Colorado
Legislative
Council
Staff

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MEMORANDUM

November 26, 2009

TO: Interested Persons

FROM: Ron Kirk, Economist, 303-866-4785

SUBJECT: Child Care Contribution Credit

This memorandum provides information on the availability of the state child care contribution credit. State law allows an income tax credit of up to $100,000 to any taxpayer who makes a monetary contribution to promote child care in Colorado. The credit was established in 1999 and is available in tax years 2009 and 2010. Its availability in tax year 2011 and thereafter is dependent upon the state having enough revenue to grow total state General Fund appropriations 6 percent over the prior fiscal year's appropriations. At this time, the credit will likely not be available for tax year 2011 because the Legislative Council Staff revenue forecast estimates that appropriations growth will be below the 6 percent threshold during the forecast period.

Colorado's Child Care Contribution Credit

Background. In 1998, **Senate Bill 98-154** established a state income tax credit for taxpayers who made monetary or in-kind contributions to promote child care (Section 39-22-121 (1), C.R.S.). The credit was capped at $100,000, effective for tax years 1999 through 2004, and based on 25 percent of the taxpayers' total value of the contribution. The total annual revenue impact on the General Fund for the first year was estimated at $1.6 million.

One year after the credit was in place, **House Bill 00-1351** expanded the credit by allowing taxpayers to calculate the amount of the credit based on 50 percent of the total value of the contribution, effective for tax years beginning January 1, 2000 (Section 39-22-121 (1.5), C.R.S.). The bill also restricted contributions to "monetary" contributions, thus, requiring taxpayers to donate money to be eligible for the state credit rather than making "in-kind" non-monetary contributions (real estate or other property). The change to increase the percentage from 25 percent to 50 percent was estimated to have an additional $1.2 million annual impact on the General Fund.

When the credit was first established, the Taxpayer Services Division, Department of Revenue, defined "child care" as the act of caring for young children who are not in school and school-age children before and after school hours with the primary purpose of the child's well-being and protection while the parents or guardians go to work, actively look for work, or attend school. Further, the department defined child care facilities as day care centers, school-age child care centers,[1] before and after school programs, nursery schools, kindergartens, preschools, day camps, summer camps, and centers for developmentally disabled children.

In 2004, **House Bill 04-1119** further expanded the child care contribution credit by changing the definition of child care facilities and extending the credit through tax year 2009. Under the bill, the definition would include foster care homes, secure residential treatment centers, and other such facilities that did not qualify for the child care contribution credit under the initial guidelines established by the department. The bill also made modifications to the types of facilities that can receive qualifying contributions. However, the bill contained a provision that allowed organizations that received donations prior to the law change — that were no longer eligible for qualifying contributions under the new law (i.e., child care centers also serving children ages 13 to 18) — to continue to receive qualifying contributions as long as they registered with the Department of Revenue to continue to be able to receive such contributions.

During the 2008 session, the credit was extended by **House Bill 08-1048** for an additional ten-year period through the 2019 tax year. The bill also placed a trigger on the credit that would make it unavailable in fiscal years during which revenue is not sufficient to grow total state General Fund appropriations by 6 percent over the prior fiscal year (Section 39-22-122 (6.7) (a), C.R.S.).

Credit availability. The trigger is first effective for tax year 2011. If the December 2010 Legislative Council Staff revenue forecast does not show 6 percent appropriations growth from FY 2009-10 to FY 2010-11, the Department of Revenue is required to give notice on its website that the credit will not be available for the tax year immediately following the December forecast (Section 39-22-122 (6.7) (b), C.R.S.).

The most recent September 2009 Legislative Council Staff revenue forecast shows that the credit will likely not be available for tax years 2011 and 2012 as recent estimates show that appropriations growth will be below 6 percent threshold during the forecast period. Thus, the economy and state revenue picture would have to change considerably for the December 2010 forecast to show growth above the 6 percent threshold to make the credit available. The most recent estimate for the revenue impact on the General Fund for the child care contribution credit in FY 2010-11 is $19.2 million.

[1] A child care center is defined in statute as a facility that provides part or full-day care for five or more children who are 18 or younger and who are not related to the facility's owner, operator, or manager, such as day care centers, school-age child care centers, before and after school programs, nursery schools, preschools, and summer or day camps (Section 26-6-102 (1.5), C.R.S.).