Tax Incentives for Child and Dependent Care Expenses

Department of Legislative Services 2016

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Department of Legislative Services
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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF POLICY ANALYSIS
MARYLAND GENERAL ASSEMBLY

Warren G. Deschenaux
Executive Director

December 2016

The Honorable Thomas V. Mike Miller, Jr., President of the Senate
The Honorable Michael E. Busch, Speaker of the House of Delegates
Members of the General Assembly

Ladies and Gentlemen:

During the 2016 interim, the Joint Committee on Children, Youth, and Families reviewed issues related to child care in Maryland, including child care affordability and tax incentives for lower and middle income families. At the joint committee's request, the Department of Legislative Services (DLS) reviewed the tax incentives available to taxpayers to assist with the costs of raising children. This review resulted in the enclosed report, *Tax Incentives for Child and Dependent Care Expenses.*

There are a number of federal and Maryland tax incentives that are available to assist taxpayers with the costs of raising children. At the federal level, these include the child tax credit, the child and dependent care tax credit, flexible spending accounts, and the earned income tax credit. In Maryland, these incentives include the State child and dependent care tax credit, the subtraction modification for child and dependent care expenses, the State earned income tax credit, and the poverty level tax credit. In 2013, Maryland taxpayers received approximately $45 million in total State and local income tax benefits from the State child and dependent care credit and subtraction modification. The report reviews each of the tax incentives listed above and also provides several options if the General Assembly wishes to consider expanding the State child and dependent care tax credit or the subtraction modification.

Benjamin A. Blank; George H. Butler, Jr.; and Heather N. Ruby of the Office of Policy Analysis wrote the report, which was reviewed by Ryan Bishop. Maureen R. Merzlak was responsible for production of the manuscript. DLS trusts that this report will be useful to members of the General Assembly in future deliberations about tax incentives for child and dependent care expenses.

Sincerely,

Warren G. Deschenaux
Executive Director

WGD/JRB/mrm

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Chapter 1. Federal Tax Incentives for Child and Dependent Care Expenses

Overview

There are several types of federal income tax incentives that benefit taxpayers with children. These incentives include (1) the child tax credit (CTC); (2) the child and dependent care tax credit (CDCTC); (3) flexible spending accounts (FSA); and (4) the earned income tax credit (discussed in more detail in Chapter 4). There is also a credit available for employer-provided child care facilities and services.

Child Tax Credit

Enacted in 1997, the CTC helps working families offset the costs of raising children. The tax credit may be claimed by taxpayers who have a qualifying child and is in addition to the credit that may be claimed for child and dependent care expenses.

The tax credit is worth up to $1,000 per qualifying child, depending on the taxpayer's income level and if certain other criteria are met. The credit amount is phased out or eliminated for taxpayers with federal adjusted gross income (FAGI) above a certain amount. The amount at which this phase-out begins varies depending on filing status, as shown in **Exhibit 1.1**.

Exhibit 1.1
Federal Child Tax Credit
Phase-out Thresholds

Filing Status	Phase-out Begins at FAGI of:	Fully Phased Out at FAGI of:
Married filing jointly	$110,000	$130,000
Married filing separately	55,000	75,000
Single/head of household/qualifying widow(er)	75,000	95,000

FAGI: federal adjusted gross income

Source: Internal Revenue Code

The credit value is reduced by $50 (for each child) for each $1,000 above the threshold. In addition, the credit is generally limited by the amount of the income tax owed or alternative minimum tax that may be owed. If a taxpayer's CTC is greater than the amount of income tax owed, the taxpayer may be able to receive some or all of the credit as a refund, known as the Additional Child Tax Credit (ACTC).

A taxpayer can receive a refund of the credit equal to 15% of their earnings above $3,000, up to the credit's full $1,000-per-child value. For example, a single parent with two children who earns $14,000 in 2015 could receive 15% of $11,000, or $1,650, as a refund. This refundability feature is important for low-income working families that may otherwise not receive the tax benefits available to higher income families to help offset the cost of raising children.

While there is no maximum income restriction to claim the ACTC, the taxpayer must have tax liability less than the value of the CTC. Additionally, in order to claim the full $1,000/child as a refund, there is effectively a minimum income restriction on the ACTC. At 15% of income above $3,000, a taxpayer would need to have earned income of $9,667 (and no tax liability) to claim the full $1,000 as a refund. This amount would be $16,667 for two children and $23,000 for three children. At lower incomes, the ACTC may be claimed for an amount less than the full $1,000/child.

The credit may be claimed for a qualifying child if several criteria are met, as listed below:

- **Age Test:** a child must have been under 17 years of age at the end of the tax year.
- **Relationship Test:** the child must be the taxpayer's son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister or a descendant of any of these individuals, which includes a grandchild, niece, or nephew.
- **Support Test:** the child must not have provided more than half of their own support.
- **Dependent Test:** the taxpayer must claim the child as a dependent on the taxpayer's federal tax return.
- **Citizenship Test:** the child must be a U.S. citizen, U.S. national, or U.S. resident alien.
- **Residence Test:** the child must have lived with the taxpayer for more than half of the taxable year.

In 2016, the Urban Institute/Brookings Institution Tax Policy Center estimates the credit, including the refundable portion, will provide $57 billion to 35 million families. Since the credit phases out as income increases, the families least likely to receive the credit are those in the highest 20% of the income distribution.

Child and Dependent Care Tax Credit

The CDCTC provides a credit for expenses related to the care of a child or other dependent. A taxpayer may be eligible to claim the credit if the taxpayer paid someone to care for their child or dependent during the taxable year and meets certain requirements. A qualifying person is a dependent child 12 years of age or younger when the care was provided. Additionally, a spouse and certain other individuals who are physically or mentally incapable of self-care may also be qualifying persons. The care must have been provided so the taxpayer – and spouse if married filing jointly – could work, look for work, or be in school.

The taxpayer – and spouse if filing jointly – must have earned income from wages, salaries, tips, other taxable employee compensation, or net earnings from self-employment. One spouse may be considered as having earned income if the individual was a full-time student or was physically or mentally unable to care for themselves. The payments for care cannot be paid to the taxpayer's spouse, to the parent of a qualifying person, to another dependent, or to someone under 19 years of age.

The qualifying individual must have lived with the taxpayer for more than half of the year. Additionally, if the taxpayer pays someone to come to the taxpayer's home and care for the dependent, the taxpayer may be considered a household employer and may have to withhold and pay Social Security and Medicare tax and pay federal unemployment tax.

