must live with the tax filer for more than half the year. I.R.C. § 21(b)(1). In addition, the filer must provide over half the support for the dependent incapable of self-care but not the spouse or child under age thirteen. *Id.* (However, expenses for a child who provides over half of his or her own support do not qualify for the credit. *Id.*)

¹⁵I.R.C. § 21(b)(2)(B)(ii).

¹⁶I.R.C. § 21(b)(2)(C), (D).

¹⁷I.R.C. § 21(c). Congress increased these expense limits from \$2,400 for one child or dependent and \$4,800 for two or more children or dependents in the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, § 204, 115 Stat. 38, 49 (codified as amended at I.R.C. § 21(c)) [hereinafter EGTRRA]. These changes, which took effect for tax year 2003, were scheduled to expire after tax year 2010. *Id.* § 901. However, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 extended the changes for two years; unless extended further, the expense limits will revert to \$2,400 and \$4,800 after tax year 2012. Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, § 101(a), 124 Stat. 3296, 3298 (codified as amended at I.R.C. § 21(c)) [hereinafter TRUIRCA].

¹⁸I.R.C. § 21(d)(1). Individuals who participate in a dependent care assistance program sponsored by their employer must subtract any child or dependent care assistance received through that program from the CADC expenses they can use to claim the federal CADC credit. I.R.C. § 21(c). Employers may provide their employees with up to \$5,000 in tax-free CADC assistance through a dependent care assistance program. I.R.C. § 129.

for tax filers with adjusted gross income (AGI) of \$15,000 or less to 20% for tax filers with AGI above \$43,000.¹⁹ The following chart illustrates the maximum credit amounts at different income levels:

Federal Child and Dependent Care Credit Rates and Maximum Amounts, Tax Year 2010			
Adjusted Gross Income	Percent of Expenses Credited	One Child/Dependent	Two or More Children/Dependents
\$0–\$15,000	35%	\$1,050	\$2,100
\$15,001–\$17,000	34%	\$1,020	\$2,040
\$17,001–\$19,000	33%	\$990	\$1,980
\$19,001–\$21,000	32%	\$960	\$1,920
\$21,001–\$23,000	31%	\$930	\$1,860
\$23,001–\$25,000	30%	\$900	\$1,800
\$25,001–\$27,000	29%	\$870	\$1,740
\$27,001–\$29,000	28%	\$840	\$1,680
\$29,001–\$31,000	27%	\$810	\$1,620
\$31,001–\$33,000	26%	\$780	\$1,560
\$33,001–\$35,000	25%	\$750	\$1,500
\$35,001–\$37,000	24%	\$720	\$1,440
\$37,001–\$39,000	23%	\$690	\$1,380
\$39,001–\$41,000	22%	\$660	\$1,320
\$41,001–\$43,000	21%	\$630	\$1,260
\$43,001+	20%	\$600	\$1,200

The maximum federal credit is \$2,100.

- Married couples must file a joint return to be eligible for the credit.**²⁰ This rule does not apply to legally separated married couples, or to certain married individuals who are living apart from their spouses and providing over half the cost of maintaining their own homes.²¹

The federal CADC credit is one of the largest sources of federal child care assistance.²² About 6.6 million tax filers claimed the federal CADC credit and

¹⁹I.R.C. § 21(a)(2). Congress in EGTRRA increased the maximum percentage of eligible expenses a tax filer may claim from 30% of expenses and increased the AGI at and below which a tax filer may claim the maximum percentage of qualifying expenses from \$10,000, and the AGI above which a tax filer may claim the minimum 20% of expenses from \$28,000. EGTRRA, *supra* note 17, § 204 (codified as amended at I.R.C. § 21(a)(2)). These changes took effect for tax year 2003 and were scheduled to expire after tax year 2010, *id.* § 901, but were extended by TRUIRJCA through the end of tax year 2012, TRUIRJCA, *supra* note 17, § 101(a) (codified as amended at I.R.C. § 21(a)(2)). The effect of the EGTRRA changes was to increase the credit amounts for tax filers with AGI up to \$43,000.

²⁰I.R.C. § 21(e)(2).

²¹I.R.C. § 21(e)(3)–(4).

²²*See* H.R. Comm. on Ways and Means, 111th Cong., 2008 *Green Book* 9–6 (2008), *available at* <http://democrats.waysandmeans.house.gov/media/pdf/111/ccare.pdf>.

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5 or older ☐ Blind
is 65 or older ☐ Blind

separately and your spouse itemize
Deduction for your filing status. But see Form 8090.
OR someone can claim you as dependent if you are:
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Dependent care expenses. Attach Schedule 2.
For the disabled. Attach Schedule 3.
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received over \$3.5 billion in tax benefits in 2008, the most recent year for which data are available.²³ There are, however, a number of features of the federal credit that undermine its value to families with employment-related care expenses, particularly those with lower incomes.

- **The federal credit is not refundable.**²⁴ This means that families who qualify for a credit that is larger than their tax liability receive only a portion of the credit — up to the amount of tax owed — for which they are eligible. For example, a family that qualifies for a credit of \$800 but only owes \$200 in taxes will receive a credit of only \$200. If the credit were refundable, the family would receive a tax refund of \$600. The credit's nonrefundability affects primarily those families who owe relatively little tax — typically families with more limited income whose need for assistance with employment-related care expenses may be the greatest. Families whose income is so low that they owe no tax receive no federal credit at all.
- **Over time, fewer and fewer families receive the benefit of the credit's low-income targeting because the credit is not refundable and because the sliding scale thresholds are not indexed for inflation.** The dollar amounts of basic tax provisions that determine tax liability — for instance, the personal exemption, the standard deduction, and the earned income credit — are all indexed for inflation.²⁵ The effect of this indexing is to avoid an increase

²³Justin Bryan, I.R.S., *Individual Income Tax Returns, 2008*, 30 Stat. of Income Bull. 50 (Fall 2010), available at <http://www.irs.gov/pub/irs-soi/10fallbul.pdf>.

²⁴I.R.C. § 26.

²⁵ Congress in the Economic Recovery Tax Act of 1981 provided for annual indexing of the personal exemption, standard deduction and tax brackets, beginning in tax year 1985. Economic Recovery Tax Act of 1981, Pub. L. No. 97-34, § 104, 95 Stat. 172, 188-90 (codified as amended at I.R.C. §§ 151 (personal exemption), 63 (standard deduction), 1 (tax brackets)) [hereinafter ERTA]. In the Tax Reform Act of 1986, Congress provided for annual indexing of the earned income tax credit, beginning in tax year 1987. Tax Reform Act of 1986, Pub. L. No. 99-514, § 111, 100 Stat. 2085, 2107-08 (codified as amended at I.R.C. § 32) [hereinafter TRA]. In TRA, Congress also substantially increased the standard deduction and personal exemption. *Id.* §§ 102, 103 (codified as amended at I.R.C. §§ 63 (standard deduction), 151 (personal exemption)). Congress in the Jobs and Growth Tax Relief Reconciliation Act, Working Families Tax Relief Act of 2004, and TRUIRJA increased the standard deduction for married couples, beginning in tax year 2003 (but, unless extended beyond the TRUIRJA extension, expiring after tax year 2012). Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub. L. No. 108-27, § 103, 117 Stat. 752, 754 (codified as amended at I.R.C. § 63(c)) [hereinafter JGTRRA]; Working Families Tax Relief Act of 2004, Pub. L. No. 108-311, §§ 101(b), 105, 118 Stat. 1166, 1167-69 (codified as amended at I.R.C. § 63) [hereinafter WFTRA]; TRUIRJA, *supra* note 17, § 101(a) (codified as amended at I.R.C. § 21(c)). (In JGTRRA, Congress increased the standard deduction for tax years 2003 and 2004; in WFTRA, Congress applied the EGTRRA sunset date to extend the JGTRRA increase through tax year 2010; and in TRUIRJA, Congress extended the EGTRRA sunset date to December 31, 2012 – after which, unless extended, the increase in the deduction expires.) These increases in the amounts of the standard deduction and personal exemption, which were in addition to the annual indexing of these tax code provisions, have contributed in part to the erosion of the federal CADC credit's value by widening the gap between the income levels at which a family may claim the maximum credit percentages and the income levels at which a family incurs federal income tax liability.

in a family's tax when the only change in its income is the result of inflation. Because the CADC credit's sliding scale thresholds are not indexed for inflation, however, the targeting to lower-income families provided by the sliding scale is eroding as fewer and fewer families have incomes low enough to claim the credit's highest percentages of expenses. The EGTRRA increase in the sliding scale that took effect in tax year 2003 (and, unless extended beyond TRUIRJA, expires after tax year 2012) ameliorated this problem, but did not correct it. For example, for tax year 2010, no families with children or dependents have tax thresholds (the point at which tax liability begins) below \$15,000, and therefore no families are eligible to claim the highest credit amount of 35% of their expenses. The tax threshold for heads of household with one child or dependent are above \$15,000 and for heads of household with two or more children or dependents are above \$19,000, and the tax thresholds for all married couples with children or dependents are above \$21,000. Thus, no heads of household with one child or dependent are eligible for a credit amount higher than 34% of their expenses, no heads of household with two or more children or dependents are eligible for a credit amount higher than 32% of their expenses, and no married couples with children are eligible for a credit higher than 31% of their expenses.²⁶ Without refundability or indexing of the sliding scale, both the availability of the credit and its low-income targeting will continue to erode over time.

- **The dollar expense limits do not reflect the cost of care.** The increase in the expense limits in EGTRRA in 2001 was the first time the limits had been updated in 20 years. But the limits of \$3,000 for one child or dependent and \$6,000 for two or more children or dependents, which are not indexed for inflation,²⁷ do not reflect the average costs of child care in 2010.²⁸ Moreover, they are particularly inadequate to cover the high cost of

²⁶Calculations by the National Women's Law Center based on standard deduction and personal exemption amounts for tax year 2010, I.R.S. Rev. Proc. 2009-50 (2009). If the \$10,000 AGI level at and below which tax filers were eligible for the highest percentage of their expenses had been indexed for inflation when the sliding scale was added to the law in 1981 (effective for tax year 1982), *see* ERTA, *supra* note 25, § 124 (codified as amended at I.R.C. § 21(a)(2)), it would be \$22,596 for tax year 2010 — considerably higher than the \$15,000 level set by EGTRRA — and married couples with one child or dependent and heads of household with up to two children or dependents, because their tax thresholds are below that amount, would be eligible for the maximum credit, currently 35% of their expenses. (Calculations by the National Women's Law Center based on the Consumer Price Index for All Urban Consumers, Bureau of Labor Statistics, U.S. Dep't of Labor, <http://www.bls.gov/cpi> (last visited Mar. 29, 2011)). Moreover, if the increase in that AGI level to \$15,000 in EGTRRA expires at the end of 2012 as scheduled, its reversion to \$10,000 will, in combination with the indexing of the Internal Revenue Code's other relevant provisions, make even fewer families eligible for the higher credit percentages in tax year 2013.

²⁷If the expense limits of \$2,400 and \$4,800 had been indexed for inflation when they were established in 1981 (effective for tax year 1982), *see* ERTA, *supra* note 25, § 124 (codified as amended at I.R.C. § 21(c)), they would be \$5,423 and \$10,846, respectively, for tax year 2010, considerably higher than the limits established in EGTRRA of \$3,000 and \$6,000, respectively. Calculations by the National Women's Law Center based on the Consumer Price Index for All Urban Consumers, *supra* note 26. If even the \$3,000/\$6,000 limits had been indexed for inflation in EGTRRA, they would be \$3,555 and \$7,111, respectively, for tax year 2010. Moreover, if the \$3,000/\$6,000 limits expire at the end of 2012, as scheduled, the reversion to the prior limits of \$2,400 for one child or dependent and \$4,800 for two or more children or dependents will be far below the cost of care in tax year 2013.

²⁸*See Parents and the High Cost of Child Care*, *supra* note 4.

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nia, Colorado, Delaware, the District of Columbia, Georgia, Iowa,³³ Kansas, Kentucky, Louisiana,³⁴ Maine, Maryland,³⁵ Nebraska, New York, Ohio, Oklahoma,³⁶ Rhode Island, and Vermont.³⁷ Although this type of provision is the simplest to calculate, its adequacy varies considerably depending on the percentage selected.³⁸ In the eighteen states (and twenty-one provisions) with this form of credit, the percentage ranges from a low of 20% to a high of 110%;³⁹ in six of these states, the top percentage is at or below 25%;⁴⁰ in three of these states the top percentage is above 25% but below 50%;⁴¹ in seven of these states, the top percentage is between 50% and 100%;⁴² and in four of these states, the

³³In Iowa, eligible tax filers may, in lieu of this credit, claim a separate “early childhood development credit” of 25% of the first \$1,000 of “early childhood development expenses” for children ages three through five, without regard to whether these expenses are employment-related. “Early childhood development expenses” are defined as “services provided to the dependent by a preschool, . . . materials, and other activities,” including books, instructional materials, lesson plans and activities. Because only the Iowa CADC credit is based on employment-related expenses, it is the only one referenced in this report. Moreover, tax filers that qualify for both credits will usually find it more advantageous to claim the CADC credit.

