

State of Rhode Island - Division of Taxation

Tax Credits/Deductions

Regulation CR 95-01

Daycare Assistance and Development Tax Credit

I. GENERAL

Chapter 47 of Title 44 of the Rhode Island General Laws provides a Rhode Island employer or the owner of Rhode Island commercial property credits against the business corporation tax (44-11); the public service corporation tax (44-13 but not the special property tax provisions of 44-13-13); the bank excise tax (44-14); the insurance companies' gross premiums tax (44-17) and the personal income tax (44-30).

The types and amount of credit generally differ according to the nature of the taxpayer's activity in the provision of the daycare. The three types of daycare activity considered for credit computation include credit for purchased daycare, for the establishment and/or operation of a daycare facility alone or with another taxpayer and for rental and lease amounts foregone by the owner of commercial property in Rhode Island.

Effective January 1, 1995, the credit has been extended to include amounts paid for the care of dependent adult family members.

II. LICENSING REQUIREMENT

No credit will be allowed unless the daycare facility has a valid Rhode Island license issued under Chapter 42-72.1 of the Rhode Island General Laws and agrees to accept children whose child care services are paid for in whole or in part by the Rhode Island Department of Human Services. The daycare facility license number must be shown where required on all credit claims.

As of January 1, 1995, any credit claimed for adult daycare must be for facilities certified by the Department of Elderly Affairs.

III. DEFINITIONS

A. "Amount expended" means the actual sums of money spent, or the cost or other basis for federal tax purposes of realty or tangible personalty donated or dedicated to the establishment of a daycare center.

B. "Donated" means a process whereby title and possession of realty or tangible personalty are transferred to a new owner of such property. Credit involving donated property may be calculated whether or not the donation was, or qualified for, a charitable contribution by the taxpayer but, in the event of a charitable contribution, the basis used by the taxpayer for federal income tax purposes must be the basis used in calculation of the credit. In the event that no charitable contribution has been made, the basis to be used is the basis normally used for federal

income tax purposes.

C. "Dedicated to the establishment and/or operation of a daycare facility" means restricted for the sole and exclusive use of the daycare facility. Property so dedicated must be physically segregated from other similar property of the taxpayer and the books and records of the taxpayer must reflect the dedication and limitation of use.

D. "Used primarily" means used more than 50%.

E. "Rental or lease space" means commercially zoned realty space rented or leased or available for rental or lease.

IV. PURCHASED DAYCARE

A. Calculation and Documentation

The credit for purchased daycare is measured at 30% of the sums expended. Purchased daycare has a maximum credit of \$30,000 per year and the yearly limit is calculated per individual taxpayer. Taxpayers purchasing daycare for or at one or more locations must obtain and retain appropriate documentation for each location (including the amount expended by the taxpayer, the name and address of the Rhode Island licensed daycare facility and, in the case of the owner of commercial property, the name of the commercial tenant and the names of the commercial tenants' employees for whose children the daycare is being purchased). Taxpayers claiming credits must also obtain written certification from the facility that it agrees to accept children whose child care services are paid in full or in part by the Rhode Island Department of Human Services. Taxpayers should aggregate the sums expended for the various locations and then perform the mathematics prior to determining the \$30,000 limit. (Purchases of daycare for dependent adult family members on or after January 1, 1995 are subject to the same provisions above.)

EXAMPLE: Big Corporation has two major plants in Rhode Island and purchases daycare for its employees at two different Rhode Island licensed daycare facilities. Big Corporation pays \$100,000 for daycare at facility A and \$75,000 for daycare at facility B. Big Corporation's credit for purchased daycare is computed as follows:

Daycare Purchased - Center A \$100,000
Center B 75,000
\$175,000

Credit = $30\% \times \$175,000$ but not more than \$30,000 = \$52,500 but subject to the \$30,000 maximum credit

If Big Corporation's tax was less than \$30,000, Big Corporation would have amounts of excess credit. Such excess credit cannot be carried forward to future years.

B. Direct Payment or Reimbursement

Purchased daycare must be paid directly by the employer or by the commercial landlord to the Rhode Island licensed daycare facility. Reimbursements to employees for daycare from employers whose employee benefit packages contain such provisions do not qualify as sums

expended for the purposes of purchased daycare provisions. Any monies reimbursed by the employee to the employer as part of the daycare purchased should be subtracted from the sums expended by the employer before calculation of the purchased daycare. With the extension of the credit to daycare for depending adult family members for payments made on or after January 1, 1995, the requirements above are likewise extended. The facility must be certified by the Department of Elderly Affairs.

V. ESTABLISHMENT/OPERATION OF DAYCARE FACILITY

A. General

The credit for establishing and/or operating a Rhode Island licensed daycare facility is measured at 30% of the sums expended to a maximum of \$30,000. The taxpayer may establish and/or operate the daycare facility alone or with other taxpayers; but the daycare facility must be used primarily by the taxpayer's employees' children or the children of the employees of the commercial tenants during the employees' hours of employment.

Effective January 1, 1995, the above provisions have been extended to include daycare facilities for depending adult family members.

