

## Child Care Contribution Tax Credit Oregon Administrative Rule

### 414-700-0000

#### Purpose

The purpose of these rules is provide guidance for administration of the child care contribution tax credit program as authorized in ORS 314.752, 315.202 and 318.031 and Section 10, chapter 682, Oregon Laws 1987, Section 87, chapter 625, Oregon Laws 1989 and ORS Chapter ~~329657A~~.700 to ~~329657A~~.718. The child care contribution tax credit was enacted by the 2003 legislature to:

- (1) Encourage taxpayers to make contributions to the Office of Child Care ~~Division~~ by providing a financial return on qualified contributions and by soliciting other contributions.
- (2) Achieve specific and measurable goals for targeted communities and populations.
- (3) Set standards for the child care industry concerning the cost of providing quality, affordable child care.
- (4) Strengthen the viability and continuity of child care providers while making child care more affordable for low and moderate income families.

Stat. Auth: ORS ~~329657A~~.706

Statutes Implemented: ORS ~~329657A~~.700-~~329657A~~.718

Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

### 414-700-0010

#### Definitions

- (1) "Child care provider" means a provider, for compensation, of care, supervision or guidance to a child on a regular basis in a center or in a home other than the child's home. Child care provider does not include a person who is the child's parent, guardian or custodian.
- (2) "Community" means a recognized unit of government, service delivery area or other commonly recognized area or region within the state of Oregon.
- (3) "Community agency" means a nonprofit agency that:
  - (a) Provides services related to child care, children and families, community development or similar services; and
  - (b) Is eligible to receive contributions that qualify as deductions under section 170 of the Internal Revenue Code.
- (4) "High quality child care" means child care that meets standards for high quality child care established or approved by the ~~Commission for Child Care~~-Early Learning Council.

(5) "Qualified contribution" means a contribution made by a taxpayer to the Office of Child Care Division of the Employment Department or a selected community agency for the purpose of promoting child care, and for which an application is submitted for a tax credit certificate.

(6) "Tax credit certificate" means a certificate issued by the Office of Child Care ~~Division~~ to a taxpayer to qualify the taxpayer for a tax credit.

(7) "Tax credit marketer" means an individual or entity selected by the Office of Child Care ~~Division~~ to market tax credits to taxpayers.

Stat. Auth: ORS 329657A.706

Statutes Implemented: ORS 329657A.700-329657A.718

Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

#### **414-700-0020**

##### **Advisory Committee**

(1) The Early Learning ~~Child Care~~ Division shall guide and direct the implementation of this program in collaboration with an a ~~Advisory~~ c ~~Committee~~ appointed-established by the Office of Child Care ~~Division~~.

(2) The a ~~Advisory~~ c ~~Committee~~ shall be comprised of representatives of state agencies, local organizations, advocates, and consumers with experience or interest in tax credit programs, high quality child care, or community development. ~~Members shall serve staggered terms of either one or two years. A member may be re-appointed upon completion of their term.~~

Stat. Auth: ORS 329657A.706

Statutes Implemented: ORS 329657A.700-329657A.718

Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

#### **414-700-0030**

##### **Community Agencies**

(1) The Office of Child Care ~~Division~~ shall select one or more community agencies that, in the judgment of the Child Care Division Office and based on the criteria set forth in OAR 414-700-0050(a) through (d), will best serve the interests of their community.

(2) Community agencies shall:

(a) Disburse moneys to child care providers in their community;

(b) Coordinate an application process by which persons may apply to be participating providers as described in 414-700-0060;

(c) Enter into agreements with participating providers under which the duties and responsibilities of providers and the community agency are stated;

(d) Provide or coordinate required training for participating providers;

~~(e) Monitor providers through on-site visits and other appropriate means;~~

~~(f) Oversee the process by which a provider verifies the income of a family and establishes the total child care fee charged to a family;~~

~~(g) Report on provider compliance with OAR 414-700-0080 and other applicable requirements to contributors and the Child Care Division; and,~~

~~(h) Establish a maximum family income level for the region for purposes of the child care fee limitation to which providers are subject under OAR 414-700-0080.~~

Stat. Auth: ORS 329657A.706

Statutes Implemented: ORS 329657A.700-329657A.718

Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

#### **414-700-0040**

##### **Application and Renewal Process for Community Agencies**

(1) A community agency desiring to represent a community described in OAR 414-700-0030 shall submit an application to the Office of Child Care ~~Division~~, in a form prescribed and provided by the Office of Child Care ~~Division~~. The application will demonstrate and describe the agency's experience and abilities in the following areas:

(a) Financial soundness, net worth, cash flow, and accounting capacity to manage a tax credit program.