³⁴Louisiana has a credit for child care, a separate “school readiness” credit for care of a specified quality for a child under age six, and a separate “household expense” credit for care of dependents who are physically or mentally incapable of self-care that is described below. The Louisiana child care credit is calculated as a percentage of the federal CADC credit and the school readiness credit is calculated as a percentage of the state child care credit and hence also as a percentage of the federal CADC credit. Tax filers eligible for all three credits may claim all three. (Hereinafter the Louisiana credits will be referred to as the Louisiana “child care credit,” “school readiness credit,” or “household expense credit” when there is a need to distinguish them.)

³⁵Maryland has both this credit and a deduction for child and dependent care expenses that is described below. Only the credit is calculated as a percentage of the federal CADC credit. Tax filers eligible for both provisions may claim both. (Hereinafter the Maryland provisions will be referred to as the Maryland “credit” or “deduction.”)

³⁶Oklahoma provides that an eligible tax filer must choose between this credit of 20% of the federal CADC credit and a credit of 5% of the federal child tax credit, “whichever amount is greater.” Tax filers eligible for both credits will find one or the other of these more beneficial, depending on income, number and age of children and dependents, and amount of care expenses. Because only the Oklahoma CADC credit is based on employment-related CADC expenses, it is the one referenced in this report.

³⁷Vermont has both a CADC credit and a separate “low-income” CADC credit for care of a specified quality, both of which are calculated as a percentage of the federal CADC credit. A tax filer eligible for both credits may only claim one. (Hereinafter these credits will be referred to as the Vermont “CADC credit” or “LICADC credit” when there is a need to distinguish them.)

³⁸In eight of these states — California, Colorado, Iowa, Louisiana (child care credit and school readiness credit), Maryland (credit), Nebraska, New York, and Ohio — the percentage or dollar value falls as the income of the tax filer rises, thereby increasing the targeting to lower-income tax filers beyond that already provided in the federal credit.

³⁹Arkansas (both credits), Kentucky and Oklahoma provide a credit of 20% of the federal credit; New York provides lower-income families with a credit of 110% of the federal credit.

⁴⁰These states are Arkansas (both credits), Kansas, Kentucky, Oklahoma, Rhode Island and Vermont (CADC credit).

⁴¹These states are the District of Columbia, Georgia, and Maryland (credit).

⁴²These states are California, Colorado, Delaware, Iowa, Louisiana (child care credit), Maine, and Vermont (LICADC credit).

*Most state provisions
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top percentage equals or exceeds 100%.⁴³ The maximum value of the credits in these eighteen states ranges from a low of \$420 to a high of \$2,310.⁴⁴

- **One state, Minnesota, provides a *tax credit that is partially determined by the amount of the federal credit*.** Minnesota provides a credit in “an amount equal to” the federal credit for which the tax filer is eligible, up to a maximum credit amount (\$1,440) that is lower than the maximum federal credit amount,⁴⁹ reduced by a specific dollar amount at various income intervals for tax filers with income between \$23,380 and \$37,030.
- **One state, New Mexico, provides a *tax credit for a portion of child care expenses whose amount is not determined by the federal credit, but is affected by the amount of the federal credit claimed*.** New Mexico provides a credit of 40% of child care expenses, up to \$8 per day, per child, with a maximum credit of \$1,200. However, the tax filer must subtract from the amount of the New Mexico credit the portion of the federal credit amount applied against federal tax liability to yield the amount of the New Mexico credit that may be claimed.⁵⁰
- **One state, Hawaii, provides a *tax credit for a portion of child and dependent care expenses whose amount is not determined by the federal credit*.** Its credit is 15% to 25% — with lower-income tax filers receiving the higher percentages — of child and dependent care expenses, up to \$2,400 for one child or dependent and \$4,800 for two or more children or dependents, for a maximum credit amount of \$1,200.
- **One state, Oregon, provides a *tax credit for a portion of child care expenses that are not determined by the federal credit and are not limited in amount*.** Its credit is 8% to 40% — with lower-income tax filers receiving the higher percentages — of child care expenses, with no maximum credit amount.⁵¹
- **One state, Montana, provides a *deduction for child and dependent care expenses that are not determined by the federal credit, up to a specified amount*.** Expenses are limited to \$2,400 for one child or dependent, \$3,600 for two children or dependents, and \$4,800 for three or more children or dependents.⁵²

The maximum value of all state provisions ranges from \$240 to \$2,310.

⁴⁹Because of this feature, the lowest-income Minnesota tax filers do not benefit fully from the improvements to the federal credit in EGTRRA that took effect in tax year 2003 (but, unless extended beyond the TRUIR-JCA extension, expire after tax year 2012).

⁵⁰The required offset decreases the value of the New Mexico credit as the value of the federal CADC credit increases, so that the improvements to the federal credit in EGTRRA that took effect in tax year 2003 (but, unless extended beyond the TRUIJCA extension, expire after tax year 2012) decrease the value of the New Mexico credit.

⁵¹Both this WFCC credit’s high maximum percentage amount and its unlimited expenses yield the highest maximum value of any of the state provisions. For example, at expenses of \$6,000, the limit in most states, the WFCC credit would yield a maximum credit of \$2,400, higher than any other state provision. However, few tax filers with adjusted gross income up to 250% of the federal poverty level, the WFCC credit’s income limit, may be able to spend this much on child care.

⁵²It is unclear from the Montana statute whether both children and spouses or dependents incapable of self-care are subject to the same expense limits, but the Montana tax form and instructions indicate that they are.

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The portion of expenses that is deductible depends on the income of the tax filer, with lower-income tax filers receiving a larger portion. The maximum tax benefit under the Montana deduction is \$240.

The maximum value of all thirty-four state CADC tax provisions, excluding Oregon's WFCC credit, ranges from \$240 in Montana to \$2,310 in New York.⁵³ Appendix A provides state-by-state descriptions, including maximum credit amounts, of each state CADC provision in effect for tax year 2010.⁵⁴

IV. Designing State Child and Dependent Care Tax Provisions: Issues and Choices

Numerous aspects of state CADC income tax provisions determine the value of any particular provision to any particular family and to families in general. Each of these aspects represents a choice for policy makers to make as they develop and implement a state CADC tax provision. This section reviews these choices, explaining the considerations that affect them and recommending the best approach to follow. A companion “report card,” *Making the Grade for Care: Ranking State Child and Dependent Care Tax Provisions*, scores each state provision in effect for tax year 2010 based on the extent to which it incorporates the best policies described below.

A. Should States Enact CADC Tax Provisions?

A CADC tax provision is one of many measures policy makers can adopt to address families' child and dependent care needs. Why should policy makers choose this measure?

As discussed above, the high cost of child and dependent care makes its affordability a central concern for many families. A tax provision is a fairly straightforward way to increase the amount of money a family has to pay for care, although the provision must be generous enough to make a significant difference.⁵⁵ Furthermore, a CADC tax provision treats employment-related care as a genuine, legitimate working expense and is the most direct way to address the inequity that arises in an income tax system when families with care expenses needed to earn income are treated as families with the same income but without such expenses. Providing families with child and dependent care assistance through a tax

⁵³As previously discussed, the maximum value of Louisiana's school readiness credit may, in some instances, exceed \$2,310.

⁵⁴When applicable, the descriptions include scheduled changes in the provisions for later tax years.

⁵⁵If the provision is to reach the lowest-income tax filers, it must also be refundable. *See infra* Section IV-C-2.

provision may also be more politically feasible than providing that assistance directly and, unlike direct spending programs, which typically are dependent on annual appropriations from the legislature, tax benefits are entitlements for all who qualify for them.⁵⁶ Furthermore, a CADC provision assists families in the workforce, a group for whom assistance is often politically popular.

However, CADC tax provisions do have some limitations. Most importantly, they require that families incur employment-related care expenses “up front” to receive a tax benefit months later. Some families simply do not have the income to pay for such expenses at the outset, or at all, while others can afford only care that costs less than needed to derive the maximum benefit from a CADC tax provision. CADC tax provisions also do not easily address issues of access to or quality of care directly, although by enabling families to pay more for care they can indirectly affect both.⁵⁷

In short, CADC tax provisions address some of many families’ employment-related care needs, but they do not address them all, and for some families they provide little help. A comprehensive solution to the problems families confront in obtaining good-quality care for children and dependents requires multiple strategies, including CADC tax provisions.

Best Policy: States should enact CADC income tax provisions as one of several measures aimed at increasing the affordability, availability, and quality of child and adult dependent care.

B. Linkage to the Federal CADC Credit

As described above, most states with CADC tax provisions link them to the federal credit. For example, the state provision may be a credit equal to a speci-

⁵⁶State CADC provisions are popular with the voters and policy makers alike. The Montana electorate, for example, in a 1994 referendum rejected the state legislature’s 1993 repeal of the state’s CADC deduction. In addition, when the federal CADC credit was increased in EGTRRA in 2001 (effective in tax year 2003 but, unless extended beyond the TRUIRJCA extension, expiring after tax year 2012), the twenty-two states whose relevant provisions were then linked to the federal credit allowed their state provisions to increase as well (although three of these states – Arkansas, California and Maine – made changes in their CADC provisions that limited the increase that otherwise would have taken effect automatically because of the federal credit increase). These states are Arkansas, California, Colorado, Delaware, District of Columbia, Idaho, Iowa, Kansas, Kentucky, Louisiana (child care credit and household expense credit), Maine, Maryland (credit and deduction), Minnesota, Nebraska, New York, Ohio, Oklahoma, Oregon (CADC credit), Rhode Island, South Carolina, Vermont (both credits), and Virginia.

⁵⁷In recent years, four states have included in their CADC provisions measures designed to encourage families to use higher-quality care. See *infra* Section IV-F.

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fied portion of the federal credit or federally allowed expenses, or a deduction of federally allowed expenses or a specified portion of those expenses. The provision may improve upon the federal credit in some respects, such as by making the state provision refundable,⁵⁸ or it may limit it in some respects, such as by imposing an income test for receipt of the state provision's benefits.⁵⁹ States may choose to link their credit to the federal credit to make calculation of the state credit simple. Proponents of state CADC tax provisions may also find that in practice the most generous provisions they can get enacted are based on the federal credit.

One consideration in linking a state provision to the federal credit is whether to do so in a way that makes all or most of the federal credit's features part of the state provision. In this type of linkage, both the federal credit's advantages, such as its low-income targeting, *and* its deficiencies, such as gradual loss of low-income targeting because of the federal credit's failure to index its sliding scale thresholds, will be incorporated into the state provision. In addition, any time Congress changes the federal credit, the state provision linked to it will be affected automatically, regardless of the intent of the state's policy makers. Thus, when improvements are made in the federal credit, the value of the linked state provision will automatically increase. This occurred in 1981 (effective for tax year 1982) when the expense limits and credit percentages were increased and the credit's benefits were newly targeted to low-income tax filers through the addition of the sliding scale;⁶⁰ it occurred again in 2001 in EGTRRA (effective for tax year 2003 but expiring after tax year 2012 unless extended beyond the TRUIRJA extension) when the sliding scale's low-income targeting was improved and the expense limits and credit percentages were again increased.⁶¹ Similarly, when the federal credit is scaled back, the value of the linked state provision will automatically decrease.⁶² This occurred in 1988 (effective for tax year 1989) when Congress lowered the age limit for children whose care expenses are covered from fifteen to thirteen.⁶³ Two ways to avoid these effects are to write the federal credit's provisions directly into

⁵⁸See *infra* Section IV-C-2.

⁵⁹See *infra* Section IV-C-3.

⁶⁰See *supra* note 26.

⁶¹See *supra* notes 17 & 19.

⁶²Even improvements to the federal credit can reduce the value of a state credit that references the federal credit. New Mexico, for example, as previously described, requires a tax filer to offset against the amount of the New Mexico credit the portion of the federal credit amount applied against federal tax liability. The result is that as the value of the federal credit increases, the value of the New Mexico credit decreases.

⁶³See Family Support Act of 1988, Pub. L. No. 100-485, § 703(a), 102 Stat. 2343, 2426-27 (1988) (codified as amended at I.R.C. §21(b)(1)(A) (2010)).

the state code, or to reference the federal credit as of a particular date.⁶⁴ But doing so then undercuts the main reason for linking the state provision to most or all of the federal credit's features — simplifying the state calculation.

The federal credit's nonrefundability warrants special attention here. When a state CADC credit is calculated as a percentage of the federal credit — as is the case in eighteen of the twenty-eight states with CADC tax provisions — an issue arises regarding calculation of the state credit for families who received only part or none of the federal credit because the federal credit exceeded their federal income tax liability. Is the state credit based on the amount of the federal credit actually received, or is it based on the amount the family could have received before the federal credit's nonrefundability provision limited the credit actually received? For example, if a family's federal credit is \$800 but its federal tax liability is only \$200, the family is able to claim a credit of only \$200 on its federal return. If the family's state credit is 50% of the federal credit, is the family entitled to take 50% of \$800 — for a state credit of \$400? Or is it only able to take 50% of \$200 — for a state credit of \$100? This issue is of particular concern to lower-income families who are most likely to have their federal credit limited by the nonrefundability provision.

