

Luz Escamilla proposes the following substitute bill:

Income Tax Revisions

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends income tax provisions.

Highlighted Provisions:

This bill:

- enacts nonrefundable corporate and individual income tax credits for employer-provided child care;
- allows a taxpayer to claim the nonrefundable child tax credit for child dependents under one year old and up to five years old; and
- makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-1002.2, as last amended by Laws of Utah 2023, Chapters 460, 462

59-10-1047, as last amended by Laws of Utah 2024, Chapter 235

ENACTS:

59-7-627, Utah Code Annotated 1953

59-10-1048, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-7-627** is enacted to read:

59-7-627 . Nonrefundable tax credits for employer-provided child care.

(1) As used in this section:

(a)(i) "Qualified child care expenditure" means an amount paid or incurred for the

operating costs of a qualified child care facility of the employer, whether the employer operates the qualified child care facility or contracts with a third party provider to provide child care services at the qualified child care facility.

(ii) "Qualified child care expenditure" includes costs related to training employees and providing increased compensation to employees with higher levels of child care training.

(b) "Qualified child care facility" means center based child care as that term is defined in Section 26B-2-401 that is located in the state.

(c) "Qualified construction expenditure" means an amount paid or incurred to acquire, construct, rehabilitate, or expand property:

(i) for a qualified child care facility of the employer; and

(ii) with respect to which the employer is allowed a deduction for depreciation, or amortization in lieu of depreciation.

(d) "Qualifying taxpayer" means a taxpayer that:

(i) is an employer; and

(ii) qualifies for and claims the federal employer-provided child care tax credit described in Section 45F, Internal Revenue Code, for the current taxable year.

(e) "Recapture event" means an employer fails to operate a qualified child care facility for which the employer claims a tax credit under this section as a child care facility for at least five consecutive taxable years after the taxable year on which the employer first claims a tax credit under this section.

(f) "Third party provider" means:

(i) a new child care provider; or

(ii) an existing child care provider that can perform the contract without reducing the provider's existing child care services.

(2)(a) A qualifying taxpayer may claim a nonrefundable tax credit equal to 20% of the qualified construction expenditures the qualifying taxpayer incurred during the taxable year.

(b) A qualifying taxpayer may carry forward, to the next five taxable years, the amount of the qualifying taxpayer's tax credit described in this Subsection (2) that exceeds the qualifying taxpayer's income tax liability for the taxable year.

(3)(a)(i) Subject to Subsection (3)(a)(ii), a qualifying taxpayer may claim a nonrefundable tax credit equal to 10% of the qualified child care expenditures the qualifying taxpayer incurred during the taxable year.

- (ii) A qualifying taxpayer may claim a tax credit under this Subsection (3) for qualified child care expenditures only if the qualifying taxpayer claims a tax credit under Subsection (2) for the current taxable year or a previous taxable year.
- (b) A qualifying taxpayer may not carry forward or carry back the tax credit described in this Subsection (3) that exceeds the qualifying taxpayer's income tax liability for the taxable year.
- (4)(a)(i) If a recapture event happens within two taxable years after the first taxable year in which the qualifying taxpayer claims a tax credit under this section, a qualifying taxpayer shall repay 100% of the tax credit a qualifying taxpayer receives under this section for any taxable year.
- (ii) If a recapture event happens more than two taxable years but fewer than three taxable years after the first taxable year in which the qualifying taxpayer claims a tax credit under this section, a qualifying taxpayer shall repay 75% of the tax credit a qualifying taxpayer receives under this section for any taxable year.
- (iii) If a recapture event happens more than three taxable years but fewer than four taxable years after the first taxable year in which the qualifying taxpayer claims a tax credit under this section, a qualifying taxpayer shall repay 50% of the tax credit a qualifying taxpayer receives under this section for any taxable year.
- (iv) If a recapture event happens more than four taxable years but fewer than five taxable years after the first taxable year in which the qualifying taxpayer claims a tax credit under this section, a qualifying taxpayer shall repay 25% of the tax credit a qualifying taxpayer receives under this section for any taxable year.
- (b) A qualifying taxpayer shall make a payment for a recapture event for the taxable year in which the recapture event occurs.

Section 2. Section **59-10-1002.2** is amended to read:

59-10-1002.2 . Apportionment of tax credits.

- (1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023, 59-10-1024, 59-10-1028, 59-10-1042, 59-10-1043, 59-10-1044, 59-10-1046, ~~[or]~~ 59-10-1047, or 59-10-1048 may only claim an apportioned amount of the tax credit equal to:
- (a) for a nonresident individual, the product of:
- (i) the state income tax percentage for the nonresident individual; and
- (ii) the amount of the tax credit that the nonresident individual would have been

allowed to claim but for the apportionment requirements of this section; or
(b) for a part-year resident individual, the product of:
(i) the state income tax percentage for the part-year resident individual; and
(ii) the amount of the tax credit that the part-year resident individual would have been
allowed to claim but for the apportionment requirements of this section.