The credit is worth between 20% and 35% of qualifying expenses, depending upon FAGI level, and is nonrefundable. To calculate the credit, the taxpayer may use up to $3,000 of expenses paid in a year for one qualifying individual or $6,000 for two or more qualifying individuals.

Higher credit values apply to families with lower FAGI. Families with incomes below $15,000 qualify for the full 35% credit. That percentage rate falls by 1% for each additional $2,000 of income (or part thereof) until it reaches 20% for families with incomes of at least $43,000. The qualifying expenses must be reduced by the amount of any dependent care benefits provided by an employer that is deducted or excluded from income (or benefits from a flexible spending account, as discussed below). The maximum federal credit is $1,050 for one qualifying dependent and $2,100 for two or more qualifying dependents, as shown in **Appendix 1.**

The Urban Institute/Brookings Institution Tax Policy Center estimates that approximately 12% of families with children benefit from the CDCTC. Some do not benefit because they do not have child care expenses or, in the case of married couples, only one spouse works or attends school. For those who claim the credit, the Tax Policy Center estimates that taxes are reduced by an average of $553.

Flexible Spending Accounts

Employees can set aside up to $5,000 per year of their salary in an FSA to pay for dependent care expenses. The money set aside in an FSA is not subject to income or payroll taxes. Contributions do not roll over and are "use it or lose it." The money in the account is used for child care expenses, just as with the CDCTC; however, unlike the CDCTC, only one parent must work to claim a benefit from an FSA.

According to the Bureau of Labor Statistics, in 2014, 54% of state and local government workers and 36% of private industry workers had access to a dependent care FSA. The likelihood of access varies based on industry and income level, with lower earners less likely to have access to an FSA than higher earners. For example, 58% of private industry workers in management, professional, and related occupations had access to an FSA, while 18% of private industry workers in service occupations had access.

Interaction with the Child and Dependent Care Tax Credit

If a family has child care expenses that exceed the amount set aside in an FSA, the family may qualify for a CDCTC. Families first calculate their allowable CDCTC expenses (maximum of $3,000 for one child, or $6,000 for two or more children). If this calculation exceeds the amount of salary set aside in an FSA, a parent may claim a CDCTC based on the difference.

For example, a family with two or more children can qualify for up to $6,000 of expenses to apply toward a CDCTC. If that family excluded $5,000 from salaries to pay for child care expenses in an FSA, it may claim the difference between the two ($1,000 of expenses) for a CDCTC. The value of the credit would be for 20% to 35% of that $1,000.

Higher income families generally benefit more from the FSA exclusion than from the credit because the excluded income is free from both income and payroll taxes. Most higher income families with child care expenses qualify for a credit of 20% of their eligible expenses since their adjusted gross income exceeds $43,000. Because the combined tax savings from each dollar of child care expenses excluded from income likely exceeds 20%, the exclusion is worth more than the credit in most cases. The exclusion, however, is only available to taxpayers whose employers offer FSAs, and the use of FSAs does have certain restrictions.

Employer-provided Child Care Tax Credit

The employer-provided child care tax credit may be claimed for 25% of the qualified child care facility expenditures plus 10% of the qualified child care resource and referral expenditures paid or incurred by an employer during the tax year. The credit is limited to no more than $150,000 per tax year.

Qualified child care expenditures are amounts paid or incurred to acquire, construct, rehabilitate, or expand depreciable (or amortizable) property to be used as part of a qualified child care facility of the taxpayer and that is not part of the principal residence of the taxpayer or any employee of the taxpayer. Qualified expenditures may also include the operating expenses of a qualified child care facility of the taxpayer, including expenses for employee training, scholarship programs, and increased compensation to employees with higher levels of child care training, or for contracting these services with a qualified child care facility to provide child care services to employees of the taxpayer. Qualified child care resource and referral expenditures are amounts paid or incurred under a contract to provide child care resource and referral services to employees of the taxpayer.

To qualify, a child care facility must meet several requirements, including the licensing of the facility as a child care facility and compliance with all state and local laws and regulations.

Chapter 2. Maryland Tax Incentives for Child and Dependent Care Expenses

Maryland offers both an income tax subtraction modification (deduction) and an income tax credit to help offset child and dependent care expenses.

Child and Dependent Care Subtraction Modification

Section 10-208(e) of the Tax – General Article allows taxpayers to subtract from taxable income expenses incurred by the taxpayer for household and dependent care services not exceeding the dollar limit allowed under § 21(c) of the Internal Revenue Code. A taxpayer may subtract actual expenses up to the legal maximum of $3,000 for one child or $6,000 for two or more children.

Child and Dependent Care Tax Credit

First enacted in 1999 and subsequently modified in 2000 and 2001, Section 10-716 of the Tax – General Article provides an income tax credit for child and dependent care expenses equal to 32.5% of the federal child and dependent care tax credit. The maximum income threshold to be eligible for the credit is federal adjusted gross income (FAGI) of $50,000 ($25,000 for a married individual filing a separate return); this maximum threshold is fixed and not adjusted for inflation. The credit may be claimed in addition to the subtraction modification discussed above.

As illustrated in **Exhibit 2.1**, for a married individual filing a separate return, if the individual's FAGI for the taxable year exceeds $25,000, the credit percentage is reduced by 10% for each $500 or fraction of $500 by which the individual's FAGI exceeds $20,500. For all other filers, if an individual's FAGI for the taxable year exceeds $41,000, the credit percentage is reduced by 10% for each $1,000 or fraction of $1,000 by which the individual's FAGI exceeds $41,000. The credit is not refundable and, if the credit exceeds a taxpayer's tax liability, may not be carried forward to future taxable years.