In the eighteen states (and twenty-one provisions)⁶⁵ that calculate the state credit based on a percentage of the federal credit, the statutory provisions of six states — California, the District of Columbia, Louisiana (refundable portion of child care credit and refundable portion of school readiness credit), Nebraska (refundable portion), New York, and Ohio — clearly provide that the state credit is based on the federal credit for which the tax filer is potentially eligible, without regard to the federal nonrefundability provision. (Oregon, which calculates its CADC credit as a percentage of expenses allowable for the federal credit, and Minnesota, which calculates its CADC credit based in part on the federal credit, also make clear that their state credits are not limited by the fact that the federal

⁶⁴For example, Arkansas, as previously described, has a nonrefundable CADC credit that is a percentage of the federal CADC credit “in effect on January 1, 2007,” and a refundable early childhood program credit that is a percentage of the federal CADC credit “in effect on January 1, 1993.” These specific date references mean that EGTRRA's improvements to the federal credit that took effect in tax year 2003 (but, unless extended beyond the TRUIRJCA extension, expire after tax year 2012) automatically resulted in improvements in the nonrefundable CADC credit, but not the refundable early childhood program credit, disadvantaging the lowest-income tax filers. The date distinctions in the Arkansas statute are not reflected in the Arkansas tax forms and instructions, 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.

⁶⁵These states are Arkansas (both credits), California, Colorado, Delaware, the District of Columbia, Georgia, Iowa, Kansas, Kentucky, Louisiana (child care credit and school readiness credit), Maine, Maryland (credit), Nebraska, New York, Ohio, Oklahoma, Rhode Island, and Vermont (both credits).

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CADC credit is not refundable.) In contrast, the statutory provision in one state — Kansas — is explicitly limited to a percentage of the amount of the federal credit “allowed against such [tax filer’s] federal income tax liability” — that is, the amount of credit actually received. In thirteen states with credits based on a percentage of the federal credit, the statutory provision is ambiguous, for example, referring to a percentage of the “allowable,” “allowed,” “provided,” “claimed,” or “eligible” federal credit.⁶⁶ However, in most of these states, the instructions or forms — or both — make clear whether the unused portion of the federal credit is part of the base figure used to determine the state credit.⁶⁷

It is very important that state credits that are calculated as a percentage or portion of the federal credit explicitly provide that they are to be calculated without regard to the limits imposed on the federal credit amount actually received because the federal credit is not refundable. Otherwise, lower-income families will also see their state credit reduced.

Best Policy: Careful consideration should be given to whether state CADC tax provisions should be independent of the federal CADC credit or linked to it, and a decision made based on whether it seems likely that state policy makers will take a more or less generous approach now and in the future than the federal government. If a state CADC credit is linked to the federal provision, the state provision and the tax forms and instructions should clearly provide that it is based on the amount of the federal credit for which the tax filer is eligible regardless of whether the tax filer's total federal tax liability permits the tax filer to receive any or all of the federal credit.

⁶⁶These states are Arkansas (both credits), Colorado, Delaware, Georgia, Iowa, Kentucky, Louisiana (nonrefundable portion of child care credit and nonrefundable portion of school readiness credit), Maine, Maryland (credit), Nebraska (nonrefundable portion), Oklahoma, Rhode Island, and Vermont (both credits).

⁶⁷Only in Arkansas (both credits) and Maryland (credit) are the forms and instructions unclear. In Kentucky the forms and instructions, and in Iowa the instructions, direct the tax filer to use the amount of the credit on line 9 of federal form 2441 to calculate the state credit; this is the amount of the federal credit before it is limited by federal tax liability. In Georgia the form, and in Oklahoma the instructions, direct the tax filer to apply the state percentage to the amount of the federal CADC credit actually received. In the remaining states, the instructions or the form, or both, either direct the tax filer to use the amount of the credit on line 48 of federal form 1040 or line 29 of federal form 1040A (Colorado, Louisiana (nonrefundable portion of child care credit and nonrefundable portion of school readiness credit), Maine, Nebraska (nonrefundable portion), Rhode Island, and Vermont (both credits)) or to use the amount on line 11 of federal form 2441 to calculate the state CADC credit (Delaware). In either case, the amount on these lines, properly calculated, is the amount of the credit actually received after it is limited by federal tax liability. Of course, if a state offsets against the amount of the state credit the amount of the filer's federal credit, or otherwise uses the federal credit to reduce the state provision, it is advantageous to the filer if the state offsets the amount of the federal credit after it is limited by federal tax liability, as New Mexico does.

C. Targeting Assistance to Lower-Income Families

Like any other tax credit or deduction, a CADC income tax provision represents tax revenue foregone by the state. Consequently, a state is unlikely to cover all the employment-related care expenses of all families who have them. Instead, the state will divide a more limited pot of money for the CADC provision among the families with such expenses. The question is how to do that most equitably and efficiently. The more tax assistance that goes to higher-income families, the less tax assistance is likely to be available for lower-income families. But it is lower-income families who are most in need of assistance with employment-related care expenses, which can eat up a very large portion of an already-limited family budget.

***Best Policy:** State CADC tax provisions should target assistance to low- and moderate-income families.*

There are a number of ways to target CADC tax provisions to lower-income families.

1. Credits versus Deductions

Of the twenty-eight states with CADC tax provisions, twenty-three have credits, four have deductions, and one has both a credit and a deduction.⁶⁸ The choice between a credit and a deduction can have a large effect on the usefulness of a tax provision for lower-income families. The tax savings value of a deduction is determined by, and rises with, the marginal tax rate. This means that in a progressive income tax system, higher-income tax filers get more benefit from an identical deduction than do lower-income tax filers. For instance, the value of a deduction of \$3,000 of expenses for tax filers in a 5% tax bracket is \$150, while for those in a 10% bracket it is \$300.⁶⁹ By contrast, an identical credit produces the same dollar value for lower- and higher-income tax filers. For instance, a credit of 25% of CADC expenses for a family with \$3,000 of expenses produces a credit of \$750,

⁶⁸The states with credits are Arkansas (two credits), California, Colorado, Delaware, the District of Columbia, Georgia, Hawaii, Iowa, Kansas, Kentucky, Louisiana (three credits), Maine, Minnesota, Nebraska, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon (two credits), Rhode Island, South Carolina, and Vermont (two credits). The states with deductions are Idaho, Massachusetts, Montana, and Virginia. Maryland has both a credit and a deduction.

⁶⁹One state — Montana — has offset this effect in part by providing a larger deduction of expenses for lower-income tax filers. Nonetheless, the Montana deduction provides the lowest maximum tax benefits of any CADC provision in the nation, for families at all income levels.

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or less. In two states with either partially refundable or nonrefundable credits — Louisiana (nonrefundable portion of the child care credit, nonrefundable portion of the school readiness credit, and household expense credit) and Oregon (CADC credit) — tax filers with a credit amount that cannot be used fully, because the amount exceeds tax liability in a particular year, may carry forward the unused portion of the credit to the next tax year.⁷³

Best Policy: State CADC tax provisions should be fully refundable.

3. Sliding Scales and Income Limits

States can further target CADC benefits to low-income tax filers through the use of sliding scales for determining the amount of benefits provided.

A sliding scale will produce a larger tax benefit for lower-income tax filers than for higher-income tax filers. For example, for CADC credits that are not tied to the federal credit, a sliding scale can reduce the proportion of employment-related care expenses that is claimed as the tax filer's income rises. For CADC credits that are a percentage of the federal credit, a sliding scale can reduce the proportion of the federal credit that is claimed as the tax filer's income rises, thereby providing additional targeting to that provided in the federal credit itself. Establishing a sliding scale requires decisions about the percentages that may be claimed for tax filers at different income levels and the income levels at which these different percentages apply.

Keeping the percentage as high as possible for the lowest-income tax filers ensures that they will receive meaningful assistance in meeting their CADC expenses.⁷⁴ This is especially important if a provision is calculated as a percentage of the federal credit, which itself reimburses only a maximum of 35% of CADC expenses. Thus, a state credit tied to the federal credit that provides the lowest-income tax filers with 100% of their federal CADC credit at best offsets only 35%

⁷³In Oregon, the CADC credit may be carried forward for up to five years. In Louisiana, the household expense credit may be carried forward, but only to the next succeeding tax year; the nonrefundable portion of the child care credit and the nonrefundable portion of the school readiness credit may be carried forward for up to five years. In Iowa, which has a refundable CADC credit, a tax filer must choose between a refund and carrying the credit forward to the next tax year.

⁷⁴As previously discussed, it is equally important for these tax filers that the CADC provision be refundable.

offsetting the amount of the tax filer's federal credit amount against the filer's state credit amount, effectively has a "reverse sliding scale." Since the filer's federal credit amount is higher for lower-income than higher-income families, the New Mexico credit is reduced more for lower-income than higher-income families.

Some states phase out their CADC tax provisions, making them unavailable to tax filers whose income is above a certain level. The provisions of eleven states have such income limits, which range from a low of \$30,000 in Vermont (LICADC credit⁷⁸) to a high of \$100,000 in California and Oklahoma.⁷⁹ The states that have provided greater amounts of assistance to lower-income families have tended to impose income limits, presumably to conserve resources that would otherwise be spent on higher-income families.⁸⁰ Of the seven states whose maximum CADC tax benefits are greater than \$1,400,⁸¹ four have income limits.⁸² And of the thirteen states with refundable credits,⁸³ seven have income limits.⁸⁴ However, an income limit runs counter to the principle that employment-related care expenses are a genuine, legitimate work expense for all families and undermines the ability of the CADC tax provision to promote equity for women and tax equity between families with and without employment-related care expenses. In addition, an upper limit set too low denies assistance to families for whom employment-related care expenses use up a significant portion of family income. Presumably in recognition of these considerations, most states with CADC provisions do not have an income limit.⁸⁵

⁷⁸Vermont's LICADC credit has an income limit of \$30,000 for single tax filers but \$40,000 for married tax filers. New Mexico's CADC credit has the lowest income limit for all tax filers, at \$30,160.

⁷⁹The states with income limits are California, Colorado, Iowa, Maryland (credit), Minnesota, Montana, New Mexico, Ohio, Oklahoma, Oregon (both credits), and Vermont (LICADC credit). The income limit in four of the eleven states – California, Colorado, Maryland (credit) and Oklahoma – is \$50,000 or higher; the income limit in the remaining seven states is \$45,000 or less, except that the Oregon WFCC credit limit, set at 250% of the federal poverty level, ranges from \$27,100 for a one-person household to \$92,550 for an eight-person household. Although Louisiana does not have an income limit for any of its three credits, tax filers whose federal AGI exceeds \$60,000 may receive, at most, only \$25 from the state's child care credit.

⁸⁰Only three states that target assistance to lower-income families through their own sliding scale do not have income limits — Hawaii, New York and North Carolina.

⁸¹These states are Iowa, Louisiana (school readiness credit and household expense credit), Minnesota, Nebraska, New York, Ohio, Oregon (both credits). All of these states provide greater assistance to lower-income than higher-income families.

⁸²These states are Iowa, Minnesota, Ohio, and Oregon (both credits).

⁸³These states are Arkansas (early childhood program credit), California, Colorado, Hawaii, Iowa, Louisiana (child care credit and school readiness credit), Maine, Minnesota, Nebraska, New Mexico, New York, Oregon (WFCC credit), and Vermont (LICADC credit).

⁸⁴These states are California, Colorado, Iowa, Minnesota, New Mexico, Oregon (WFCC credit), and Vermont (LICADC credit). As previously described, Louisiana limits its child care credit to \$25 for tax filers whose federal AGI exceeds \$60,000.

⁸⁵These states are Arkansas (both credits), Delaware, District of Columbia, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana (all three credits), Maine, Massachusetts, Nebraska, New York, North Carolina, Rhode Island, South Carolina, and Virginia. Maryland has a limit for its credit but not its deduction; Vermont has a limit for its LICADC credit but not its CADC credit.

***Best Policy:** State CADC provisions should use sliding scales with the highest possible percentage reimbursements for the lowest-income families to target a greater amount of benefit to lower-income families. However, middle- and even higher-income families with employment-related care expenses should be eligible for some tax benefit. Income limits should not be so stringent that they do not assist families for whom employment-related care expenses are a significant burden.*

D. Coverage for Both Children and Adults

Although child care expenses are probably the most common employment-related care expenses, many families incur employment-related care expenses for adults — for instance, older children, spouses, or parents who are incapable of self-care — that can be as great if not greater than expenses for child care. Of the twenty-five states that calculate their CADC state credit or deduction based on the federal CADC credit, twenty-two incorporate its coverage for care-related expenses for spouses and dependents who are incapable of self-care, as well as children.⁸⁶ Of the remaining three states, one — Louisiana — provides separate credits and credit amounts for expenses for children and dependents incapable of self-care;⁸⁷ one — Colorado — expressly limits its credit to child care expenses; and one — Oklahoma⁸⁸ — is ambiguous. Of the four states whose relevant provisions are independent of the federal provision, two — New Mexico and Oregon (WFCC credit) — limit coverage to care expenses for children;⁸⁹ the other two

⁸⁶These states are Arkansas (CADC credit), California, Delaware, District of Columbia, Georgia, Idaho, Iowa, Kansas, Kentucky, Maine, Maryland (credit and deduction), Massachusetts, Minnesota, Nebraska, New York, North Carolina, Ohio, Oregon (CADC credit), Rhode Island, South Carolina, Vermont (both credits), and Virginia. Arkansas limits its early childhood program credit to expenses for care for children under age six and Maine limits the increase in its CADC credit to expenses for child care. North Carolina, in recognition of the higher cost of care for adults and younger children, provides higher benefits for children under age seven and adults who are incapable of self-care than it does for children ages seven through twelve.