(b) Demonstrated ability to serve low- and moderate- income families.

(c) A governing board that is stable, has experience with financial matters, is representative of the community, and has a history of collaboration with other agencies in the community.

(d) An executive officer and staff with skill and experience in child care business management and small business development.

(2) The Office of Child Care ~~Division~~, in collaboration with the aAdvisory cCommittee established in OAR 414-700-0020, shall select a community agency to represent a community.

(3) A selected community agency shall enter into a written agreement with the Child Care Division that specifies the duties and performance expectations required of the agency.

~~(4) A selected community agency shall represent a community for a period of two years, unless earlier terminated by the Child Care Division for cause or by mutual consent of the parties as specified in the written agreement.~~

~~(5) A community agency may apply to continue as a selected community agency for subsequent two-year periods by submitting a renewal application to the Child Care Division.~~

~~(6) In deciding whether to renew an application, the Child Care Division and the Advisory Committee shall consider community satisfaction with services delivered and the agency's performance of responsibilities under the written agreement.~~

Stat. Auth: ORS ~~329657~~A.706

Statutes Implemented: ORS ~~329657~~A.700-~~329657~~A.718

Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

#### **414-700-0050**

##### **Distribution of Funds to Community Agencies**

(1) The Office of Child Care ~~Division~~ shall determine the total value of moneys to be available to each selected community agency to distribute to providers based on goals established for the program by the Office of Child Care ~~Division~~, in collaboration with the aAdvisory cCommittee ~~established~~appointed in OAR 414-700-0020 and transmit those determinations to the selected community agencies of each year.

(2) The Office of Child Care ~~Division~~ shall distribute moneys to the community agencies in a manner that will facilitate timely implementation of the program in that community.

(3) The total value of moneys available to all selected community agencies may not exceed the amount of contributions received from taxpayers during the tax year, minus any reasonable administrative costs incurred by the Office of Child Care ~~Division~~ and the selected community agencies.

(4) Distributions shall be made to selected community agencies in the proportion that the Office of Child Care ~~Division~~ determines best promotes the provision of child care in the state.

Stat. Auth: ORS 657A.706

Statutes Implemented: ORS 657A.700-657A.718

Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

#### **414-700-0060**

##### **Participating Provider Eligibility Requirements**

(1) To be eligible for disbursements under this program, child care providers shall:

(a) Be regulated by the Office of Child Care ~~Division~~;

(b) Accept children for whom child care is paid for through Department of Human Services subsidy;

(c) Provide high quality child care as defined by the Early Learning Council~~Child Care Division~~ in collaboration with the aAdvisory cCouncil;

(d) Maintain adequate liability insurance, financial records and parent policies and contracts; and

- (e) Permit the community agency to conduct visits for monitoring purposes.
- (2) If the provider is a home-based business, the provider shall meet the following requirements in addition to those in subsection (1) of this section:
  - (a) Enter into an agreement with the community agency to continue to provide child care services for at least two additional years; and
  - (b) Provide care to children from at least two families that have incomes of 85 percent or less of the median income for the region.
- (3) If the provider is a child care center, at least 25 percent of the families served by the center must have incomes that are 85 percent or less of the median income for the region.
- (4) In selecting participating child care providers, selected community agencies must give preference to providers that provide child care to low and moderate income families.
- (5) For care provided to children of families whose income does not exceed the level established by the community agency pursuant to ORS 657A.715(2)(g), the fee charged to the family by an eligible provider shall not exceed ten percent of the family's gross monthly income.

Stat. Auth.: ORS 657A.706

Stats. Implemented: ORS 657A.700 - 657A.718

Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 2-2005(Temp), f. & cert. ef. 6-16-05 thru 12-13-05; CCD 4-2005(Temp), f. 12-2-05, cert. ef. 12-15-05 thru 6-11-06; CCD 2-2006, f. 4-21-06, cert. ef. 4-23-06

#### **414-700-0070**

##### **Distribution of Funds to Participating Providers**

- (1) The selected community agency shall identify providers in the community that meet the requirements of OAR 414-700-0060 for the purpose of distribution of moneys. The selected community agency shall develop a process by which child care providers apply to receive distributions of moneys from contributions made by taxpayers.
- (2) By the end of each calendar year, the selected community agency must distribute to participating child care providers all moneys available to the community as a result of this program. Distributions shall be based on:
  - (a) The actual costs of providing quality, affordable child care in the community for which distributions are being made, including training costs, operating expenses and wages.
  - (b) The incomes of the families the provider serves and the child care fees the provider charges.
- (3) The selected community agency shall, through a process approved by the Child Care Division, determine the amount of moneys each eligible provider receives.