Exhibit 2.1
Calculation of Child and Dependent Care Tax Credit

Filing Status of Married Filing Separately with Federal Adjusted Gross Income of			For All Other Filing Statuses with Federal Adjusted Gross Income of	
At Least	**But Less Than**	**Credit %**	**At Least**	**But Less Than**
$0	$20,501	32.5	$0	$41,001
20,501	21,001	29.25	41,001	42,001
21,001	21,501	26.0	42,001	43,001
21,501	22,001	22.75	43,001	44,001
22,001	22,501	19.5	44,001	45,001
22,501	23,001	16.25	45,001	46,001
23,001	23,501	13.0	46,001	47,001
23,501	24,001	9.75	47,001	48,001
24,001	24,501	6.5	48,001	49,001
24,501	25,001	3.25	49,001	50,001
25,001	Or Over	0	50,001	Or Over

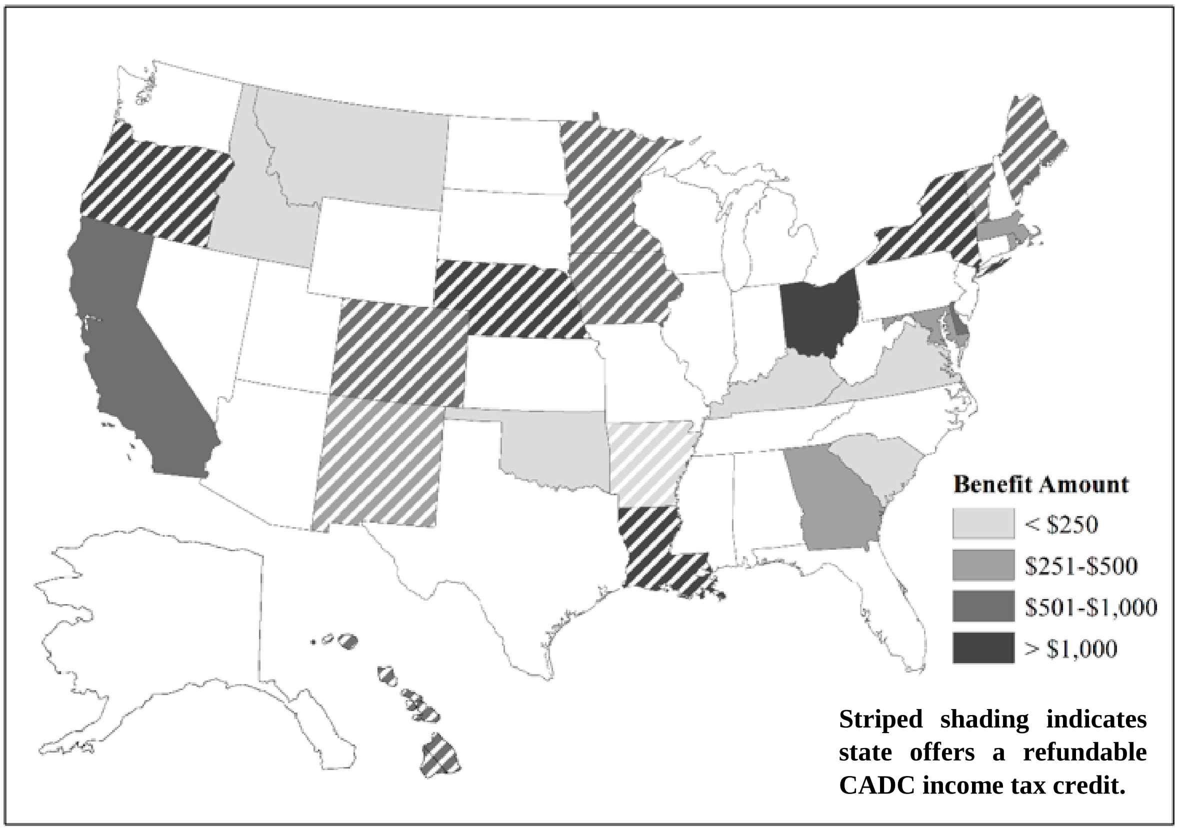
Source: Comptroller's Office

Chapter 3. Tax Incentives for Child and Dependent Care Expenses in Other States

Overview

Maryland and 25 other states, including the District of Columbia, currently provide income tax credits and/or deductions for child and dependent care expenses that reduce the amount of income tax owed by families. **Exhibit 3.1** provides an overview of these benefits, including information regarding whether or not the benefit is refundable and the maximum limits of the benefits.

Exhibit 3.1
States with Child and Dependent Care Incentives



CADC: child and dependent care

Source: Department of Legislative Services; National Women's Law Center

Of the states that offer these benefits, 5 states offer tax filers deductions for child and dependent care expenses. Twelve states offer tax filers refundable credits for child and dependent care expenses incurred, while 11 states offer tax filers only nonrefundable credits.

Several states calculate their state credits as a percentage of the federal credit for child and dependent care expenses. While some states provide a state credit based on the amount of the federal credit for which the tax filer is potentially eligible unreduced by the tax filer's federal tax liability, other states base their credits on the amount of the federal credit actually received. Generally, credit amounts for individuals with two or more children vary from $420 in several states to $2,310 in New York; however, Oregon's recently enacted Working Family Child and Dependent Care credit, effective in tax year 2016, has maximum limits of $9,000 for the care of one qualifying child/dependent and $18,000 for the care of two or more qualifying children/dependents. **Exhibit 3.2** and **Appendix 2** provide additional information on these incentives.

Exhibit 3.2

States with Child and Dependent Care Tax Incentives

State	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
Oregon	Yes	$9,000	$18,000
New York	Yes	1,155	2,310
Louisiana	Yes	1,050	2,100
Louisiana	No	1,050	2,100
Nebraska	Yes	1,050	2,100
Ohio	No	1,050	2,100
Iowa	Yes	788	1,575
Minnesota	Yes	720	1,440
Hawaii	Yes	600	1,200
California	No	525	1,050
Colorado	Yes	525	1,050
Delaware	No	525	1,050
Louisiana	Yes	525	1,050
Maine	Yes	525	1,050
Vermont	Yes	525	1,050
Colorado	Yes	500	1,000
New Mexico	Yes	480	960 for two, 1,200 for three or more
Maryland	**No**	**341**	**683**
District of Columbia	No	336	672
Georgia	No	315	630
Rhode Island	No	263	525

State	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
Massachusetts (Deduction)	No	254	509
Vermont	No	252	504
Idaho (Deduction)	No	222	444
Arkansas	No	210	420
Arkansas	Yes	210	420
Kentucky	No	210	420
Oklahoma	No	210	420
South Carolina	No	210	420
Virginia (Deduction)	No	173	345
Maryland (Deduction)	**No**	**172**	**345**
Montana (Deduction)	No	144	180 for two, 240 for three or more

Note: Benefits listed above are income tax credits unless specified otherwise.

Source: Department of Legislative Services; National Women's Law Center

An overview of the child and dependent care tax incentives offered by Maryland's neighboring jurisdictions is listed below.

Delaware

Delaware provides an income tax credit equal to 50% of the child and dependent care expenses tax credit that may be claimed for federal income tax purposes for the same tax year. The credit is not refundable.