⁸⁷Both Louisiana's child care credit and school readiness credit cover only child care expenses, the latter only for care for children under age six; Louisiana's household expense credit covers care expenses for dependents physically or mentally incapable of self-care.

⁸⁸The Oklahoma statute refers to a "credit" of 20% of "the [federal] credit for child care expenses." Oklahoma's tax form and similar language in the instructions direct the tax filer to take a percentage of the "[f]ederal child care credit" but do not indicate how or whether any portion of that credit attributable to expenses incurred for adult dependent care must be excluded.

⁸⁹As noted above, Oregon's CADC credit covers expenses for both children and spouses and dependents incapable of self-care.

— Hawaii and Montana⁹⁰ — like the federal provision, cover care expenses for spouses and dependents incapable of self-care as well.

In three states that in their statutes expressly cover expenses for both children and adults, the tax forms, the instructions, or both refer to the provision as a “child care” credit.⁹¹ This label could mislead tax filers with expenses for employment-related care of adults, who may assume that the provision covers only child care expenses and skip over it. To avoid confusion in this regard, tax forms and instructions should state clearly that expenses for both adult care and child care are covered.⁹²

⁹⁰The Montana statute is unclear whether its coverage of expenses for spouses and dependents incapable of self-care is limited to expenses that are incurred for care in the tax filer’s home. However, the Montana tax form and instructions make no distinction between in-home and out-of-home care for either children or individuals incapable of self-care.

⁹¹These states are Arkansas (CADC credit), Delaware, and Maine. In Arkansas, the early childhood program credit, but not the CADC credit, covers only expenses for child care and in Maine, part—but not all—of the credit covers only expenses for child care. *See infra* Section IV-F.

⁹²A corollary problem is that in Arkansas (early childhood program credit), Louisiana (nonrefundable portion of child care credit and nonrefundable portion of school readiness credit) and New Mexico — three of the four states in which the CADC provisions only cover child care expenses, but the credit amounts are calculated by reference to the federal credit — the authorizing statutes and tax forms and instructions do not make clear whether the state provision is calculated based on a federal credit amount that only includes child care expenses or a federal credit amount that also includes adult care expenses. In Arkansas, the statute describes the early childhood program credit as available for care expenses for children under age six in an “approved child care facility,” calculated as “twenty percent (20%) of the federal child care credit as allowed under Section 21 of the Internal Revenue Code....” The instructions to the tax form similarly direct the filer to calculate the early childhood program credit as “20 percent of the [f]ederal [c]hild [c]are credit....” In both cases the federal credit amount may include care expenses for individuals not covered by the Arkansas early childhood program credit — children under age six not in an approved child care facility, older children, and/or spouses and dependents incapable of self-care. In Louisiana, the statute describes the child care credit as available “for child care expenses for which a resident individual is eligible pursuant to the federal income tax credit provided by Internal Revenue Code Section 21....” The instructions to the tax form direct the filer to calculate the refundable portion of the child care credit by taking a specified percentage of the expenses for the care of “a child under age 13...,” which clearly excludes other care expenses. However, the instructions direct filers to calculate the nonrefundable portion of the child care credit by entering “the [f]ederal [c]hild [c]are [c]redit from Federal Form 1040, line 48, or from Federal Form 1040A, line 29,” an amount that may include expenses for both child care and the care of spouses or dependents incapable of self-care. The Louisiana statute describes the school readiness credit as available for “child care expenses” for children under age six in a child care facility that has achieved a specified rating under the state’s quality rating system. The instructions direct the filer to calculate the refundable portion of the school readiness credit by multiplying the amount of the filer’s refundable state child care credit by the applicable percentage (based on the quality rating of the facility), and then multiplying that amount by the number of eligible children. Although the state child care credit amount used for this calculation only includes child care expenses, as described above, it could include expenses for children not eligible for the school readiness credit. In addition, the instructions to the tax form direct the filer to calculate the nonrefundable portion of the school readiness credit by multiplying the amount of the filer’s nonrefundable state child care credit by the applicable percentage (based on the quality rating of the facility), and then multiplying that amount by the number of eligible children. In this instance, however, as described above, the nonrefundable state child care credit amount may include not only expenses for children not eligible for the school readiness credit, but also expenses for spouses and dependents incapable of self-care. (For a description of Louisiana’s household expense credit, which similarly does not make clear whether it is calculated based on a federal credit that only includes expenses for dependents incapable of self-care, *see infra* note 115.) In New Mexico, the statute directs the tax filer to offset against the state credit for “child care expenses” the amount of “the federal credit for child and dependent care expenses the tax [filer] is able to deduct from federal tax liability.” The instructions and similar language in the tax form direct the filer to “enter the amount of the federal child care credit... claimed.” In both cases, the federal credit amount may include care expenses for spouses or dependents incapable of self-care.

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unt on line 22 (see page 24).									
dent care expenses. Attach Schedule 2.									
the disabled. Attach Schedule 3.									
Form 8839.									
24c. These are your total credits.									
e 23. If line 24d is more than line 23,									
credit payments from Form(s) W-2.									
taxes. Attach Schedule H.									
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All state CADC tax provisions, like the federal credit, cover child care expenses for children under a particular age. The federal age limit of thirteen applies in all but two of the states with CADC tax provisions linked to the federal credit.⁹³ Of the four states whose relevant provisions are independent of the federal credit, two cover expenses for children under age thirteen; the other two cover expenses for children under age fifteen.⁹⁴ Provisions that cover dependents who are incapable of self-care also apply to children above the age limit with this level of incapacity.⁹⁵

Best Policy: State CADC tax provisions should cover care for both children and individuals incapable of self-care, and tax forms and instructions should be clear about the coverage.

E. Expense Limits

Only Oregon's WFCC credit does not place an absolute dollar limit on the amount of expenses a tax filer may claim. All other state CADC tax provisions, like the federal CADC credit, limit the amount of expenses. This reduces the cost of the provision to the state and in a sense is another way of targeting assistance to lower-income families, since only families with higher incomes can afford to incur relatively higher care expenses.⁹⁶

However, it is very important that expense limits be realistic in terms of the cost of care. Otherwise, families may receive no assistance for many of their expenses, which undercuts the effectiveness of the tax provision in providing meaningful assistance and reducing tax inequity between families with CADC expenses and families without such expenses.⁹⁷ Even picking a limit that corresponds to the average cost of care in the state may be too low, because that leaves many tax filers who have employment-related care expenses with uncovered expenses. Furthermore, an expense limit that is too low may push families in the direction of lower-quality care.

⁹³As previously described, Arkansas' early childhood program credit and Louisiana's school readiness credit cover only specified child care expenses for children under age six, but Arkansas' CADC credit and Louisiana's child care credit cover expenses for children under age thirteen.

⁹⁴Hawaii and Oregon (WFCC credit) cover expenses for children under age thirteen; New Mexico and Montana cover expenses for children under age fifteen.

⁹⁵Oregon's WFCC credit, which only covers children, includes disabled children under its own definition of disability, which in some instances requires a child to be under age nineteen.

⁹⁶Indeed, it may be more important for low-income families that the percentage of expenses that may be claimed is high than that the expense limits are high. See *supra* Section IV-C-3.

⁹⁷This is especially true if the provision offsets only a low percentage of such expenses.

States whose CADC provisions are linked to the federal credit generally incorporate its expense limits of \$3,000 for one child or dependent and \$6,000 for two or more such individuals,⁹⁸ less than the average cost of care.⁹⁹ The states whose relevant provisions are independent of the federal credit, except Oregon's WFCC credit, are not better in this regard; Hawaii limits expenses to \$2,400 for one child or dependent and \$4,800 for two or more children or dependents; Montana limits expenses to \$2,400 for one child or dependent, \$3,600 for two children or dependents, and \$4,800 for three or more children or dependents, reduced by one-half of the tax filer's adjusted gross income over \$18,000;¹⁰⁰ and New Mexico limits expenses to \$8.00 per day, per child.¹⁰¹

⁹⁸As previously described, EGTRRA increased the federal expense limits to \$3,000 for one child or dependent and \$6,000 for two or more children or dependents, beginning in tax year 2003 (but, unless extended beyond the TRUIRJA extension, expiring after tax year 2012), thereby automatically increasing the expense limits in most states linked to the federal credit. However, the expense limits of three states linked to the federal credit were not affected by this increase because they were expressly not the same as the federal limits. The expense limits for Massachusetts' deduction were not affected because they were (and still are) higher than the federal credit expense limits – \$4,800 for one child or dependent and \$9,600 for two or more children or dependents. The expense limits for the Arkansas early childhood program credit were also not affected, because they were (and still are) linked to the federal credit in effect on January 1, 1993, when the limits were \$2,400 for one child or dependent and \$4,800 for two or more children or dependents, although, as previously described, the Arkansas tax forms and instructions treat the expense limits for this credit, which only covers certain child care expenses, as if they were the same as the limits for the Arkansas CADC credit – \$3,000 for one child or dependent and \$6,000 for two or more children or dependents. The expense limits for North Carolina's credit were not affected because they were lower than the federal expense limits – \$2,400 for one child or dependent and \$4,800 for two or more children or dependents – but, effective for tax year 2006, North Carolina raised its limits to the federal limits.

⁹⁹See *Parents and the High Cost of Child Care*, *supra* note 4; *MetLife National Study of Adult Day Services*, *supra* note 6. Minnesota permits some tax filers to claim its CADC credit based on “deemed” expenses. Licensed family child care home operators may claim the CADC credit for their own children, cared for in their family child care home, even if they have not incurred actual employment-related expenses for that care. The child must be under age six; if the child is sixteen months of age or younger, the amount of expenses deemed to have been paid is \$3,000, and if the child is older than sixteen months of age but under age six, the amount of expenses deemed to have been paid is the amount the licensee would charge for the care of a child of the same age for the same number of hours. In addition, married couples may claim the Minnesota CADC credit based on deemed expenses of the lesser of \$3,000 or the couple's combined earned income for a child under age one at the end of the tax year, even if the couple has not incurred actual employment-related expenses for that child.

¹⁰⁰Montana, similar to Minnesota, permits licensed and registered operators of family child care or group child care homes to claim its CADC deduction for their own children cared for with “at least one unrelated child in the ordinary course of business,” based on deemed expenses. The deemed amount is the amount the operator charges for the care of a child of the same age for the same number of hours, subject to the expense limits of Montana's deduction.

¹⁰¹Some states, whether they are linked to the federal credit or not, impose additional restrictions on expenses. For example, California, New Mexico and Vermont (LICADC credit) require that the expenses be incurred in their respective states; South Carolina requires that the expenses be “directly attributable to items of South Carolina gross income,” although the state's tax forms and instructions do not include this limitation.

Best Policy: *Expense limits in state CADC tax provisions should at least reflect the average costs of good-quality care in the state.*

F. Quality of Care Requirements

Families have different preferences with regard to the care arrangements that meet their employment-related needs, but presumably all would like the care to be of high quality. As previously described, the federal credit imposes some minimum quality standards by requiring that expenses paid to a dependent care center are covered only if the center meets applicable state and local laws.¹⁰² This requirement is incorporated into the provisions of most of the states that link their CADC provisions to the federal credit.¹⁰³ Of the states with independent CADC provisions, only Hawaii has a similar limitation.

Four states whose provisions are linked to the federal CADC credit have done more to encourage higher-quality care, although three of these states have limited their quality enhancements to child care.

Arkansas' refundable early childhood program credit covers care expenses for children under age six in an "approved child care facility" with an "appropriate early childhood program," which is defined as a "developmentally appropriate program for young children, . . . approved by the Department of Education as complying with the regulatory guidelines" of the Department of Human Services and the Department of Education. The Arkansas approach, because of its age limitation, affects only a portion of children — and no spouses or dependents incapable of self-care — receiving employment-related care. It also does not help families meet the higher cost of higher-quality care by providing them with a higher credit amount than Arkansas' CADC credit; indeed, as previously described, because the Arkansas early childhood program credit is linked to the federal CADC credit in effect in 1993, the changes in EGTRRA did not increase its value as they did the value of the Arkansas CADC credit. Accordingly, the maximum value of the early

¹⁰²The effectiveness of this provision depends on the adequacy of the laws and regulations of each state and local area.