(4) A substantial portion of the moneys shall be distributed to providers who operate home-based child care businesses.

Stat. Auth: ORS 657A.706

Statutes Implemented: ORS 657A.700-657A.718

Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

#### **414-700-0080**

##### **Allocation of Certificates**

(1) Tax credit certificates shall be available to taxpayers on a statewide basis. The Office of Child Care ~~Division~~ shall allocate tax credit certificates to taxpayers that make qualified contributions to the Child Care Fund.

(2) If a taxpayer makes a contribution to the Office of Child Care ~~Division~~ for the purpose of receiving a tax credit under this program, the taxpayer shall submit an application for a tax credit certificate with the contribution. The applications shall:

(a) Be available to taxpayers from the Office of Child Care ~~Division~~; and

(b) Be submitted by December 31 of each year.

(3) Contributions made under this subsection shall be deposited in the Child Care Fund.

(4) The Office of Child Care ~~Division~~ shall consider applications for tax credit certificates in the chronological order in which the applications are received by the Office of Child Care ~~Division~~. The division shall issue tax credit certificates to applicants until the total credit value of all certificates issued by the division for the calendar year equals \$500,000. Each issued certificate shall state the value of the contribution being certified as eligible for the tax credit allowed under ORS 315.213.

(5) The Office of Child Care ~~Division~~ may not issue a tax credit certificate to a taxpayer to the extent the claim for credit in the application, when added to the total credit value previously certified by the Office of Child Care ~~Division~~ exceeds the \$500,000 tax credit value available for the calendar year requested.

(6) A taxpayer who receives a notice of denial of a tax credit certificate or that receives a tax credit certificate issued for an amount that is less than the amount contributed may request a refund for the amount contributed within 90 days of the Office of Child Care ~~Division~~'s denial or issuance of the certificate.

(a) The Office of Child Care ~~Division~~ shall send notice of a denial or changed amount and refund the amount for which a tax credit will not be granted within 30 days after receiving the request.

(b) The refund shall be made from the Child Care Fund.

(7) The Office of Child Care ~~Division~~ shall send a copy of all tax credit certificates issued to the Department of Revenue.

Stat. Auth: ORS 329657A.706

Statutes Implemented: ORS 329657A.700-329657A.718

Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

#### **414-700-0090**

##### **Taxpayer Requirements**

(1) A credit against the taxes otherwise due under ORS Chapter 316 or, if the taxpayer is a corporation, under ORS Chapter 317 or 318, is allowed to a taxpayer for certified contributions made to the Office of Child Care ~~Division~~ under OAR 414-700-0080.

(a) The amount of a tax credit available to a taxpayer for a tax year shall equal the amount stated in the tax credit certificate.

(b) The tax credit may not exceed the tax liability of the taxpayer for the tax year in which the credit is claimed.

(2) Any tax credit not used by the taxpayer in a particular tax year may be carried forward and offset the taxpayer's tax liability in any of the four succeeding tax years. The credit cannot be carried forward for any tax year thereafter.

(a) A taxpayer shall retain the tax credit certificate received under OAR 414-700-0080 with their copy of their tax return filed with the state Department of Revenue for the tax year in which the tax credit certificate applies.

(b) A credit under this section may be claimed by a non-resident or part-year resident without proration.

(3) The credit allowed under this section is in addition to, and not in lieu of, any credit or deduction allowable under ORS chapters 316, 317, or 318 for charitable contributions and contributions made in relation to child care.

(4) If a taxpayer makes a contribution to the Office of Child Care ~~Division~~ but does not want to receive a tax credit, the taxpayer may receive only deductions and credits otherwise allowed for a charitable contribution.

(5) Contributions made under this program shall be deposited in the Child Care Fund established under ORS 329657A.010.

Stat. Auth: ORS 329657A.706

Statutes Implemented: ORS 329657A.700-329657A.718

Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03