

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

**Proposing rule making related to employer child care tax credit
and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to adopt new Chapter 57, “Employer Child Care Tax Credit,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 237A.31.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237A.31 as amended by 2023 Iowa Acts, Senate File 181.

Purpose and Summary

Iowa Code section 237A.31 as amended by 2023 Iowa Acts, Senate File 181, establishes an employer child care tax credit. The credit is equal to the proportion of the federal employer-provided child care tax credit for which the employer was eligible in the same tax year attributable to expenditures made in Iowa. The aggregate amount of tax credits authorized annually is \$2 million.

The proposed new Chapter 57 describes how the proportion of the federal credit attributable to expenditures in Iowa will be calculated and outlines the application process for the credit.

A Regulatory Analysis, including the proposed rule text, was published on April 5, 2023. A public hearing was held on April 26, 2023. No public comments on the Regulatory Analysis were received at the hearing or in writing. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on May 1, 2023.

One change from the proposed rules as published in the Regulatory Analysis has been made. Clarification has been added that an application that can be partially approved without exceeding the maximum aggregate amount of tax credits may be approved as to the portion less than the maximum amount and denied as to the portion greater than the maximum amount.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond the impact of the legislation it is intended to implement.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on July 5, 2023. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following **new** 261—Chapter 57:

CHAPTER 57 EMPLOYER CHILD CARE TAX CREDIT

261—57.1(237A) Definitions.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Department*” means the Iowa department of revenue.

“*Federal credit*” means the federal employer-provided child care tax credit provided in Section 45F of the Internal Revenue Code.

“*Qualified child care expenditure*” means the same as defined in Section 45F of the Internal Revenue Code.

“*Qualified child care facility*” means the same as defined in Section 45F of the Internal Revenue Code.

“*Qualified child care resource and referral expenditure*” means the same as defined in Section 45F of the Internal Revenue Code.

“*Tax credit*” means the amount a taxpayer may claim against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

261—57.2(237A) Authorization of tax credits.

57.2(1) An employer child care tax credit is authorized pursuant to Iowa Code section 237A.31 as amended by 2023 Iowa Acts, Senate File 181.

57.2(2) The proportion of a taxpayer’s federal credit attributable to expenditures made in Iowa equals the ratio that the sum of the amount described in paragraph 57.2(2)“a” bears to the sum total of the amount described in paragraph 57.2(2)“b.” The ratio shall be expressed as a percentage rounded to the nearest hundredth percent.

a. The qualified child care expenditures paid or incurred with respect to a qualified child care facility in Iowa, plus qualified child care resource and referral expenditures paid or incurred with respect to Iowa employees.

b. The qualified child care expenditures and qualified child care resource and referral expenditures.

261—57.3(237A) Application and issuance process.

57.3(1) The authority will develop a standardized application pertaining to the authorization and distribution of tax credits. The application will request information relating to the taxpayer's eligibility for the federal credit, the proportion of the federal credit attributable to expenditures made by the taxpayer in Iowa as calculated pursuant to subrule 57.2(2), and any other information required by the authority. The certified public accountant (CPA) examination conducted pursuant to rule 261—57.4(237A) shall be submitted with the application.

57.3(2) A taxpayer shall submit an application for the credit within 90 calendar days of the end of the tax year during which qualified child care expenditures and qualified child care resource and referral expenditures are paid or incurred.

57.3(3) The authority shall issue tax credit certificates in the order the applications are determined complete and qualified until the maximum aggregate amount of tax credits that may be authorized pursuant to Iowa Code section 237A.31(3) "a" is reached. Applications for tax credits received in excess of the maximum aggregate amount of tax credits available each fiscal year will be denied by the authority. An application that can be partially approved without exceeding the maximum aggregate amount of tax credits may be approved as to the portion less than the maximum amount and denied as to the portion greater than the maximum amount.

57.3(4) The authority will issue a tax credit certificate to an approved taxpayer in an amount that represents the maximum amount of tax credit the taxpayer may claim. To receive the tax credit, the taxpayer shall file a claim with the department in accordance with any applicable administrative rules adopted by the department. An approved taxpayer's tax credit may be subject to reduction in such circumstances described by any applicable rules adopted by the department.

261—57.4(237A) CPA examination.

57.4(1) A taxpayer shall engage a certified public accountant authorized to practice in this state to conduct an examination of the taxpayer's qualified child care expenditures and qualified child care resource and referral expenditures in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements. The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601.

57.4(2) The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA's professional judgment, the qualified child care expenditures paid or incurred with respect to a qualified child care facility in Iowa and qualified child care resources and referral expenditures paid or incurred with respect to Iowa employees are eligible for a tax credit pursuant to Iowa Code section 237A.31 and all rules adopted by the authority and by the department pursuant to Iowa Code section 237A.31 in all material respects. The documents reviewed by the CPA shall be provided to the authority upon request. The authority may deny a tax credit application if such documents are requested and are not provided to the authority within 60 days.

These rules are intended to implement Iowa Code section 237A.31 as amended by 2023 Iowa Acts, Senate File 181.