¹⁰³Arkansas' early childhood program credit, Louisiana's school readiness credit, Maine's higher credit for "quality child care services," and Vermont's LICADC credit have their own quality standards, described in more detail below.

childhood program credit is *lower* — \$288 — than the maximum value of the CADC credit — \$420.¹⁰⁴

Maine, in contrast, permits a doubling of its partially refundable credit (from 25% to 50% of the federal CADC credit) for expenses for “quality child care services,” which are defined as services for care provided at a child care site that meets minimum licensing standards; is accredited by an independent, nationally recognized program approved by the Maine Department of Health and Human Services, Office of Child Care and Head Start; utilizes recognized quality care indicators for child care services approved by the Maine Department of Health and Human Services, Office of Child Care and Head Start; and includes provisions for parent and client input, a review of the provider’s policies and procedures, a review of the provider’s program records, and an on-site program review. Although Maine’s provision is broader in its application and clearer in its quality requirements than Arkansas’ provision, it, too, only covers child care.¹⁰⁵

Vermont, like Arkansas, targets its provision to encourage high-quality care to lower-income tax filers and, like Maine, does so by providing filers who use such care with a higher credit amount. Filers eligible for Vermont’s LICADC credit receive a refundable credit calculated at 50% of the federal credit, more than double Vermont’s CADC credit of 24% of the federal credit. Moreover, Vermont’s LICADC credit, unlike Arkansas’ and Maine’s quality-enhancing credits, covers care expenses for both children and adult dependents. The expenses must be for care provided in a “registered home or licensed facility certified by the agency of human services as meeting national accreditation or national credential standards endorsed by the agency,” and the tax filer must have federal adjusted gross income below \$30,000, if single, or \$40,000, if married. Tax filers who are eligible for both Vermont’s LICADC credit and Vermont’s CADC credit must choose between the

¹⁰⁴ Although this distinction is clear in the statute, as previously described, the Arkansas tax forms and instructions allow eligible tax filers to claim a \$420 maximum credit amount for the CADC credit and a \$420 maximum credit amount for the early childhood program credit. *See supra* note 64. In addition, as also previously described, although the Arkansas statute provides that eligible tax filers must choose between the CADC credit and the early childhood program credit, the Arkansas tax forms and instructions contain no such limitation, apparently permitting filers to claim both credits, and to claim them as a percentage of the federal CADC credit, although the latter credit is calculated by including expenses for care for both children and spouses and dependents incapable of self-care. *See supra* note 32. By effectively permitting tax filers eligible for both credits to claim both credits, and to claim the same maximum credit amounts for both credits, the Arkansas approach, in practice if not in law, helps families meet the higher cost of higher-quality care.

¹⁰⁵ The Maine tax forms and instructions make clear that the tax filer must use only the portion of the tax filer’s federal credit amount that is attributable to child care expenses that qualify for the Maine “quality child care” credit in calculating the higher state credit amount for quality child care services.

line 16.			
5 or older	<input type="checkbox"/> Blind	}	Enter in the appropriate box:
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Instruction for your filing status. But see instructions for 18b OR someone can claim you as a dependent if you are:		18b <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Head of household <input type="checkbox"/> Qualifying widow(er)	
19. If line 19 is more than line 17, enter the total number of exemptions claimed on line 19. If line 21 is more than line 20, enter the amount on line 22 (see page 24).		20. If line 21 is more than line 20, enter the amount on line 22 (see page 24).	
21. If line 21 is more than line 20, enter the amount on line 22 (see page 24).		22. If line 21 is more than line 20, enter the amount on line 22 (see page 24).	
23. If line 24d is more than line 23, enter the credit payments from Form(s) W-2 and Form(s) 1099. Attach Schedule H.		24. If line 24d is more than line 23, enter the credit payments from Form(s) W-2 and Form(s) 1099. Attach Schedule H.	
25. This is your total tax .		26. This is your total tax .	
27. withheld from Forms W-2 and 1099.		28. withheld from Forms W-2 and 1099.	
29. If line 29c is more than line 29b, enter the amount and amount applied from 1996 return.		30. If line 29c is more than line 29b, enter the amount and amount applied from 1996 return.	
31. Schedule EIC if you have a qualifying child.		32. Schedule EIC if you have a qualifying child.	
33. amount		34. amount	
35. These are your total payments .		36. These are your total payments .	
37. 28, subtract line 28 from line 29e. The amount is the amount you want refunded to you. If you want it refunded to you, enter the amount on line 31c, and 31d.		38. 28, subtract line 28 from line 29e. The amount is the amount you want refunded to you. If you want it refunded to you, enter the amount on line 31c, and 31d.	
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G. Indexing for Inflation

Some state CADC tax provisions include absolute dollar amounts for expense limits, sliding scale thresholds, and income limitations or maximum credit amounts. As discussed above in terms of the federal credit, failure to adjust these amounts to account for inflation erodes a provision's ability to provide adequate amounts of assistance to families with employment-related care expenses and to target greater benefits to the most needy families.

State provisions that are tied to the federal CADC credit are likely to have that credit's lack of indexing incorporated into their provisions. If a state adds additional sliding scales or income limitations, however, these provisions can be indexed. Only two state provisions include indexing requirements. Oregon's WFCC credit varies the percentage of expenses that may be claimed based on a household's federal poverty level, which is itself adjusted annually for inflation.¹¹¹ Minnesota adjusts its credit's income limitation annually for inflation.

Best Policy: Expense limits, sliding scale thresholds, income limits, and other similar numerical amounts in state CADC provisions should be indexed for inflation.

H. Forms

Many states in their tax forms and instructions highlight the availability of the CADC tax provision, making it easier for tax filers to claim the credit or deduction for which they qualify. Twenty states provide a separate line on the tax form for at least one of their CADC provisions, alerting even tax filers who do not carefully read the instructions to the provision's availability.¹¹² In contrast, the forms of

¹¹¹Oregon also indexes the earned income floor that determines eligibility for its WFCC credit, but in this instance indexing makes it harder for low-income families to claim the credit, since each year they must earn more to be eligible for its benefits.

¹¹²These states are Arkansas (both credits), California, Delaware, District of Columbia, Hawaii, Iowa, Kansas, Kentucky, Louisiana (child care credit and school readiness credit), Maine, Maryland (deduction), Massachusetts, Minnesota, Nebraska, New York, Oklahoma, Oregon (both credits), Rhode Island, South Carolina, and Vermont (LICADC credit). Maine, however, highlights only the increased CADC credit for quality child care services on its form and Maryland highlights the CADC deduction only on its resident tax form, not its nonresident form.

[illegible]

eleven states have a line for “credits,” “deductions,” or “subtractions” and refer the tax filer to a separate schedule on which credits, deductions, or subtractions may be claimed, only mentioning the CADC provision in either the separate schedule, the instructions, or both.¹¹³ This is problematic, especially for lower-income tax filers who often do not qualify for many credits or deductions and thus may not know to look in this section of the instructions to learn of their eligibility for the CADC provision.¹¹⁴ Although it may seem unrealistic to expect a state with many credits or deductions to single out its CADC provision for special attention, the vast majority of states have done so, presumably in recognition of the fact that a large number of tax filers are eligible for the provision.¹¹⁵

¹¹³These states are Colorado, Georgia, Idaho, Louisiana (household expense credit), Maryland (credit), Montana, New Mexico, North Carolina, Ohio, Vermont (CADC credit), and Virginia. As previously described, Maine includes its basic CADC credit on a line for credits generally, but highlights its increased CADC credit for quality child care services on a separate line. Montana, unlike the other states with deductions, provides that only tax filers who itemize deductions, rather than claim the standard deduction, may claim the CADC deduction, yet neither the forms nor the instructions highlight this requirement.

¹¹⁴This is especially problematic when a state has more than one CADC provision, or a provision that increases under certain circumstances, but provides a separate line on the tax form for only one of its provisions, as Louisiana does for its child care and school readiness credit but not its household expense credit, Maryland does for its deduction but not its credit, Vermont does for its LICADC but not its CADC credit, and Maine does for its increased but not its basic CADC credit.

¹⁵ An example of how a state's forms and instructions may mitigate against tax filers' claiming their CADC benefits is the treatment of Louisiana's household expense credit. The Louisiana statute states simply that "a person who maintains a household which includes one or more dependents who are physically or mentally incapable of caring for themselves may take as a credit against the state income tax...the full amount of a tax credit equal to the applicable percentage of employment-related expenses allowable pursuant to Section 21 of the Internal Revenue Code." The state tax form does not mention the credit. Instead it simply has a line for "other nonrefundable tax credits." The instructions list the credit for "household expenses for physically and mentally incapable persons" among forty-three nonrefundable credits that a taxpayer may claim, and state that the household expense credit may be claimed by a "person who maintains a household that includes one or more dependents who are physically or mentally incapable of caring for themselves." The only explanation of how to calculate the credit states that the credit is "equal to the applicable percentage of employment related expenses allowable pursuant to Section 21 of the Internal Revenue Code," but does not explain "Section 21 of the Internal Revenue Code" to the tax filer or provide any further information on the tax filer's eligibility for, or the amount of, the credit. (The Section 21 citation is to the federal CADC credit.) Since the household expense credit is worth as much as \$2,100 to the tax filer, and credit amounts not used in a particular year may be carried forward to the next succeeding tax year (but only that year), this failure to provide the tax filer with any useful information on the household expenses eligible for the credit or how to calculate the credit amount is particularly problematic. This is especially so when the treatment of the Louisiana household expense credit is compared to the treatment of the Louisiana child care credit and the school readiness credit on the same tax form. There are separate lines for entering the tax filer's "federal child care credit" amount (which is described as the amount that will be "used to calculate [the tax filer's] Louisiana [n]onrefundable [c]hild [c]are [c]redit"), the "refundable child care" credit, the "Louisiana refundable school readiness credit," the "nonrefundable child care credit," "the amount of Louisiana non-refundable child care credit carried forward [from the previous four years]," the "Louisiana nonrefundable school readiness credit," and the "amount of Louisiana nonrefundable school readiness credit carried forward from [the previous year]." The instructions also provide a worksheet and line-by-line instructions on how to calculate the child care credit and school readiness credit. However, as previously described, the tax forms and instructions for both the Louisiana nonrefundable child care and the Louisiana household expense credit do not make clear whether the credits are calculated based on a federal credit that only includes child care expenses, or a federal credit that may include both child care and adult care expenses. See *supra* note 92.

Some states, like the federal government,¹¹⁶ offer a short form for tax filers with relatively uncomplicated tax situations. Short forms are used primarily by tax filers with relatively low incomes.¹¹⁷ Fifteen states with CADC provisions have both long and short forms but only six of these states allow tax filers to claim the CADC credit or deduction on the short form.¹¹⁸ If a state has a short form, failure to include the CADC provision on the form may result in many eligible families, particularly lower-income families, not claiming CADC tax benefits for which they qualify.¹¹⁹

Best Policy: States should highlight CADC tax provisions in their forms and instructions and otherwise make it easy for tax filers to understand and claim CADC provisions for which they are eligible. If a state has a short form, tax filers should be able to claim the CADC provision on that form.

I. Filing Requirements for Married Couples

The federal government and most states generally require in their statutes or tax forms and instructions that a married couple file a joint return to be eligible

¹¹⁶The federal government has a long (1040), short (1040A) and EZ tax form. Tax filers may use the long or short form to claim the federal CADC credit. However, since the EZ form may only be used by tax filers not claiming children or other dependents, it may not be used to claim the federal CADC credit.

¹¹⁷For example, in tax year 2008, the most recent year for which data are available, the average AGI for federal tax filers using the short form 1040A was \$27,500, compared to \$81,600 for federal tax filers using the long form 1040. (Calculations by the National Women's Law Center based on Internal Revenue Service data in Michael Parisi, I.R.S., *Individual Income Tax Returns, Preliminary Data for 2008*, 29 Stat. of Income Bull. 14 tbl.1 (Winter 2010), available at <http://www.irs.gov/pub/irs-soi/10winbulindincrtpre.pdf>.)

¹¹⁸The six states that allow tax filers to claim the CADC provision on the short form are Arkansas (both credits), California, Hawaii, Montana, New York, and Oregon (both credits). (If a state has more than one short form, and allows tax filers to use at least one of these forms to claim the CADC provision, the state is counted as permitting filers to use a short form.) The states that have short forms but only allow tax filers to claim the CADC provision on the long form are Delaware, Iowa, Maine, Maryland (credit and deduction), Ohio, and Rhode Island. Montana requires married couples filing separately to use the long form. The remaining three states that have short forms only permit tax filers without children or dependents to use such forms — the District of Columbia, Georgia, and Kentucky. All states with personal income taxes allow tax filers to file their taxes electronically; electronic tax filers may use long or short forms, depending on the general requirements for use of these forms. Only one state with a CADC provision, Ohio, allows tax filers to “telefile” by telephone, and filers who do so may not claim the CADC credit.

¹¹⁹For example, in tax year 1983, the year the federal CADC credit was added to the short form 1040A, over 1.4 million additional tax filers claimed the credit. (Calculations by the National Women's Law Center based on Internal Revenue Service data for tax years 1982 and 1983.)

line 16.

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unt on line 22 (see page 24).

dent care expenses. Attach Schedule 2.
 the disabled. Attach Schedule 3.
 Form 8839.

24c. These are your total credits

e 23. If line 24d is more than line 23
 credit payments from Form(s) W-2
 taxes. Attach Schedule H.

7. This is your total tax.

withheld from Forms W-2 and 1099.
 ts and amount applied from 1996 return.
 Schedule EIC if you have a qualifying child.