(2) A nonresident estate or trust that claims a tax credit in accordance with Section
59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, ~~[or]~~ 59-10-1028, or 59-10-1048 may
only claim an apportioned amount of the tax credit equal to the product of:
(a) the state income tax percentage for the nonresident estate or trust; and
(b) the amount of the tax credit that the nonresident estate or trust would have been
allowed to claim but for the apportionment requirements of this section.

Section 3. Section **59-10-1047** is amended to read:

59-10-1047 . Nonrefundable child tax credit.

(1) As used in this section:

- (a) "Joint filing status" means the same as that term is defined in Section 59-10-1018.
- (b) "Head of household filing status" means the same as that term is defined in Section
59-10-1018.
- (c) "Married filing separately status" means a married individual who:
(i) does not file a single federal individual income tax return jointly with that married
individual's spouse for the taxable year; and
(ii) files a single federal individual income tax return for the taxable year.
- (d) "Modified adjusted gross income" means the sum of the following for a claimant or,
if the claimant's federal individual income tax return is allowed a joint filing status,
the claimant and the claimant's spouse:
(i) adjusted gross income for the taxable year for which a tax credit is claimed under
this section;
(ii) any interest income that is not included in adjusted gross income for the taxable
year described in Subsection (1)(d)(i); and
(iii) any addition to adjusted gross income required by Section 59-10-114 for the
taxable year described in Subsection (1)(d)(i).
- (e) "Qualifying child" means an individual:
(i) with respect to whom the claimant is allowed to claim a tax credit under Section
24, Internal Revenue Code, on the claimant's federal individual income tax return
for the taxable year; and

(ii) who is [~~at least one year old and younger than five~~] under six years old on the last day of the claimant's taxable year.

(f) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(2) Subject to [Subsection] Section 59-10-1002.2, a claimant may claim a nonrefundable tax credit of \$1,000 for each qualifying child.

(3) A claimant may not carry forward or carry back the amount of the tax credit that exceeds the claimant's tax liability.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by \$.10 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, \$27,000;

(b) for a federal individual income tax return that is allowed a single filing status or head of household filing status, \$43,000; and

(c) for a federal individual income tax return that is allowed a joint filing status, \$54,000.

Section 4. Section **59-10-1048** is enacted to read:

59-10-1048 . Nonrefundable tax credits for employer-provider child care.

(1) As used in this section:

(a) "Qualified child care expenditure" means the same as that term is defined in Section 59-7-627.

(b) "Qualified child care facility" means the same as that term is defined in Section 59-7-627.

(c) "Qualified construction expenditure" means the same as that term is defined in Section 59-7-627.

(d) "Qualifying claimant" means a claimant, estate, or trust that:

(i) is an employer; and

(ii) qualifies for and claims the federal employer-provided child care tax credit described in Section 45F, Internal Revenue Code, for the current taxable year.

(e) "Recapture event" means the same as that term is defined in Section 59-7-627.

(f) "Third party provider" means the same as that term is defined in Section 59-7-627.

(2)(a) A qualifying claimant may claim a nonrefundable tax credit equal to 20% of the qualified construction expenditures the qualifying claimant incurred during the taxable year.

(b) A qualifying claimant may carry forward, to the next five taxable years, the amount of the qualifying claimant's tax credit described in this Subsection (2) that exceeds the qualifying claimant's income tax liability for the taxable year.

(3)(a)(i) Subject to Subsection (3)(a)(ii), a qualifying claimant may claim a nonrefundable tax credit equal to 10% of the qualified child care expenditures the qualifying claimant incurred during the taxable year.

(ii) A qualifying claimant may claim a tax credit under this Subsection (3) for qualified child care expenditures only if the qualifying claimant claims a tax credit under Subsection (2) for the current taxable year or a previous taxable year.

(b) A qualifying claimant may not carry forward or carry back the tax credit described in this Subsection (3) that exceeds the qualifying claimant's income tax liability for the taxable year.

(4)(a)(i) If a recapture event happens within two taxable years after the first taxable year in which the qualifying claimant claims a tax credit under this section, a qualifying claimant shall repay 100% of the tax credit a qualifying claimant receives under this section for any taxable year.

(ii) If a recapture event happens more than two taxable years but fewer than three taxable years after the first taxable year in which the qualifying claimant claims a tax credit under this section, a qualifying claimant shall repay 75% of the tax credit a qualifying claimant receives under this section for any taxable year.

(iii) If a recapture event happens more than three taxable years but fewer than four taxable years after the first taxable year in which the qualifying claimant claims a tax credit under this section, a qualifying claimant shall repay 50% of the tax credit a qualifying claimant receives under this section for any taxable year.

(iv) If a recapture event happens more than four taxable years but fewer than five taxable years after the first taxable year in which the qualifying claimant claims a tax credit under this section, a qualifying claimant shall repay 25% of the tax credit a qualifying claimant receives under this section for any taxable year.

(b) A qualifying claimant shall make a payment for a recapture event for the taxable year in which the recapture event occurs.

Section 5. **Effective Date.**

This bill takes effect on May 7, 2025.

Section 6. **Retrospective operation.**

This bill has retrospective operation for a taxable year beginning on or after January 1,

_ 200 2025.