



FYI Income 35 Child Care Contribution Credit

GENERAL INFORMATION

Taxpayers that make a monetary contribution to promote child care in Colorado may claim an income tax credit of 50% of the total contribution. In-kind contributions of property (non-monetary donations) do not qualify for the credit. [§39-22-121, C.R.S.]

ELIGIBLE PURPOSES

Contributions to promote child care in Colorado qualify for this credit. Child care means care provided to a child twelve years of age or younger.

- Donating money for the establishment or operation of a child care facility or program in Colorado. This is limited to:
 - A licensed child care center,
 - A licensed child placement agency,
 - A licensed family child care home,
 - A licensed foster care home,
 - A licensed homeless youth shelter,
 - A licensed residential child care facility,
 - A licensed secure residential treatment center,
 - A registered child care program that provides services similar to a licensed child care center.
- Donating money for a registered grant or loan program for parents in Colorado requiring financial assistance for child care;
- Donating money for a registered training program for child care providers in Colorado;
- Donating money for a registered information dissemination program that assists parents with child care information and referral services.
- Donating money for a registered grandfathered child care organization. (Grandfathered organizations may also accept qualified donations for the care of children ages 13-18.)

Contributions will not qualify for this credit if any of the following apply:

- The contribution is made to a child care facility in which the taxpayer or a person related to the taxpayer has a financial interest.
- The contribution is made to a for-profit business (unless the contribution is directly used for the acquisition or improvement of facilities, equipment, or services, including the improvement of staff salaries, staff training, or the quality of child care)
- The contribution is not directly related to promoting child care in Colorado.
- The contribution is made after December 31, 2019.
- The donor receives consideration from the donee organization in exchange for the contribution. If this is the case, there is a sale rather than a contribution. However, this will not restrict a company from contributing to a child care center and claiming a credit based on that donation if the employees of the company receive a benefit in the form of discounted child care. One of the goals of this tax credit is to encourage employers to contribute to child care for their employees, assuming that the employer has no financial interest in the child care facility.

LIMITATIONS

- The credit allowed shall not exceed \$100,000 per year.
- The credit allowed shall not exceed the tax liability for the year. Any excess credits may be carried forward for up to five years.

DOCUMENTATION

For donations made after September 1, 2004, the Child Care Contribution Tax Credit Certification (DR 1317) must be provided by the donee organization to the donor certifying the child care contribution. The organization must be

licensed by the Department of Human Services or, if not licensed, registered with the Department of Revenue. The DR 1317 must be attached to a paper income tax return that claims the child care contribution credit, or supplied to the Department of Revenue upon request if the income tax return is filed electronically.

REGISTRATION PROCEDURE

Child care organizations that are not licensed by the Department of Human Services must register with the Department of Revenue in order to receive contributions that qualify for the tax credit. The organization must complete the Unlicensed Child Care Organization Registration Application (DR 1318) and specify the eligible programs for which the contributions will be utilized and include documentation regarding those specific programs.

The programs must provide:

- child care services similar to those provided by a licensed child care center,
- a grant or loan program for parents in Colorado requiring financial assistance for child care;
- training of child care providers in Colorado;
- an information dissemination program in Colorado to provide information and referral services to assist parents in obtaining child care.

Licensed and unlicensed child care organizations that received qualifying contributions for which a tax credit was properly claimed prior to January 1, 2004 must register with the Department of Revenue to continue receiving contributions after March 9, 2004 for child care for children ages 13-18 or for purposes that no longer qualify under the new law. The organization must complete the Child Care Contribution Tax Credit Grandfathered Organization Application (DR 1319) and include:

- specific eligible programs for which contributions were accepted,
- documentation regarding those specific programs,
- documentation regarding the children ages 13 –18 that were assisted by donations received in 2003 or prior, and
- a list of one or more taxpayers who claimed the credit in tax year 2003 or prior.

The registration of a child care organization does not guarantee that the organization is qualified to accept contributions nor that the certifications issued will be accepted by the Department of Revenue. The eligibility of the organization and the qualification of the donations will be subject to review and/or audit.

DUAL PURPOSE CONTRIBUTIONS

Organizations may accept contributions that are used in part for qualified child care but are used in part for nonqualified purposes. Examples of this include:

- a child care center that cares for children both 12 and under and 13 and over,
- a church that uses part of the donation to fund its child care center and part to fund other charitable functions,
- donations to a community center construction project for which a child care center is only part of the overall project.