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for the CADC tax credit or deduction.¹²⁰ Ten states, however, generally allow married couples to file separately (sometimes on the same tax return) and claim the CADC provision.¹²¹ Most of these states (and a few of the states that generally require married couples to file a joint return) have rules or procedures for married couples filing separately to prevent a couple from receiving the tax benefit twice.¹²² However, a few states' requirements as to how the CADC tax provision is to be split between the spouses when they file separately may unfairly reduce the total tax benefit the family receives. For instance, the tax credits of Delaware and New York require that when a couple files separately, the credit must be applied against the tax owed by the spouse with the lower income. When the credit is not refundable, as in Delaware, such a provision could result in partial or full loss of the credit, depending on the tax liability of the spouse with the smaller income. More reasonable approaches are those taken by New Mexico and Montana — whose provisions require the spouses to split the benefit evenly — and by Iowa and Kentucky¹²³ — whose provisions require the spouses to divide the benefit according to the ratio of their respective incomes to their combined income. The best approach is that of the District of Columbia, which allow spouses to divide the CADC provision in the way that maximizes their CADC tax benefit, as long as they receive the benefit only once. This approach is especially appropriate given that the federal credit and the state CADC provisions currently in effect leave many families with many uncovered expenses.

¹²⁰These states are California, Colorado, Georgia, Hawaii, Idaho, Kansas, Louisiana (all three credits), Maine, Maryland (credit and deduction) Minnesota, Nebraska, New York, Ohio, Oklahoma, Oregon (both credits), Rhode Island, South Carolina, Vermont (CADC credit), and Virginia. Usually these states make exceptions for certain separated couples and for couples in which one spouse was a nonresident or part-year resident, allowing these couples to file separately. The Vermont requirement applies equally to couples in a civil union, and the California and Oregon requirements apply equally to registered domestic partnerships.

¹²¹These states are Arkansas (both credits), Delaware, District of Columbia, Kentucky, Iowa, Massachusetts, Montana, New Mexico, North Carolina, and Vermont (LICADC credit). Massachusetts similarly permits same-sex married couples to file separately and claim the CADC deduction. In the District of Columbia, married couples and registered domestic partners must either file jointly or separately on the same form to claim the CADC credit; in Montana, married couples must either file jointly or separately on the same form to claim the CADC deduction.

¹²²These states are Arkansas (both credits), Delaware, District of Columbia, Kentucky, Iowa, Maryland (credit), Massachusetts, Montana, New Mexico, and New York. In Arkansas, it is unclear whether these rules or procedures apply to married couples filing on separate returns; in Maryland (deduction) and Virginia, it is unclear whether the states' general requirements for preventing married couples filing separately from receiving a tax benefit twice apply to the CADC provision.

¹²³The Kentucky tax forms and instructions for residents, however, do not include this requirement, in contrast to the nonresident/part-year resident forms and instructions.

***Best Policy:** State CADC tax provisions should permit married couples to split the credit or deduction in the way that maximizes their benefit.*

J. Residency

Eleven states limit at least one of their CADC provision to residents — the District of Columbia,¹²⁴ Colorado, Delaware, Hawaii, Kansas, Kentucky, Louisiana (child care credit), Nebraska, New Mexico, Oklahoma,¹²⁵ and Vermont (LICADC credit) — with many of these states allowing part-year residents to apportion the amount of the credit or deduction based either on the time lived in the state or the income earned in the state, or more roughly, by offsetting the taxes due in the state by taxes paid in another state. Nineteen states allow nonresidents to claim at least one of their CADC provisions — Arkansas (both credits),¹²⁶ California,¹²⁷ Georgia, Idaho, Iowa, Louisiana (school readiness credit and household expense credit), Maine, Maryland (credit and deduction), Massachusetts, Minnesota, Montana, New York,¹²⁹ North Carolina, Ohio, Oregon (both credits), Rhode Island, South Carolina,¹³⁰ Vermont (CADC credit), and Virginia — with many of these states providing for some apportionment of the amount of the credit or deduction based on income earned in the state. A reasonable approach is to allow part-year residents and nonresidents to take the CADC credit or deduction, apportioned based on income earned in the state.

¹²⁴The District of Columbia limits its income tax to residents, thereby limiting its CADC credit also to residents.

¹²⁵In Oklahoma, the credit is available to nonresident members of the Armed Forces.

¹²⁶Because the care eligible for the Arkansas early childhood program credit has to be in a program approved by the state Department of Education, it may be difficult for nonresidents to claim this credit.

¹²⁷Because the care eligible for the California credit must be provided in California, and the credit only may be claimed to the extent the tax filer has California earned income, it may not be easy for nonresidents to claim the credit.

¹²⁸Because the care eligible for the Louisiana school readiness credit has to be at a facility rated by the state's quality rating system, it may be difficult for nonresidents to claim this credit.

¹²⁹New York limits nonresidents to a nonrefundable credit; only residents are eligible for a refundable credit, with the credit amount based on time of residency in the state.

¹³⁰South Carolina allows nonresidents to claim the credit if they are residents of a state that would allow South Carolinians to take a CADC credit or deduction.

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e 17. If line 19 is more than line 17, enter
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dent care expenses. Attach Schedule 2.
 the disabled. Attach Schedule 3.
 Form 8839.

24c. These are your **total credits**.

e 23. If line 24d is more than line 23, enter
 credit payments from Form(s) W-2.
 taxes. Attach Schedule H.

7. This is your **total tax**.

withheld from Forms W-2 and 1099. 25
 ts and amount applied from 1996 return. 26
 Schedule EIC if you have a qualifying child. 28
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***Best Policy:** State CADC tax provisions should provide explicitly that eligibility is not limited to full-year residents; states may want to prorate benefits for part-year residents and non-residents.*

V. Conclusion

Carefully drafted state child and dependent care tax provisions can help many families with employment-related care expenses, promote equity for women, and enhance tax equity. In general, the most effective provisions are refundable credits that target much of their assistance to lower-income families.

Appendix A

State Child and Dependent Care Tax Provisions: Tax Year 2010

State	Basic Provision	Eligible Expenses	Refundable	Maximum: One Child/ Dependent	Maximum: Two or More Children/ Dependents
AR	A <i>credit</i> of 20% of the “allowable” ¹³¹ federal CADC credit ¹³² “in effect on January 1, 2007.”	Expenses eligible for the federal CADC credit.	No	\$210	\$420
AR (cont’d)	A <i>credit</i> of 20% of the “allowed” federal “child care credit” in effect on January 1, 1993, ¹³³ for care for a child under age six in an “approved child care facility.” ¹³⁴	Expenses eligible for the federal CADC credit. ¹³⁵	Yes	\$210	\$420

¹³¹When 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.

¹³²The 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.

¹³³The 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 CADC credit, but not this “early childhood program” credit. The date distinctions in the Arkansas statute are not reflected in the Arkansas tax forms or instructions for tax year 2010, however, which direct a tax filer to calculate this credit based on “the [f]ederal [c]hild [c]are [c]redit.” In addition, although the Arkansas statute states that an eligible tax filer may claim either this credit or the state’s other CADC credit, the Arkansas tax forms and instructions for 2010 tax year also do not contain this limitation.

¹³⁴An “approved child care facility” is defined as one that provides an “appropriate early childhood program,” which is itself defined as a “developmentally appropriate program for young children...approved by the Department of Education as complying with the regulatory guidelines” of the Department of Human Services and the Department of Education.

¹³⁵It is unclear from the Arkansas statute whether this credit is calculated as a percentage of the federal CADC only for child care expenses (or only for child care expenses for a child under age six), but the Arkansas tax forms and instructions for 2010 instruct the tax filer to calculate it as a percentage of the federal credit without such limitations.

Appendix A (Continued)

State	Basic Provision	Eligible Expenses	Refundable	Maximum: One Child/ Dependent	Maximum: Two or More Children/ Dependents
CA	A <i>credit</i> of a specified percentage of the “allowable” ¹³⁶ federal CADC credit as follows: <ul style="list-style-type: none"> • 50% if federal AGI¹³⁷ is \$40,000 or less • 43% if federal AGI is \$40,001–\$70,000 • 34% if federal AGI is \$70,001–\$100,000. No credit is allowed if federal AGI exceeds \$100,000.	Expenses eligible for the federal CADC credit except that the expenses must be incurred for care provided in California.	Yes	\$525	\$1,050
CO	A <i>credit</i> of a specified percentage of the federal CADC credit for “child care” expenses “claimed” as follows: <ul style="list-style-type: none"> • 50% if federal AGI is \$25,000 or less • 30% if federal AGI is \$25,001–\$35,000 • 10% if federal AGI is \$35,001–\$60,000. No credit is allowed if federal AGI exceeds \$60,000.	Child care expenses eligible for the federal CADC credit.	Yes	\$525	\$1,050
DE	A <i>credit</i> of 50% of the “allowable” federal CADC credit.	Expenses eligible for the federal CADC credit.	No	\$525	\$1,050
DC	A <i>credit</i> of 32% of the “allowed” ¹³⁸ federal CADC credit.	Expenses eligible for the federal CADC credit.	No	\$336	\$672
GA	A <i>credit</i> of 30% of the “claimed and allowed” federal CADC credit.	Expenses eligible for the federal CADC credit.	No	\$315	\$630
HI	A <i>credit</i> of a specified percentage of eligible expenses as follows: <ul style="list-style-type: none"> • 25% if Hawaii AGI is \$22,000 or less • 25%, reduced (but not below 15%) by one percentage point for every \$2,000 (or fraction thereof) by which AGI exceeds \$22,000 but is no more than \$40,000 • 15% if Hawaii AGI exceeds \$40,000. 	Expenses eligible for the federal CADC credit, except that expenses are limited to \$2,400 for one child or dependent and \$4,800 for two or more children or dependents. ¹³⁹	Yes	\$600	\$1,200

¹³⁶The 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.”

¹³⁷AGI is adjusted gross income.

¹³⁸The District of Columbia statute expressly states that the D.C. credit is based on the amount of the federal credit allowed, “regardless of the amount of the credit actually used to offset federal tax liability.”

¹³⁹Hawaii’s provision is independent of the federal credit but covers the same expenses as the federal credit, except for its dollar limitations, and for that reason its expenses are not set forth separately here.

Appendix A (Continued)

State	Basic Provision	Eligible Expenses	Refundable	Maximum: One Child/ Dependent	Maximum: Two or More Children/ Dependents
ID	A <i>deduction</i> ¹⁴⁰ of expenses eligible for the federal CADC credit.	Expenses eligible for the federal CADC credit.	No	\$234	\$468
IA	A <i>credit</i> of a specified percentage of the “provided” federal CADC credit for “child care expenses” as follows: <ul style="list-style-type: none"> • 75% if Iowa net income is less than \$10,000 • 65% if Iowa net income is \$10,000–\$19,999 • 55% if Iowa net income is \$20,000–\$24,999 • 50% if Iowa net income is \$25,000–\$34,999 • 40% if Iowa net income is \$35,000–\$39,999 • 30% if Iowa net income is \$40,000–\$44,999. No credit is allowed if Iowa net income is \$45,000 or more. ¹⁴¹	Expenses eligible for the federal CADC credit.	Yes	\$788	\$1,575
KS	A <i>credit</i> of 25% of the “allowed” ¹⁴² federal CADC credit.	Expenses eligible for the federal CADC credit.	No	\$263	\$525
KY	A <i>credit</i> of 20% of the “allowed” federal CADC credit.	Expenses eligible for the federal CADC credit.	No	\$210	\$420
LA	A <i>credit</i> of a specified percentage of the federal CADC credit for “child care expenses” ¹⁴³ as follows: <ul style="list-style-type: none"> • 50% if federal AGI is \$25,000 or less • 30% if federal AGI is \$25,001–\$35,000 • 10% if federal AGI is \$35,001–\$60,000, but no more than \$25 if federal AGI exceeds \$60,000. 	Expenses eligible for federal CADC credit. ¹⁴⁴	Yes, if federal AGI is \$25,000 or less. ¹⁴⁵	\$525	\$1,050

¹⁴⁰Idaho’s top tax rate is 7.8%.

¹⁴¹Eligible tax filers may claim either this credit or Iowa’s refundable “early childhood development credit,” but not both. The early childhood development credit is equal to 25% of the first \$1,000 of “early childhood development expenses” for children ages three through five, without regard to whether the expenses are employment-related. “Early childhood development expenses” are expenses incurred for “services provided to a dependent by a preschool..., materials, and other activities,” including books, instructional materials, lesson plans and activities. No early childhood development credit is allowed if Iowa net income is \$45,000 or more. A tax filer eligible for both credits will usually find the CADC credit more valuable.

¹⁴²The Kansas statute expressly states that the state credit is based on the amount of the federal credit allowed “against such [tax filer’s] federal income tax liability.”

¹⁴³The Louisiana statute expressly states that this “child care” credit for tax filers with federal AGI of \$25,000 or less is calculated based on the federal credit “before it is reduced by the amount of the individual’s federal income tax,” and without regard to whether the filer claimed the federal credit. For filers with federal AGI over \$25,000, the credit is calculated based on the federal credit after it is reduced by the amount of the individual’s federal income tax.

¹⁴⁴For the refundable portion of the child care credit, the Louisiana tax forms and instructions for tax year 2010 direct the tax filer to calculate the credit amount using expenses incurred for the care of a child under age thirteen. However, for the nonrefundable portion of the credit, the Louisiana tax forms and instructions for tax year 2010 direct the filer to calculate the credit amount based on the federal CADC credit, although the federal credit amount may include expenses for spouses and dependents incapable of self-care.

¹⁴⁵For tax filers with AGI over \$25,000, if the credit exceeds the income tax due, the unused amount of the credit may be carried forward as a credit against tax liability in subsequent years, for up to five years.