District of Columbia

The District of Columbia provides an income tax credit equal to 32% of the child and dependent care expenses credit allowable for federal income tax purposes for the same tax year. The credit is not refundable.

Pennsylvania

Pennsylvania does not offer a tax credit or deduction for child and dependent care expenses.

Virginia

Virginia provides an income tax deduction equal to the amount of the child and dependent care expenses credit allowable for federal income tax purposes for the same tax year.

West Virginia

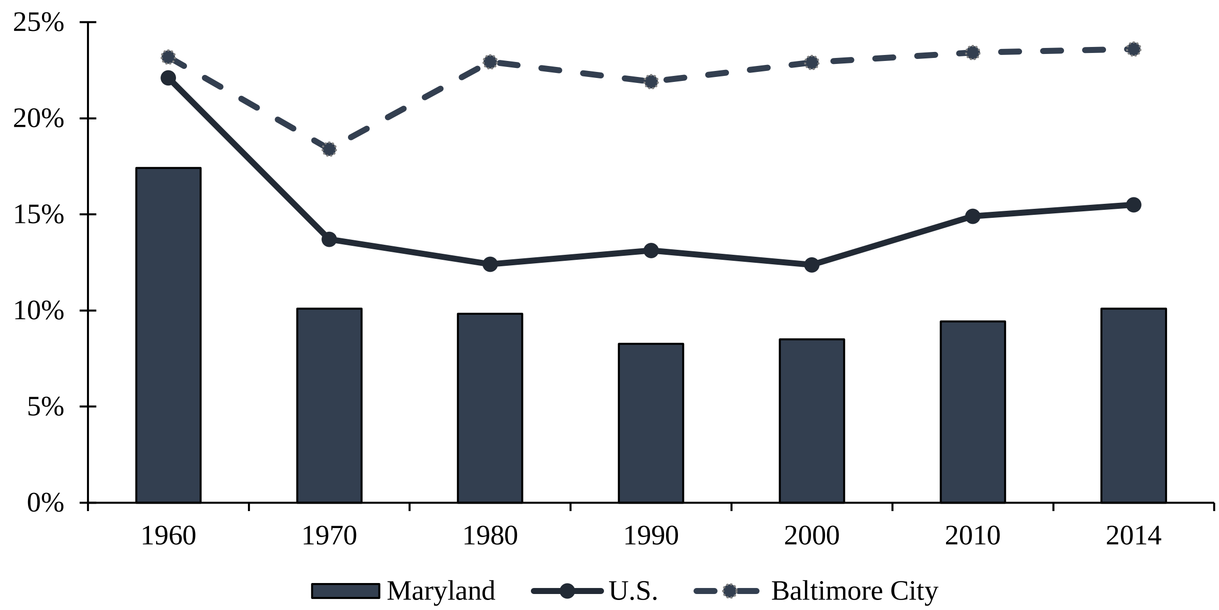
West Virginia does not offer a tax credit or deduction for child and dependent care expenses.

Chapter 4. Additional Maryland Tax Incentives for Low-income Individuals and Families

Poverty in Maryland

The issue of poverty has long been an important concern of policymakers. **Exhibit 4.1** compares the change in U.S., Maryland, and Baltimore City poverty rates from 1960 to 2014. Significant reductions in poverty occurred in the State between 1960 and 2000 as the percentage of individuals in poverty fell by half, from 17.4% to 8.5%. There were 85,000 fewer individuals in poverty in 2000, a 16.0% reduction from 1960, even as Maryland's population increased by 2 million. In 1960, 17 out of 24 local jurisdictions had a poverty rate in excess of 20.0%. By 2000, the overall poverty rate in all counties except for Baltimore City decreased from 14.9% to 6.5%. However, poverty has recently increased in both absolute and percentage terms, primarily due to the impact of the Great Recession and long-term trends predating the recession.

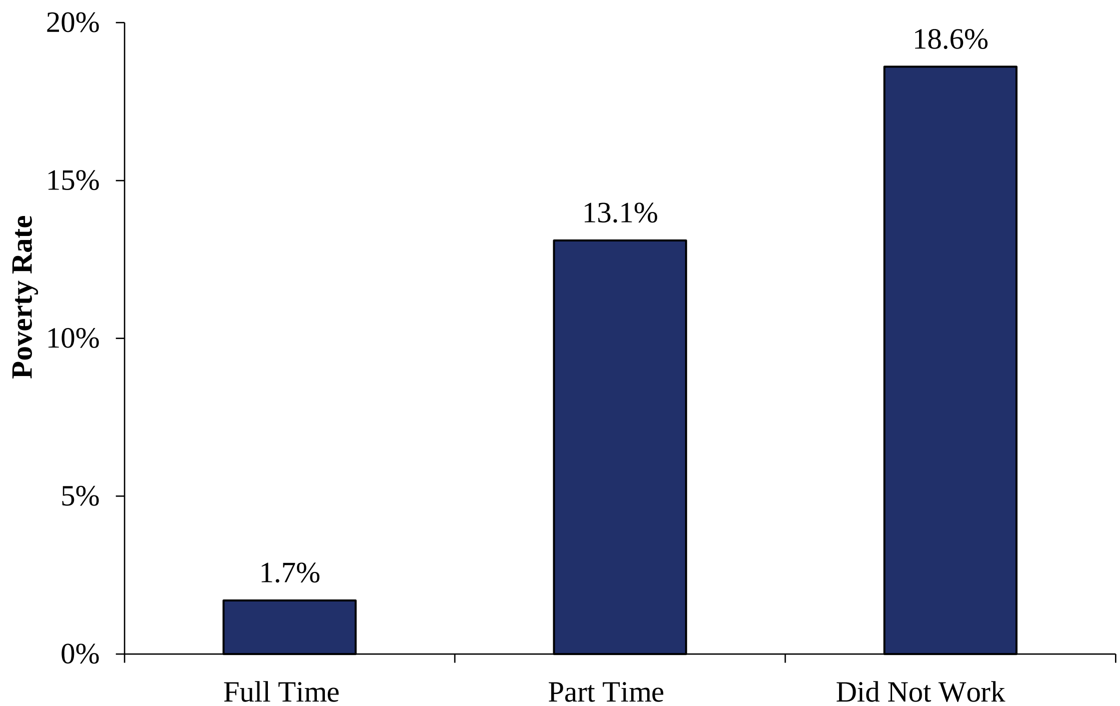
Exhibit 4.1
U.S., Maryland, and Baltimore City Poverty Rates
Calendar 1960-2014



Source: U.S. Census Bureau; Department of Legislative Services

The causes of poverty are complex and due to multiple factors; however, research has focused on the interrelated impacts of education, joblessness, and poverty. Not surprisingly, Marylanders with full-time employment year round are much less likely to be poor (1.7%), compared to a little less than one in five who did not work during the year, as shown in **Exhibit 4.2**. Many of the poor struggle to find full-time employment, as 13.1% of Maryland's residents who work part-time or part of the year are in poverty.

