

# REVENUE DEPARTMENT[701]

## Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code rules 701—304.58(237A), 701—501.51(237A), and 701—601.26(237A)  
“Employer Child Care Tax Credit”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 237A.31  
State or federal law(s) implemented by the rulemaking: Iowa Code section 237A.31

## Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

May 7, 2024  
10 to 11 a.m.

Via video/conference call:  
[meet.google.com/vnw-pwiq-bhq](https://meet.google.com/vnw-pwiq-bhq)

## Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Department of Revenue no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Department of Revenue  
Hoover State Office Building  
P.O. Box 10457  
Des Moines, Iowa 50306  
Phone: 515.587.0458  
Email: [michael.mertens@iowa.gov](mailto:michael.mertens@iowa.gov)

## Purpose and Summary

The purpose of the proposed 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 is directed under Iowa Code section 237A.31 to adopt rules to administer the tax credit. The proposed rules describe how to claim and calculate the tax credit and include other restrictions and requirements.

## Analysis of Impact

1. Persons affected by the proposed rulemaking:
  - Classes of persons that will bear the costs of the proposed rulemaking:  
Businesses that claim the tax credit will bear the costs of the proposed rules.
  - Classes of persons that will benefit from the proposed rulemaking:  
Businesses that claim the tax credit will directly benefit from the proposed rules. The business’s employees who require child care will indirectly benefit from the proposed rules.
  
2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
  - Quantitative description of impact:  
A business that claims the tax credit will incur tax preparation costs to accurately compute the tax credit in accordance with the proposed rules. These costs will be offset by the monetary value of the tax credit to the business. Businesses that accurately compute the tax credit will also receive a benefit in the form of fewer information requests and audits from the Department related to the administration of the tax credit.
  - Qualitative description of impact:

Beyond the direct benefit of the tax credit to a business, the employees of a business who require child care are likely to benefit from the tax credit.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The Department will utilize existing staff to review tax credit claims.

- Anticipated effect on state revenues:

The proposed rule has no fiscal impact beyond that of the legislation it implements. Iowa Code section 237A.31 limits the aggregate amount of tax credits that IEDA may approve (and thus may be claimed by businesses) to \$2 million annually.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The proposed rules instruct businesses how to properly calculate and claim the credit. The Department will be unable to properly administer the credit without the proposed rules. The only businesses that bear the costs of the proposed rules are those that will potentially benefit from the tax credit. The Department is required by Iowa Code section 237A.31 to adopt rules to administer this tax credit.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

None were identified.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

None were identified.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Not applicable.

### Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The rulemaking does not have a substantial impact on small business.

### Text of Proposed Rulemaking

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 may 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.