Appendix A (Continued)

State	Basic Provision	Eligible Expenses	Refundable	Maximum: One Child/ Dependent	Maximum: Two or More Children/ Dependents
LA (cont'd)	A <i>credit</i> of a specified percentage of the state child care credit ¹⁴⁶ for care for a child under age six at a child care facility rated two stars or higher by the state quality rating system ¹⁴⁷ as follows: •200% if a five-star facility •150% if a four-star facility •100% if a three-star facility •50% if a two-star facility. ¹⁴⁸	Expenses eligible for the federal CADC credit. ¹⁴⁹	Yes, if federal AGI is \$25,000 or less. ¹⁵⁰	\$1,050	\$2,100 ¹⁵¹
LA (cont'd)	A <i>credit</i> for care for “dependents... physically or mentally incapable of [self-care]” equal to the applicable percentage of expenses allowable for the federal CADC credit. ¹⁵²	Expenses eligible for the federal CADC credit. ¹⁵³	No ¹⁵⁴	\$1,050	\$2,100

¹⁴⁶As described above, the state child care credit on which this “school readiness” credit is calculated is based on the amount of the federal credit unreduced by the tax filer’s federal tax liability only if the filer’s federal AGI is \$25,000 or less.

¹⁴⁷The school readiness credit is one of four partially refundable Louisiana school readiness tax credits whose amounts are calculated based on expenses incurred at a facility with at least a two-star rating under the state’s quality rating system. In addition to the credit that individual tax filers may claim described here, a second credit is available to the owners of child care facilities with the requisite rating; a third credit is available to businesses that support child care facilities with the requisite rating and/or resource and referral agencies; and a fourth credit is available to directors and staff employed at a child care facility participating in the quality rating system who have at least a “level-one qualification,” as defined by the Department of Social Services.

¹⁴⁸Eligible tax filers may claim both the school readiness credit and the Louisiana child care credit.

¹⁴⁹For the refundable portion of the school readiness credit, the Louisiana tax form and instructions for tax year 2010 direct the tax filer to calculate the credit amount based on the state child care credit amount, which may include expenses for the care of a child who is age six and older, but not expenses for a spouse or dependent incapable of self-care. For the nonrefundable portion of the school readiness credit, the Louisiana tax forms and instructions for tax year 2010 direct the filer to calculate the credit amount based on the state child care credit, which may include expenses not only for the care of a child age six and older but also for a spouse or dependent incapable of self-care.

¹⁵⁰For taxpayers with AGI over \$25,000, if the school readiness credit exceeds the income tax due, the unused amount of the credit may be carried forward as a credit against tax liability in subsequent years, for up to five years.

¹⁵¹Because tax filers with more than one child eligible for the school readiness credit may calculate the credit of each child separately, the maximum credit amount could be higher than \$2,100.

¹⁵²Eligible tax filers may claim the Louisiana child care credit, school readiness credit and this “household expense” credit.

¹⁵³The Louisiana tax forms and instructions for tax year 2010 do not make clear whether the tax filer should use only the portion of the federal credit for expenses for dependents incapable of self-care, or a portion that may include child care expenses, to calculate the household expense credit.

¹⁵⁴If the credit exceeds the income tax due, the unused amount of the credit may be carried forward as a credit against tax liability for the next succeeding tax year.

Appendix A (Continued)

State	Basic Provision	Eligible Expenses	Refundable	Maximum: One Child/ Dependent	Maximum: Two or More Children/ Dependents
ME	A <i>credit</i> of 25% of the “allowable” federal CADC credit, increasing to 50% for “quality child care services.” ¹⁵⁵	Expenses eligible for the federal CADC credit, except that only expenses for “quality child care services” are eligible for the higher credit amount.	Yes, up to \$500	\$525	\$1,050
MD	A <i>deduction</i> ¹⁵⁶ of expenses up to the dollar amount of expenses allowed under the federal CADC credit.	Expenses eligible for the federal CADC credit.	No	\$188	\$375
MD (cont'd)	A credit of a specified percentage of the federal CADC credit “properly claimed” as follows: <ul style="list-style-type: none"> • 32.5% if federal AGI is \$41,000 or less • 29.25% if federal AGI is \$41,001–\$42,000 • 26.0% if federal AGI is \$42,001–\$43,000 • 22.75% if federal AGI is \$43,001–\$44,000 • 19.5% if federal AGI is \$44,001–\$45,000 • 16.25% if federal AGI is \$45,001–\$46,000 • 13.0% if federal AGI is \$46,001–\$47,000 • 9.75% if federal AGI is \$47,001–\$48,000 • 6.50% if federal AGI is \$48,001–\$49,000 • 3.25% if federal AGI is \$49,001–\$50,000. No credit is allowed if federal AGI exceeds \$50,000. ¹⁵⁷	Expenses eligible for the federal CADC credit.	No	\$341	\$683
MA	A <i>deduction</i> ¹⁵⁸ of eligible expenses. ¹⁵⁹	Expenses eligible for the federal CADC credit, except that expenses are limited to \$4,800 for one child or dependent and \$9,600 for two or more children or dependents.	No	\$254	\$509

¹⁵⁵“Quality child care services” are defined as services for care provided at a child care site that meets minimum licensing standards; is accredited by an independent, nationally recognized program approved by the Maine Department of Health and Human Services, Office of Child Care and Head Start; utilizes recognized quality indicators for child care services approved by the Maine Department of Health and Human Services, Office of Child Care and Head Start; and includes provisions for parent and client input, a review of the provider’s policies and procedures, a review of the provider’s program records, and an on-site program review.

¹⁵⁶Maryland’s top tax rate is 6.25%.

¹⁵⁷Eligible tax filers may claim both this credit and Maryland’s CADC deduction.

¹⁵⁸Massachusetts has a 5.3% tax rate for all income levels. It also has an optional, voluntary 5.85% tax rate for all income levels. For tax filers who elect the latter option, the maximum value of the deduction is \$281 for one child or dependent and \$562 for two or more children or dependents.

¹⁵⁹Eligible tax filers must choose between this deduction and a second deduction, which is not based on employment-related expenses, for families with one or more dependent children under age twelve, a dependent age sixty-five or older, or a disabled dependent. Filers with one such dependent receive a deduction of \$3,600; filers with two or more such dependents receive a deduction of \$7,200. Tax filers eligible for both deductions who have care expenses over the \$3,600/\$7,200 limit will find it more advantageous to claim the CADC deduction.

Appendix A (Continued)

State	Basic Provision	Eligible Expenses	Refundable	Maximum: One Child/ Dependent	Maximum: Two or More Children/ Dependents
MN	A <i>credit</i> , for tax filers with income no greater than \$23,380, equal to the federal CADC credit for which the tax filer is “eligible,” up to a maximum of \$720 for one child or dependent and a maximum of \$1,440 for two or more children or dependents. ¹⁶⁰ For tax filers with income over \$23,380, the maximum credit is reduced by \$18 for every additional \$350 of income if one child or dependent, or \$36, if two or more children or dependents. No credit is allowed if income exceeds \$37,030. The income limitations are indexed for inflation.	Expenses eligible for the federal CADC credit. ¹⁶¹	Yes	\$720	\$1,440

¹⁶⁰These maximum credit amounts prevent the lowest-income Minnesota tax filers from benefiting fully from the improvements to the federal credit in EGTRRA that took effect in tax year 2003 (but, unless extended beyond the TRUIRJCA extension, expire after tax year 2012).

¹⁶¹Minnesota permits some tax filers to claim its CADC credit based on “deemed” expenses. Licensed family child care home operators may claim the CADC credit for their own children, cared for in their family child care home, even if they have not incurred actual employment-related expenses for that care. The child must be under age six; if the child is sixteen months of age or younger, the amount of expenses deemed to have been paid is \$3,000, and if the child is older than sixteen months of age but under age six, the amount of expenses deemed to have been paid is the amount the licensee would charge for the care of a child of the same age for the same number of hours. In addition, married couples may claim the Minnesota CADC credit based on deemed expenses of the lesser of \$3,000 or the couple’s combined earned income for a child under age one at the end of the tax year, even if the couple has not incurred actual employment-related expenses for that child.

Appendix A (Continued)

State	Basic Provision	Eligible Expenses	Refundable	Maximum: One Child/ Dependent	Maximum: Two or More Children/ Dependents
MT	A <i>deduction</i> ¹⁶² of eligible expenses for tax filers with Montana AGI under \$22,800, if one child, spouse or dependent, \$25,200 if two such individuals, and \$27,600 if three or more such individuals.	Expenses necessary for gainful employment for in-home and out-of-home care for: <ul style="list-style-type: none"> • children under age fifteen, • dependents physically or mentally incapable of self-care,¹⁶³ and • spouses physically or mentally incapable of self-care. Expenses are limited to \$2,400 for one child, spouse, or dependent, \$3,600 for two such individuals, and \$4,800 for three or more such individuals. ¹⁶⁴ For tax filers with AGI over \$18,000, eligible expenses are reduced by one half of the amount of income over \$18,000.	No	\$144	\$180 for two, \$240 for three or more
NE	A <i>credit</i> of a specified percentage of the “allowed” ¹⁶⁵ federal CADC credit as follows: <ul style="list-style-type: none"> • 100% if federal AGI is \$22,000 or less • 90% if federal AGI is \$22,001—\$23,000 • 80% if federal AGI is \$23,001—\$24,000 • 70% if federal AGI is \$24,001—\$25,000 • 60% if federal AGI is \$25,001—\$26,000 • 50% if federal AGI is \$26,001—\$27,000 • 40% if federal AGI is \$27,001—\$28,000 • 30% if federal AGI is \$28,001—\$29,000 • 25% if federal AGI exceeds \$29,000. 	Expenses eligible for the federal CADC credit.	Yes, for tax filers with federal AGI of \$29,000 or less	\$1,050	\$2,100

¹⁶²Montana’s top tax rate for tax filers with Montana AGI of \$18,000 who claim the highest full Montana deduction is 6% for filers with one child or dependent, 5% for filers with two children or dependents, and 5% for filers with three children or dependents.

¹⁶³The Montana statute seems to distinguish between expenses (and, arguably, expense limits) for in-home and out-of-home care for children under age fifteen, as compared to other dependents. However, the Montana tax form and instructions for tax year 2010 do not make these distinctions.

¹⁶⁴Montana permits licensed and registered operators of family child care or group child care homes to claim its CADC deduction for their own children cared for with “at least one unrelated child in the ordinary course of business,” based on deemed expenses. The deemed amount is the amount the operator charges for the care of a child of the same age for the same number of hours, subject to the expense limits of Montana’s deduction.

¹⁶⁵The Nebraska statute expressly states that the nonrefundable portion of the credit for tax filers with AGI over \$29,000 is based on the amount of the federal credit “allowed,” but the refundable portion for filers with AGI of \$29,000 or less is based on the amount of the federal credit “allowable...whether or not the federal credit was limited by the federal tax liability.”

Appendix A (Continued)

State	Basic Provision	Eligible Expenses	Refundable	Maximum: One Child/ Dependent	Maximum: Two or More Children/ Dependents
NM	A <i>credit</i> of 40% of eligible child care expenses, reduced, for tax filers with federal tax liability, by the amount of the tax filer's federal CADC credit used to offset federal tax liability. ¹⁶⁶ Total credit is limited to \$480 if one child, \$960 if two children, and \$1,200 if three or more children. No credit is allowed if New Mexico modified gross income exceeds \$30,160. ¹⁶⁷	Expenses incurred in New Mexico for gainful employment for in-home and out-of-home care paid to a caregiver in New Mexico for children under age fifteen, up to \$8 per day, per child.	Yes	\$480	\$960 for two, \$1,200 for three or more
NY	A <i>credit</i> of a specified percentage of the "allowable" ¹⁶⁸ federal CADC credit as follows: <ul style="list-style-type: none"> • 110% if NY AGI is \$25,000 or less • Between 109% and 100% if NY AGI is \$25,001-\$39,999¹⁶⁹ • 100% if NY AGI is \$40,000-\$50,000 • Between 99.5% and 20.5% if NY AGI is \$50,001- \$64,999¹⁷⁰ • 20% if NY AGI is \$65,000 or more. 	Expenses eligible for the federal CADC credit.	Yes ¹⁷¹	\$1,155	\$2,310

¹⁶⁶The New Mexico tax forms and instructions for tax year 2010 do not make clear whether the tax filer must offset against the state credit only the portion of the federal credit claimed for child care expenses, or a portion that may include care expenses for spouses and dependents incapable of self-care. In either case, because the required offset decreases the value of the New Mexico credit as the value of the federal credit increases, the improvements to the federal credit in EGTRRA that took effect in tax year 2003 (but, unless extended beyond the TRUIRJCA extension, expire after tax year 2012) decrease the value of the New Mexico credit.

¹⁶⁷The New Mexico statute states that this amount is set at "not more than the annual income that would be derived from earnings at double the federal minimum wage."

¹⁶⁸The New York statute expressly states that the state credit is based on the amount of the federal credit allowable, "without regard to whether the tax filer in fact claimed the [federal] credit."