Exhibit 4.2
Poverty Rates by Work Status
Calendar 2014

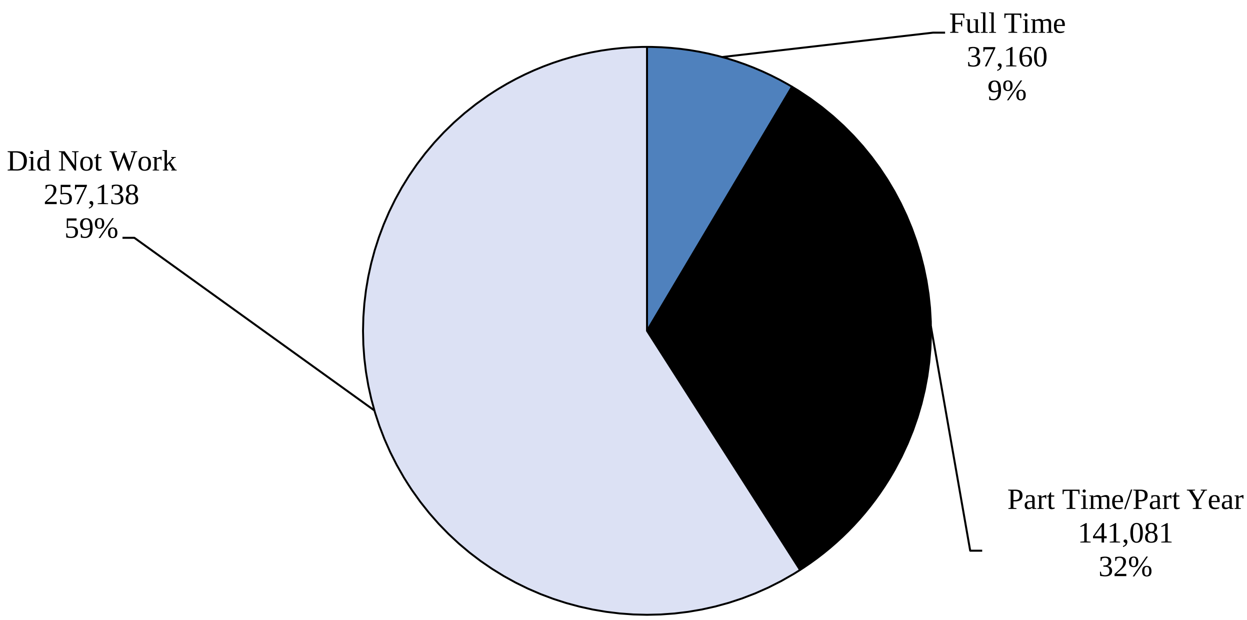


Note: Work status is for individuals age 16 and older. Part-time workers include individuals who also work a portion of the year.

Source: 2014 American Community Survey; Department of Legislative Services

About 6 in 10 of Maryland's poor did not work at any point during 2014, and about one-third worked part time or a portion of the year, as shown in **Exhibit 4.3**. Although full-time employment significantly decreases the likelihood of being poor, it is no assurance of escaping poverty, as 9% of the poor in Maryland work full time and earn wages below the poverty level.

Exhibit 4.3
Distribution of Maryland Individuals in Poverty by Work Status
Calendar 2014

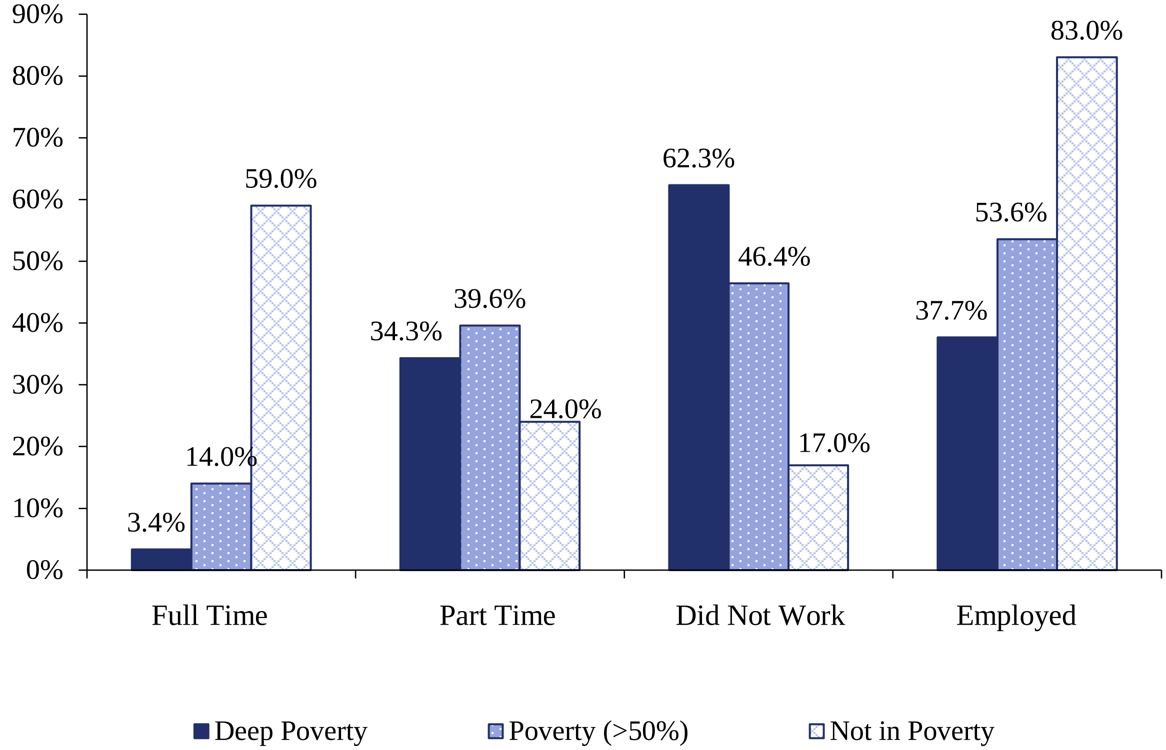


Note: Work status is for individuals age 16 and older. Part-time workers include individuals who also work a portion of the year.