The donee organization must allocate the portion of a contribution that qualifies for the child care contribution credit for the donor. This allocation must be done in a reasonable manner based on the facts of the situation. Examples of methods that can be used to allocate the contribution include:

- A child care center that cares for children of various ages, some of which are 13 or older who do not qualify for the credit.
 - The child care center can compute the percentage of children in its care that qualify for the credit. This percentage can be used to allocate donations that are made to the facility.
 - The child care center can document the expenses incurred in caring for children who are 12 and younger versus children who are 13 and older. The donations would be allocated using this percentage. This method requires extensive supporting documentation.
- A facility or program that operates several different programs, not all of which qualify for the credit.
 - The expenses of the various programs must be accounted for and donations can be directly allocated to the qualified programs.
 - The donations can be allocated on a percentage basis utilizing total expense figures for the entire facility.

- The construction of a community center, which includes a child care facility.
 - A percentage of area method can be utilized if this provides an equitable calculation of the credit (i.e. 30% of the floor space is for the child care center so 30% of the costs are allocated to the child care center).
 - If construction costs vary greatly between the child care area of the building and other areas, a more equitable allocation of the donation would be achieved by determining the difference between the cost of the facility with and without the child care facility. That difference can be used to determine the percentage of costs to allocate to the child care center.
 - If construction costs are reasonably allocated using the percentage method of area shown above but the costs of equipping the child care center varies significantly from other areas of the building, a hybrid method of allocating donations can be used. Construction costs can be allocated using a percentage of area method with equipment costs directly allocated. These factors could then be combined into one overall percentage to be used in allocating the donations.

If the methods above do not equitably allocate the donation to the child care program, a written request to the Director of the Department of Revenue may be made to obtain permission to use an alternate method of allocation.

If contributions are accepted as earmarked for only the child care center despite the existence of nonqualified programs, the full contribution will qualify for the 50% credit. The organization must have accounting procedures in place to verify that those donations are indeed utilized 100% for the child care function and no funds are utilized for nonqualified purposes. Any excess funds left over at the end of the year must be carried forward for eligible expenses in the next year. Accounting procedures must be in place to track and document this allocation process. A separate fund cannot be arbitrarily set up to accept donations for the child care facility while funds from other sources (such as federal or state funds, charitable organizations, nonresident donors) are used to pay other expenses that would not qualify for the credit.

INVESTMENT FUNDS

Money donated to a qualified organization may be invested by that organization in an account that provides future payments to the organization. The interest and the principal, when removed from the account in any future year, must be utilized 100% for qualifying child care in order for the original donation to qualify for the credit.

DEFINITIONS

Child Care Program

A child care program is an unlicensed child care facility or program that provides child care services similar to those provided by a licensed child care center. This includes child care provided for the whole or part of a day. The program must provide for the care of five or more children who are not related to the owner, operator, or manager. This does not include facilities or programs that provide services identical or similar to day treatment centers, guest child care facilities, family child care homes, foster care homes, homeless youth shelters, medical foster care, residential care facilities, secure residential treatment centers, specialized group facilities, or therapeutic foster care. This also does not include facilities or programs to which contributions qualify for the enterprise zone administrator credit or school programs maintained during regular school hours including kindergartens maintained in connection with a public, private, or parochial elementary school system of at least six grades or operated as a component of a school district's preschool program.

Related person

Related taxpayer means a person connected with another by blood or marriage. Related taxpayer also means a corporation, partnership, limited liability company, trust or association controlled by the taxpayer; an individual, corporation, limited liability company, partnership, trust or association under the control of the taxpayer; or a corporation, limited liability company, partnership, trust or association controlled by an individual, corporation, limited liability company, partnership, trust or association under the control of the taxpayer.

CONDITIONAL AVAILABILITY

Beginning in 2011 the availability of the child care contribution credit for a given tax year will be contingent upon sufficient revenue growth* for that year. If a credit cannot be claimed for the tax year in which it accrued because sufficient growth is not expected, it may be claimed for the next tax year for which a sufficient growth is anticipated. The availability of this credit for any tax year beginning subsequent to December 31, 2010 will be posted on the Department's Web site once it has been determined. [§39-22-121(6.7), C.R.S.]

This conditional availability applies only to credits generated in tax years 2011 and later. Unused credit from tax year 2010 and earlier can be carried forward and used in later tax years regardless of whether there is sufficient revenue growth.

For more information on related topics, consult the following Department of Revenue of publications:

- FYI Income 7 Investment Credits for Licensed Child Care Centers, Family Care Homes and Employers Providing Licensed Child Care Facilities
- FYI Income 23 Tax Credit for Contributions to Enterprise Zone Administrators, Programs, Projects or Organizations
- FYI Income 33 Child Care/Child Tax Credit

**Availability of the credit is contingent upon the December legislative council revenue forecast issued prior to the tax year and that the general fund appropriation must grow 6% over the previous year.*

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.