

REVENUE DEPARTMENT[701]

Adopted and Filed

Rulemaking related to employer child care tax credit

The Revenue Department hereby amends Chapter 304, “Adjustments to Computed Tax and Tax Credits,” Chapter 501, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” and Chapter 601, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 237A.31.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 237A.31.

Purpose and Summary

The purpose of this rulemaking is to implement the employer child care tax credit (tax credit) provided in Iowa Code section 237A.31. The tax credit is available to businesses that receive an award certificate from the Iowa Economic Development Authority (IEDA) and that incur expenditures in Iowa that qualify for the federal employer-provided child care tax credit in Section 45F of the Internal Revenue Code. The Department was directed under Iowa Code section 237A.31 to adopt rules to administer the tax credit. The rules describe how to claim and calculate the tax credit and include other restrictions and requirements.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 26, 2024, as **ARC 8071C**. A public hearing was held on the following date(s):

- July 16, 2024

No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on July 31, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa beyond the legislation it is intended to implement. Iowa Code section 237A.31 limits the aggregate amount of tax credits that the IEDA may approve to \$2 million annually.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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).

Effective Date

This rulemaking will become effective on September 25, 2024.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** rule 701—304.58(237A):

701—304.58(237A) Employer child care tax credit.

304.58(1) In general—eligibility. For tax years beginning on or after January 1, 2023, a taxpayer who has received an employer child care tax credit certificate from the economic development authority and who properly claims the federal employer-provided child care tax credit provided in Section 45F of the Internal Revenue Code may qualify for an employer child care tax credit, subject to the limitations described in Iowa Code section 237A.31, 261—Chapter 57, and this rule. The economic development authority's rules on eligibility for the tax credit may be found in 261—Chapter 57.

304.58(2) Definitions. Unless otherwise indicated in this rule or required by the context, all words and phrases used in this rule that are defined under Section 45F of the Internal Revenue Code shall have the same meaning as provided to them under that section. In addition, the following definitions are applicable to this rule:

“Internal Revenue Code” means the Internal Revenue Code of 1986 as amended and in effect on July 1, 2022.

“Iowa-source qualified child care expenditures” means the qualified child care expenditures paid or incurred with respect to qualified child care facilities in Iowa.

“Iowa-source qualified child care resource and referral expenditures” means the qualified child resource and referral expenditures paid or incurred with respect to Iowa employees.

304.58(3) Calculating the tax credit.

a. Components of tax credit calculation. To calculate the tax credit, the taxpayer must determine the eligible federal credit ratio, the federal child care expenditure credit for Iowa purposes, the federal child care resource and referral expenditure credit for Iowa purposes, the Iowa share of qualified child care expenditures, and the Iowa share of qualified child care resource and referral expenditures.

b. Eligible federal credit ratio. The eligible federal credit ratio shall be calculated as follows: The sum of 25 percent of the qualified child care expenditures and 10 percent of the qualified child care resource and referral expenditures, less \$150,000, shall be divided by the sum of 25 percent of the qualified child care expenditures and 10 percent of the qualified child care resource and referral expenditures. This quotient, expressed as a percentage rounded to the nearest hundredth percent, shall be subtracted from 100 percent. The resulting percentage is the eligible federal credit ratio.

c. Federal qualified child care expenditure credit for Iowa purposes. The federal qualified child care expenditure credit for Iowa purposes shall be 25 percent of the product of the qualified child care expenditures multiplied by the eligible federal credit ratio.

d. Federal qualified child care resource and referral credit for Iowa purposes. The federal child care resource and referral expenditure credit for Iowa purposes shall be 10 percent of the product of the qualified child care resource and referral expenditures multiplied by the eligible federal credit ratio.

e. Iowa share of qualified child care expenditures. The Iowa share of qualified child care expenditures is a ratio equal to the Iowa-source qualified child care expenditures divided by the qualified child care expenditures, rounded to the nearest hundredth percent.

f. Iowa share of qualified child care resource and referral expenditures. The Iowa share of qualified child care resource and referral expenditures is a ratio equal to the Iowa-source qualified child resource and referral expenditures divided by the qualified child care resource and referral expenditures, rounded to the nearest hundredth percent.

g. Amount of tax credit. The Iowa tax credit amount shall be the lesser of the following:

(1) The amount awarded by the economic development authority.