Source: U.S. Census Bureau; Department of Legislative Services

Exhibit 4.4 compares the work status of Maryland individuals in deep poverty (incomes of less than 50% of the poverty level), individuals with incomes between 50% and 100% of the poverty level, and all Marylanders who are not in poverty.

Exhibit 4.4
Work Status of Marylanders According to Poverty Level
Calendar 2011-2013



Note: Work status is for individuals age 16 to 65 and is calculated as the ratio of employed per total population age 16 to 65.

Source: U.S. Census Bureau; Department of Legislative Services

Tax Credits for Low-income Taxpayers

Since poverty is a concern to policymakers, Maryland provides several tax incentives to reduce poverty and encourage work. In addition to the tax credit and subtraction modification to offset child and dependent care expenses, low-income taxpayers may be eligible for other State tax incentives, such as the earned income credit (EIC) and the poverty level credit.

Earned Income Tax Credit

The federal earned income tax credit (EITC) is a refundable tax credit offered to low-income workers. The EITC program, first enacted in 1975, expanded significantly over time and is now one of the largest federal antipoverty programs. Maryland, and about half of all states and the District of Columbia, offer an EIC that supplements the federal credit, with the implicit objective to reduce poverty.

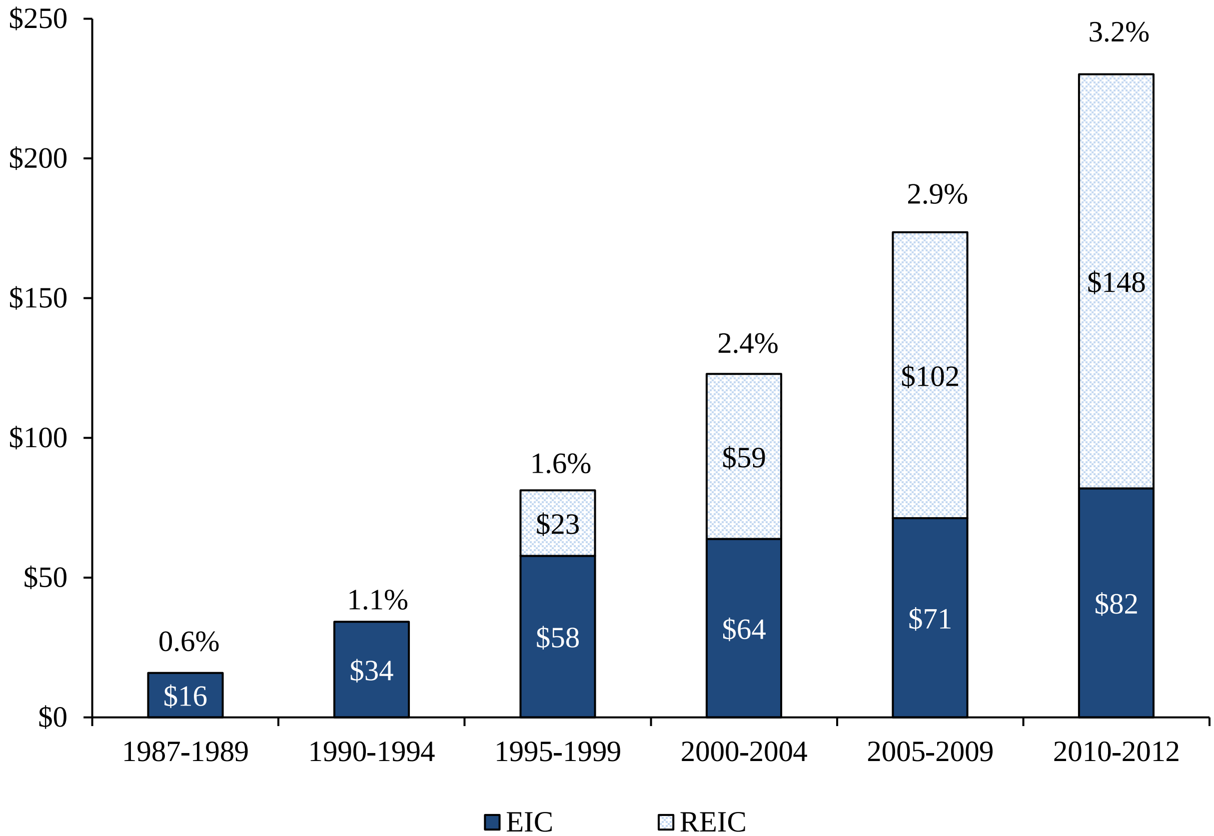
The EITC is an important safety net program for low-income families. A survey on EITC beneficiaries found that 69% planned to use part of the credit for "making ends meet." In 2011, the EITC lifted 4.7 million children out of poverty, more than any other program. While there is general consensus among researchers that the EITC is an effective tax policy that helps raise low-income households out of poverty, it is not without issues. Implementation issues that limit effectiveness include high rates of improper payments (credits claimed by ineligible individuals), the use of paid tax preparers that charge high-cost products that reduce the value of the credit, and participation rates that could be improved. Additionally, the ability of the EIC to reduce concentrated poverty and deep poverty is limited given the work component of the credit.

Maryland offers a nonrefundable credit, which is equal to the lesser of 50% of the federal credit or the State income tax liability in the taxable year. If the nonrefundable credit reduces a taxpayer's liability to zero, the taxpayer is eligible to claim a refundable credit equal to 26% (gradually increasing to 28% by tax year 2018) of the federal credit, minus any pre-credit State income tax liability.

A total of 415,404 recipients claimed $244.3 million in State credits and $58.8 million in local credits in tax year 2012. Almost two-thirds (64.4%) of the total amount was distributed as refunds with the remaining one-third (35.6%) offsetting tax liability. Tax returns claiming the State credit comprised 14.0% of all tax returns filed. The majority of recipients filed as head of household and had a Maryland adjusted gross income (MAGI) of under $20,000; 40.0% of recipients had multiple qualifying children. Additionally, using 10 years of data from 2003 through 2012, the Department of Legislative Services examined the frequency that recipients claimed the State credit and found that the majority of recipients claim the credits for a short period of time.