B. Calculation and Documentation

Calculation of the sums expended for the establishment and/or operation of each licensed daycare facility must be made separately from calculation of other daycare items available under 44-47.

For example: Life Insurance Company established its own licensed daycare facility and paid \$20,000 for equipment and \$30,000 for staff; Life owes gross premiums tax under 44-17 of \$20,000.

Equipment \$ 20,000
Staffing 30,000
\$ 50,000

Credit = 30% x \$50,000 or \$15,000

Tax before Credit \$ 20,000
Credit 15,000
Tax Payable \$ 5,000

If insurance company's tax was less than \$15,100, then it would have had an excess credit available to be carried forward for the next 5 years.

Any credit claimed for establishing/operating a daycare facility must include written certification that such facility agrees to also accept children whose child care services are paid in full or in part by the Rhode Island Department of Human Services.

C. Reimbursement

Any monies paid by the employee to the employer as part of the child daycare program offered

to employees at a facility established and/or operated and for which a credit is being claimed under 44-47 should be subtracted from the "sums expended" by the employer before calculation of the credit. Similarly, these provisions have been extended to daycare for dependent adult family members effective January 1, 1995.

D. Timing the Credit Claim

The credit claimed for a child daycare facility established and/or operated should be made in the year in which the facility is first placed in service. Property is considered first placed in service by the taxpayer in the tax year in which under the taxpayer's depreciation practice, the period for depreciation for the property begins or the year in which the property is placed in a condition or state of readiness and availability for a specifically assigned function, whichever is earlier. In the event that the facility is considered to be first placed in service in a year prior to the issuance of its Rhode Island Daycare License, the facility will be considered to be first placed in service in the year concurrent with the license.

Effective January 1, 1995, the credit has been extended to include facilities certified by the Rhode Island Department of Elderly Affairs for the care of dependent adult family members.

VI. RENTALS AND LEASES FOREGONE

A. General

The credit for rentals and leases foregone by the owner of Rhode Island commercial realty related to the dedication of rental or lease space for daycare services is measured at 30% of the difference between the fair market value of the rental/lease and the actual rental/lease amount. The credit has a yearly maximum of \$30,000.

Effective January 1, 1995, the credit has been extended to include daycare services for dependent adults at facilities certified by the Rhode Island Department of Elderly Affairs.

B. Calculation and Documentation

Calculation of the amounts of rentals or leases foregone for each licensed daycare facility must be made separately for each location and should be made separately from any other daycare items otherwise available to the taxpayer under 44-47. Taxpayers claiming amounts for one or more locations must obtain and retain appropriate documentation for each location (including the amount foregone by the taxpayer, the name, license number and address of the Rhode Island licensed daycare facility). Any credit claimed for rentals and leases foregone must include written certification that such daycare facility agrees to also accept children whose child care services are paid in full or in part by the Rhode Island Department of Human Services.

The burden of proof of fair market value is upon the claimant taxpayer and such proof should include prior rental/lease of the same property. Where the property was not previously rented or leased, appraisals of the property by competent parties independent of the claimant taxpayer should be used.

A typical claim for rentals/leases foregone might be performed as follows:

Real Estate Corporation allowed a Rhode Island licensed daycare facility to be operated in some

available space in Providence which has a prior rental history of rents of \$25,000 per year.

Credit = 30% x \$25,000 or \$7,500

If Real Estate's tax was less than \$7,600, it should have an excess credit available to be carried forward for the next 5 years.

VII. MISCELLANEOUS

A. In the case of a business corporation filing a consolidated return under the provisions of 44-11, a credit will be allowed against the tax of only that corporation which qualifies for the credit and will not be allowed against the tax of other corporations that may join in the filing of the consolidated Rhode Island return.

B. The maximum annual credit for purchased daycare is \$30,000 and the credit cannot reduce the tax payable to less than its applicable minimum. The balance of unused credit may not be carried forward to any subsequent year.

C. The maximum annual credit for daycare establishment and operation and for amounts foregone is \$30,000 and the amounts of unused credits may be carried forward to the next 5 succeeding tax years.

D. The maximum total credit a taxpayer may apply against its taxes during any one tax year cannot exceed \$30,000 regardless of the composition of the types of daycare items claimed.

E. Credits carried over to succeeding tax years may not be used if, during that time, the facility was operated for less than six months.

F. Calculations for sums expended, realty or tangible personalty, or for rentals/leases foregone for the purposes of claiming the Rhode Island credit DO NOT require recapture or recalculation of those items for federal income tax purposes except as provided federally.

G. If the employer or commercial landlord is a partnership, joint venture or small business corporation having an election in effect under subchapter S of the internal revenue code, the credit must be divided in the same manner as income.

R. GARY CLARK TAX ADMINISTRATOR

EFFECTIVE DATE: JANUARY 1, 1995

THIS REGULATION AMENDS AND SUPERCEDES REGULATION CR88-1 PROMULGATED ON DECEMBER 31, 1988; AND CR92-01 PROMULGATED ON JANUARY 1, 1993.