¹⁶⁹For tax filers with New York AGI between \$25,001 and \$39,999, the applicable percentage of the federal credit is $100\% + 10\%[(\$40,000 - \text{AGI})/\$15,000]$. This formula results in a scale that slides from 109% to 100%.

¹⁷⁰For tax filers with New York AGI between \$50,001 and \$64,999, the applicable percentage of the federal credit is $20\% + 80\% [(\$65,000 - \text{AGI})/\$15,000]$. This formula results in a scale that slides from 99.5% to 20.5%.

¹⁷¹The New York credit is refundable for residents only. For part-year residents, a proportional formula allows them to receive part of the credit as a refund.

Appendix A (Continued)

State	Basic Provision	Eligible Expenses	Refundable	Maximum: One Child/ Dependent	Maximum: Two or More Children/ Dependents
NC	<p>A <i>credit</i> of a specified percentage of eligible expenses, as follows:</p> <ul style="list-style-type: none"> • For children under age seven and other qualifying dependents incapable of self-care: <ul style="list-style-type: none"> o 13% if federal AGI is 0-\$25,000, depending on the filing status of the tax filer o 11.5% if federal AGI is \$12,501-\$40,000, depending on the filing status of the tax filer o 10% if federal AGI is \$20,000-\$40,000 and over, depending on the filing status of the tax filer. • For children ages seven through twelve: <ul style="list-style-type: none"> o 9% if federal AGI is 0-\$25,000, depending on the filing status of the tax filer o 8% if federal AGI is \$12,501-\$40,000, depending on the filing status of the tax filer o 7% if federal AGI is \$20,000-\$40,000 and over, depending on the filing status of the tax filer. 	Expenses eligible for the federal CADC credit.	No	\$390	\$780
OH	<p>A <i>credit</i> of a specified percentage of the federal credit for which the tax filer is “eligible,”¹⁷² as follows:</p> <ul style="list-style-type: none"> • 100% if Ohio AGI is less than \$20,000 • 25% if Ohio AGI is \$20,000-\$39,999. <p>No credit is allowed if Ohio AGI is \$40,000 or more.</p>	Expenses eligible for the federal CADC credit.	No	\$1,050	\$2,100
OK	<p>A <i>credit</i> of 20% of the “allowed” federal “credit for child care expenses,” except that if Oklahoma AGI is less than federal AGI, the Oklahoma credit is prorated based on the ratio that Oklahoma AGI bears to federal AGI. No credit is allowed if federal AGI exceeds \$100,000.¹⁷³</p>	Expenses eligible for the federal CADC credit. ¹⁷⁴	No	\$210	\$420

¹⁷²The Ohio statute expressly states that the state credit is based on the amount of the federal credit for which the tax filer is eligible, “without regard to any limitation imposed by [the federal credit’s non-refundability provision].”

¹⁷³Eligible tax filers may claim either this credit or a credit of 5% of the federal child tax credit “allowed,” whichever amount is greater. Depending on the tax filer’s income, number and age of children, and care expenses, one or the other credit will be more valuable.

¹⁷⁴It is unclear from the Oklahoma statute and forms for tax year 2010 whether care expenses other than for children are eligible for the credit.

Appendix A (Continued)

State	Basic Provision	Eligible Expenses	Refundable	Maximum: One Child/ Dependent	Maximum: Two or More Children/ Dependents
OR	<p>A <i>credit</i> equal to a specified percentage of expenses “allowable”¹⁷⁵ for the federal CADC credit as follows:</p> <ul style="list-style-type: none"> • 30% if federal taxable income¹⁷⁶ is \$5,000 or less • 15% if federal taxable income is \$5,001–\$10,000 • 8% if federal taxable income is \$10,001–\$15,000 • 6% if federal taxable income is \$15,001–\$25,000 • 5% if federal taxable income is \$25,001–\$35,000 • 4% if federal taxable income is \$35,001–\$45,000. <p>No credit is allowed if federal taxable income exceeds \$45,000.¹⁷⁷</p>	Expenses eligible for the federal CADC credit.	No ¹⁷⁸	\$900	\$1,800

¹⁷⁵The Oregon statute expressly states that the state credit is based on an amount of employment-related expenses allowable under the federal credit, “notwithstanding the limitation imposed by [the federal credit’s nonrefundability provision].”

¹⁷⁶Federal taxable income is federal adjusted gross income less federal exemptions and deductions.

¹⁷⁷Eligible tax filers may claim both this credit and the following “working family child care” credit.

¹⁷⁸However, if the Oregon credit exceeds the income tax due, the unused amount of the credit may be carried forward as a credit against tax liability in subsequent years, for up to five years.

Appendix A (Continued)

State	Basic Provision	Eligible Expenses	Refundable	Maximum: One Child/ Dependent	Maximum: Two or More Children/ Dependents
OR (cont'd)	<p>A <i>credit</i>¹⁷⁹ of a specified percentage of child care expenses, rounded to the nearest \$50, as follows:</p> <ul style="list-style-type: none"> •40% of eligible expenses if greater of federal AGI or Oregon AGI is 200% of federal poverty level or less •36% if greater of federal AGI or Oregon AGI is 201%-210% •32% if greater of federal AGI or Oregon AGI is 211%-220% •24% if greater of federal AGI or Oregon AGI is 221%-230% •16% if greater of federal AGI or Oregon AGI is 231%-240% •8% if greater of federal AGI or Oregon AGI is 241%-250%.¹⁸⁰ <p>No credit is allowed if federal AGI or Oregon AGI is above 250% of federal poverty level, if investment income is \$3,100¹⁸¹ or more, or if Oregon earned income is less than \$7,900.¹⁸²</p>	Expenses (without a dollar limitation) for care provided to a child under age thirteen or to an older child with a disability if the care allows a tax filer to be gainfully employed, seek employment, or attend school on a full-time or part-time basis. ¹⁸³	Yes	No dollar limit ¹⁸⁴	No dollar limit ¹⁸⁵

¹⁷⁹This “working family child care” credit is repealed effective January 2, 2016.

¹⁸⁰Depending on household size, the maximum AGI limits of 250% of poverty range from \$27,100 (one-person household) to \$92,550 (eight-person household) for tax year 2010.

¹⁸¹This amount is indexed for inflation.

¹⁸²This amount is indexed for inflation but may not exceed the amount an individual would earn if the individual worked 1,040 hours at the Oregon minimum wage, rounded to the next lower multiple of \$50. At the current Oregon minimum wage of \$8.40/hour, this amount would be \$8,736 or, rounded to the next lower multiple of \$50, \$8,700 for tax year 2010.

¹⁸³A tax filer is not disqualified from claiming the credit solely because the filer’s spouse has a disability, if the disability prevents the spouse “from providing child care, being gainfully employed, seeking employment and attending school.” The statute defines “disability” as “a physical or cognitive condition that results in a person requiring assistance with activities of daily living.”

¹⁸⁴With expenses at \$3,000, the limit in most states, the maximum benefit would be \$1,200.

¹⁸⁵With expenses at \$6,000, the limit in most states, the maximum benefit would be \$2,400.

Appendix A (Continued)

State	Basic Provision	Eligible Expenses	Refundable	Maximum: One Child/ Dependent	Maximum: Two or More Children/ Dependents
RI	A <i>credit</i> of 25% of the federal CADC credit.	Expenses eligible for the federal CADC credit.	No	\$263	\$525
SC	A <i>credit</i> of 7% of eligible expenses.	Expenses eligible for the federal CADC credit, except that only expenses that are “directly attributable to items of South Carolina gross income” qualify for the credit. ¹⁸⁶	No	\$210	\$420
VT	A <i>credit</i> of 24% of the “allowed” federal CADC credit. ¹⁸⁷	Expenses eligible for the federal CADC credit.	No	\$252	\$504
VT (cont’d)	A “low-income” <i>credit</i> of 50% of the “allowed” federal CADC credit. No credit is allowed if federal AGI is \$30,000 or more, if single, or \$40,000 or more, if married.	Expenses eligible for the federal CADC credit, except that the expenses must be for services provided in a Vermont “registered home or licensed facility certified by the agency of human services as meeting national accreditation or national credential standards endorsed by the agency.”	Yes	\$525	\$1,050
VA	A <i>deduction</i> ¹⁸⁸ of expenses equal to the amount of expenses on which the federal CADC credit is based.	Expenses eligible for the federal CADC credit.	No	\$173	\$345

¹⁸⁶The instructions to the South Carolina forms for tax year 2010 do not explain or reference this qualifying language but rather instruct the tax filer to compute the credit by multiplying the expenses claimed for the federal CADC credit by .07.

¹⁸⁷Eligible tax filers may claim either this credit or the following low-income CADC credit, but not both.

¹⁸⁸Virginia’s top tax rate is 5.75%.

Appendix B

State Child and Dependent Care Tax Provisions: Tax Year 2010

State	Citation
Arkansas	Ark. Code Ann. § 26-51-502 (LEXIS through 2010 Fiscal Sess. & updates)
California	Cal. Ann. Rev. & Tax Code § 17052.6 (West, Westlaw through all 2010 Reg. Sess. Laws, all 2009-2010 1st through 8th Ex. Sess. Laws, & all Props. on 2010 ballots)
Colorado	Colo. Rev. Stat. § 39-22-119 (LEXIS through 2010 Leg. Sess. of 67th Gen. Assemb.)
Delaware	Del. Code Ann. tit. 30, § 1114 (LEXIS through 77 Del. Laws, Ch. 476)
District of Columbia	D.C. Code § 47-1806.04(c) (Westlaw through Oct. 22, 2010)
Georgia	Ga. Code Ann. § 48-7-29.10 (LEXIS through 2010 Reg. Sess.)
Hawaii	Haw. Rev. Stat. Ann. § 235-55.6 (Michie, LEXIS through 2010 Reg. Sess.)
Idaho	Idaho Code Ann. § 63-3022D (LEXIS through 2010 Reg. Sess.)
Iowa	Iowa Code Ann. § 422.12C (West, Westlaw through Acts from 2010 Reg. Sess.)
Kansas	Kan. Stat. Ann. § 79-32, 111a (West, Westlaw through 2010 Reg. Sess.)
Kentucky	Ky. Rev. Stat. Ann. § 141.067 (West, Westlaw through 2010 legislation)
Louisiana	La. Rev. Stat. Ann. § 47:297.2 (West, Westlaw through 2010 Reg. Sess.) (household expense credit) La. Rev. Stat. Ann. § 47:297.4 (West, Westlaw through 2010 Reg. Sess.) (child care credit) La. Rev. Stat. Ann. § 47:6104 (West, Westlaw through 2010 Reg. Sess.) (school readiness credit)
Maine	Me. Rev. Stat. Ann. tit 36, § 5218 (Westlaw through 2009 2d Reg. Sess. of 124th Leg.)
Maryland	Md. Code Ann., Tax-Gen. § 10-716 (West, Westlaw through all Chs. of 2010 Reg. Sess.) (credit) Md. Code Ann., Tax-Gen. § 10-208(e) (West, Westlaw through all Chs. of 2010 Reg. Sess.) (deduction)
Massachusetts	Mass. Gen. Laws Ann. ch. 62, § 3(B)(a)(7) (West, Westlaw through Ch. 392 of 2010 2nd Ann. Sess.)

Appendix B (Continued)

State	Citation
Minnesota	Minn. Stat. Ann. § 290.067 (West, Westlaw through 2010 2d Spec. Sess.)
Montana	Mont. Code Ann. § 15-30-2131(1)(c) (West, Westlaw through 2009 legislation)
Nebraska	Neb. Rev. Stat. Ann. § 77-2715.07(2)(a), (b) (Bender & Co., LEXIS through 1st Sess. of 101st Leg. (2010))
New Mexico	N.M. Stat. Ann. § 7-2-18.1 (West, Westlaw through 2d Reg. Sess. & 2d Spec. Sess. of 49th Leg. (2010))
New York	N.Y. Tax Law § 606(c) (McKinney, Westlaw through L. 2010)
North Carolina	N.C. Gen. Stat. § 105-151.11 (LEXIS through 2010 Reg. Sess.)
Ohio	Ohio Rev. Code Ann. § 5747.054 (West, Westlaw through 2010 File 58 of 128th Gen. Assemb.)
Oklahoma	Okla. Stat. Ann. tit. 68, § 2357(B)(2) (West, Westlaw through Ch. 479 of 2010 2d Reg. Sess.)
Oregon	Or. Rev. St. Ann. § 316.078 (West, Westlaw through 2010 Spec. Sess. Laws) (CADC credit) Or. Rev. St. Ann. § 315.262 (West, Westlaw through 2010 Spec. Sess. Laws) (WFCC credit)
Rhode Island	R.I. Gen. Laws § 44-30-2.6(K)(2) (LEXIS through Jan. 2010 Sess.)
South Carolina	S.C. Code Ann. § 12-6-3380 (Westlaw through 2010 Reg. Sess.)
Vermont	Vt. Stat. Ann. tit. 32, § 5822(d) (LEXIS through 2009 Adjourned Sess. (2010)) (CADC credit) Vt. Stat. Ann. tit. 32, § 5828c (LEXIS through 2009 Adjourned Sess. (2010)) (LICADC credit)
Virginia	Va. Code Ann. § 58.1-322(D)(3) (Bender & Co., LEXIS through 2010 Reg. Sess., Acts 2010, cc. 1-877)

Notes

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