The fiscal impact of the State EIC program has expanded significantly over time, increasing by 6.5 times in real terms since 1990, an average annual growth rate of 9%. Significant factors contributing to this increase include the establishment and subsequent expansion of a State refundable credit as well as increased poverty and federal EITC enhancements. **Exhibit 4.5** shows the growth in State EICs since the program's inception. Refundable credits contributed to more than 80% of the total increase since tax year 2000 and largely reflects several State enhancements increasing the percentage value. As a percentage of total personal income tax revenues, State credits increased from an average of 0.6% in tax years 1987 through 1989 to an average of 3.2% in tax years 2010 through 2012.

Exhibit 4.5
Average Total State Credits Claimed
Tax Years 1987-2012
($ in Millions)



EIC: earned income credit
REIC: refundable earned income credit

Note: Amounts are expressed in nominal dollars and are not adjusted for inflation. Refundable claims in 1995-1999 represent tax years 1998-1999 only, the first years in which the credits were available.

Source: Comptroller's Office; Department of Legislative Services

Exhibit 4.6 shows that in 2012, a similar number of taxpayers with one qualified child and two or more qualified children claimed the credit, 36.0% and 40.0%, respectively. However, filers with two or more qualified children receive 60.0% of all credits, while those with one child receive 36.0% of the credits, reflecting the more generous credit for larger families. While a significant number of claimants (23.7%) had no qualifying children, they claimed only 4.0% of the total credits claimed.

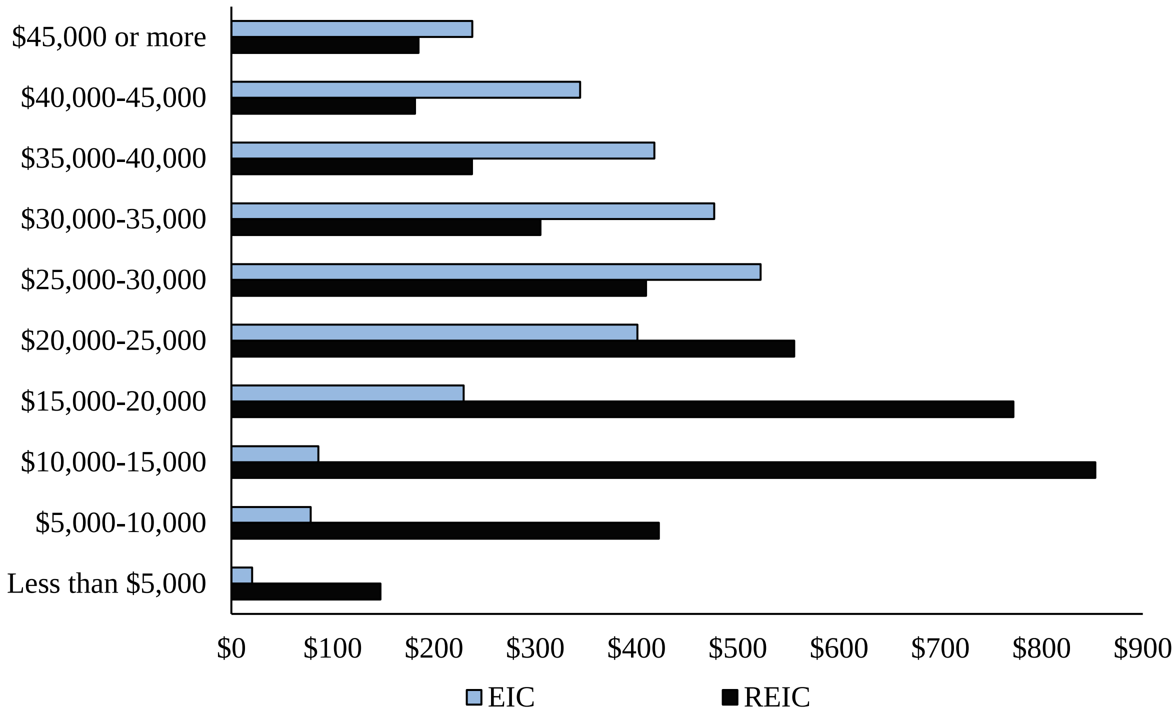
Exhibit 4.6
Claimants by Number of Qualifying Children
Tax Year 2012

Qualifying Children	Households	Distribution of Households	Amount of Claims	Distribution of Claims	Average Claim
None	95,592	23.0%	$9,779,611	4.0%	$102
One	150,010	36.1%	87,928,963	36.0%	586
Two	110,636	26.6%	93,667,374	38.3%	847
Three or More	59,166	14.2%	52,913,833	21.7%	894
Total	**415,404**	**100.0%**	**$244,289,781**	**100.0%**	**$588**

Source: Comptroller's Office; Department of Legislative Services

Taxpayers with higher amounts of MAGI tend to claim a greater amount of nonrefundable credits, reflecting higher tax liabilities. A majority of the nonrefundable credits were claimed by taxpayers with MAGI of between $20,000 and $35,000, while the majority of the refundable credits were claimed by taxpayers with MAGI of between $5,000 and $25,000. Approximately 40% of taxpayers with MAGI between $10,000 and $15,000 claimed either credit. Fewer taxpayers with MAGI of less than $5,000 claimed the credits, only 14%, presumably because they did not have any earned income. While some taxpayers with low income may not be eligible for the credit due to age, nontaxable income, and other factors, 85% of taxpayers with MAGI of less than $5,000 did not claim the credit, suggesting that the credit may have a limited impact in alleviating deep poverty. As **Exhibit 4.7** shows, taxpayers with MAGI of less than $25,000 received on average more in refundable credits than nonrefundable credits, while those with MAGI of over $25,000 received more in nonrefundable credits.

Exhibit 4.7
Average Credits by Maryland Adjusted Gross Income
Tax Year 2012



EIC: earned income credit
REIC: refundable earned income credit

Source: Comptroller's Office; Department of Legislative Services

Poverty Level Credit

The State provides a nonrefundable income tax credit known as the poverty level credit, which was established in 1998, the same year in which the refundable EIC credit was established. The poverty level credit was established to eliminate any remaining State and local tax liability for households who have incomes below the poverty level and claim the nonrefundable earned income credit. Generally, if a household's Maryland State tax exceeds 50% of the federal earned income credit, and the household's earned income and federal adjusted gross income are below the poverty level, the household may claim a credit of 5% of its earned income. The county credit amount equals an amount equal to the county income tax rate multiplied times the taxpayer's earned income. To qualify for the poverty level credit, a taxpayer must have income below the poverty income guidelines published by the U.S. Department of Health and Human Services. These amounts are adjusted annually for inflation.