(2) An amount equal to the sum of the following:

1. The Iowa share of qualified child care expenditures multiplied by the federal qualified child care expenditure credit for Iowa purposes, plus

2. The Iowa share of qualified child care resource and referral expenditures multiplied by the federal qualified child care resource and referral credit for Iowa purposes.

304.58(4) Claiming the tax credit.

a. Certificate issuance. The taxpayer must receive a tax credit certificate from the economic development authority in order to be eligible to claim the Iowa employer child care tax credit. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the amount of the Iowa employer child care tax credit award, the tax year for which the tax credit may be claimed, and any other information required by the department. The tax credit certificate must be included with the Iowa tax return for the tax year in which the tax credit is claimed. The amount of the tax credit certificate represents the maximum amount of tax credit the taxpayer may claim.

b. Filing a claim with the department. The tax credit will be calculated and claimed on Form IA 8882. The taxpayer shall submit the form with the taxpayer's Iowa tax return for the tax year in which the tax credit is claimed. The tax credit shall be claimed for the same tax year in which the federal credit was claimed.

c. Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust. If the taxpayer claiming the employer child care tax credit is a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual, an individual may claim the credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

d. Carryforward. Any tax credit in excess of the taxpayer's tax liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever occurs first. A tax credit shall not be carried back to a tax year prior to the tax year for which the taxpayer claims the tax credit.

e. Transferability. The credit shall not be transferred to any other person.

304.58(5) Recalculation of federal credit.

a. Federal audit. If the Internal Revenue Service reviews the taxpayer's return and disallows, in whole or in part, the federal employer-provided child care tax credit under Section 45F of the Internal Revenue Code, the taxpayer must file amended Iowa tax returns, including an amended Form IA 8882, to recalculate the Iowa credit and add back the disallowed Iowa credit to the extent not previously disallowed by the department.

b. Federal recapture event. When the taxpayer's federal employer-provided child care tax credit under Section 45F of the Internal Revenue Code is subject to a recapture event described in Section 45F(d) of the Internal Revenue Code, the Iowa credit must be recalculated by excluding from the Iowa credit calculation the percentage of qualified child care expenditures that is equal to the taxpayer's applicable recapture percentage in Section 45F(d)(2)(A) of the Internal Revenue Code. The taxpayer must file amended Iowa tax returns, including an amended Form IA 8882, to recalculate the Iowa credit and add back any ineligible Iowa credit to the extent not previously disallowed by the Internal Revenue Service or the department.

c. Authority of the department. Nothing in this rule shall limit the department's authority to review, examine, audit, or otherwise challenge an Iowa tax credit claim under Iowa Code section 237A.31, regardless of inaction, a settlement, or a determination by the Internal Revenue Service.

This rule is intended to implement Iowa Code section 237A.31.

ITEM 2. Adopt the following new rule 701—501.51(237A):

701—501.51(237A) Employer child care tax credit. An employer child care tax credit is available according to the same requirements, conditions, and limitations as described in rule 701—304.58(237A) and 261—Chapter 57.

This rule is intended to implement Iowa Code section 237A.31.

ITEM 3. Adopt the following new rule 701—601.26(237A):

701—601.26(237A) Employer child care tax credit. An employer child care tax credit is available according to the same requirements, conditions, and limitations as described in rule 701—304.58(237A) and 261—Chapter 57.

This rule is intended to implement Iowa Code section 237A.31.

[Filed 7/31/24, effective 9/25/24]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/21/24.