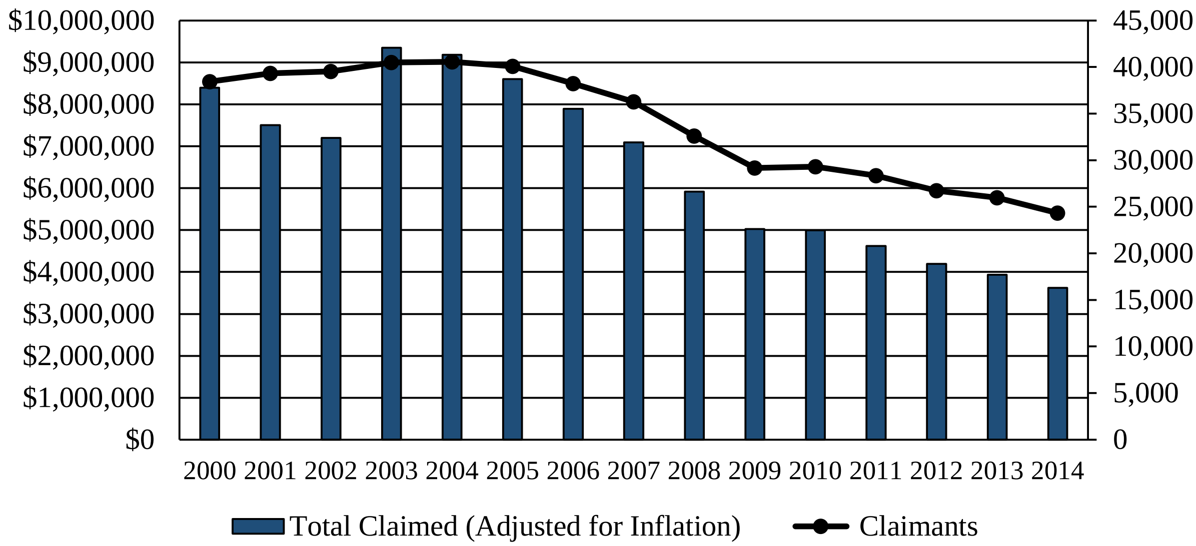
In 2014, 44,639 taxpayers claimed $6.4 million in poverty level credits. Of those claiming the credit in 2014, 75.8% had Maryland adjusted gross income of less than $15,000. From 2013 to 2014, the number of taxpayers claiming the poverty level credit increased by 15.5%, and the credit costs increased by 21.6%.

Chapter 5. Costs of Maryland Tax Incentives for Child and Dependent Care Expenses

Child and Dependent Care Credit Costs Over Time

The aggregate cost of the State child and dependent care credit has diminished over time. **Exhibit 5.1** shows the State child and dependent care tax credits claimed from tax year 2000 through 2014. The number of claimants peaked in 2004 at 40,546 taxpayers, with a steady decline since then. In 2014, only 24,336 taxpayers claimed the credit, which is a decrease of almost 40% from 2004. Meanwhile, since 2004, the number of total State income tax returns filed annually increased by 16% and the total number of taxable returns increased by 11%. Adjusted for inflation, annual credit costs peaked at $9.4 million in 2003, dropping to $3.6 million by 2014. The average credit per claimant has decreased from $218 in 2000 to $149 in 2014.

Exhibit 5.1
Child and Dependent Care Tax Credit Claims
Tax Year 2000-2014

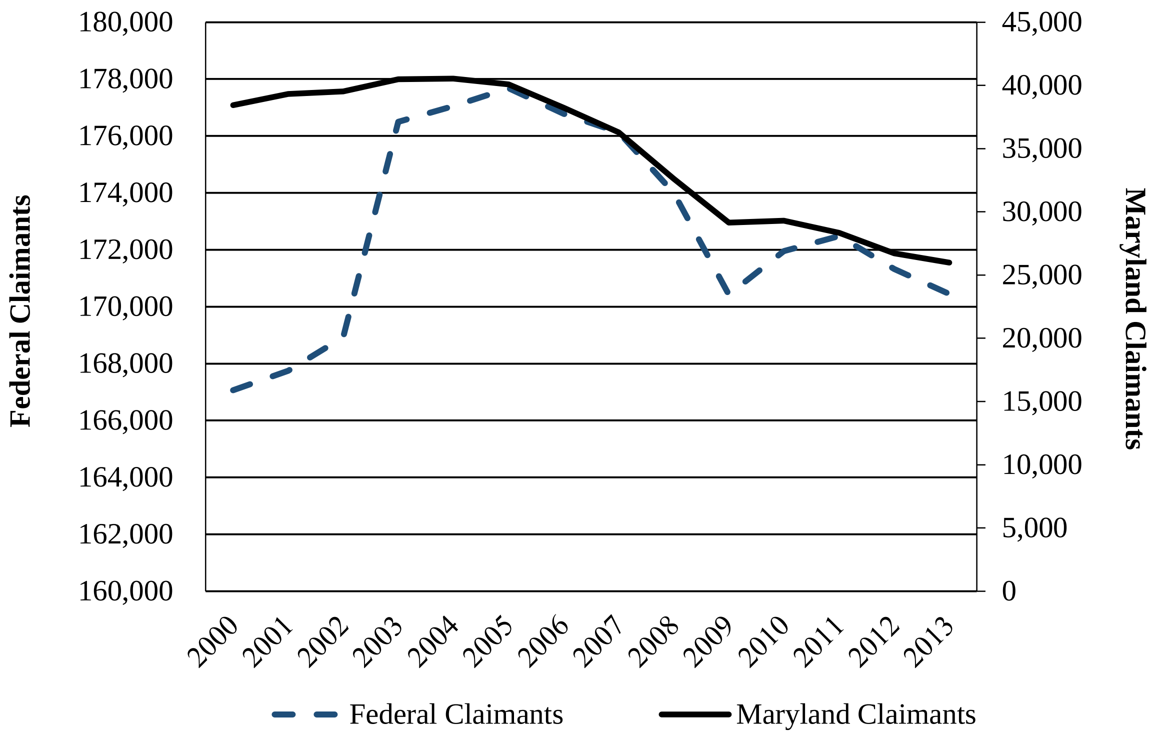


Source: Comptroller's Office; Department of Legislative Services

Appendix 3 shows the total and average State child and dependent care tax credits claimed from tax year 2000 through 2014.

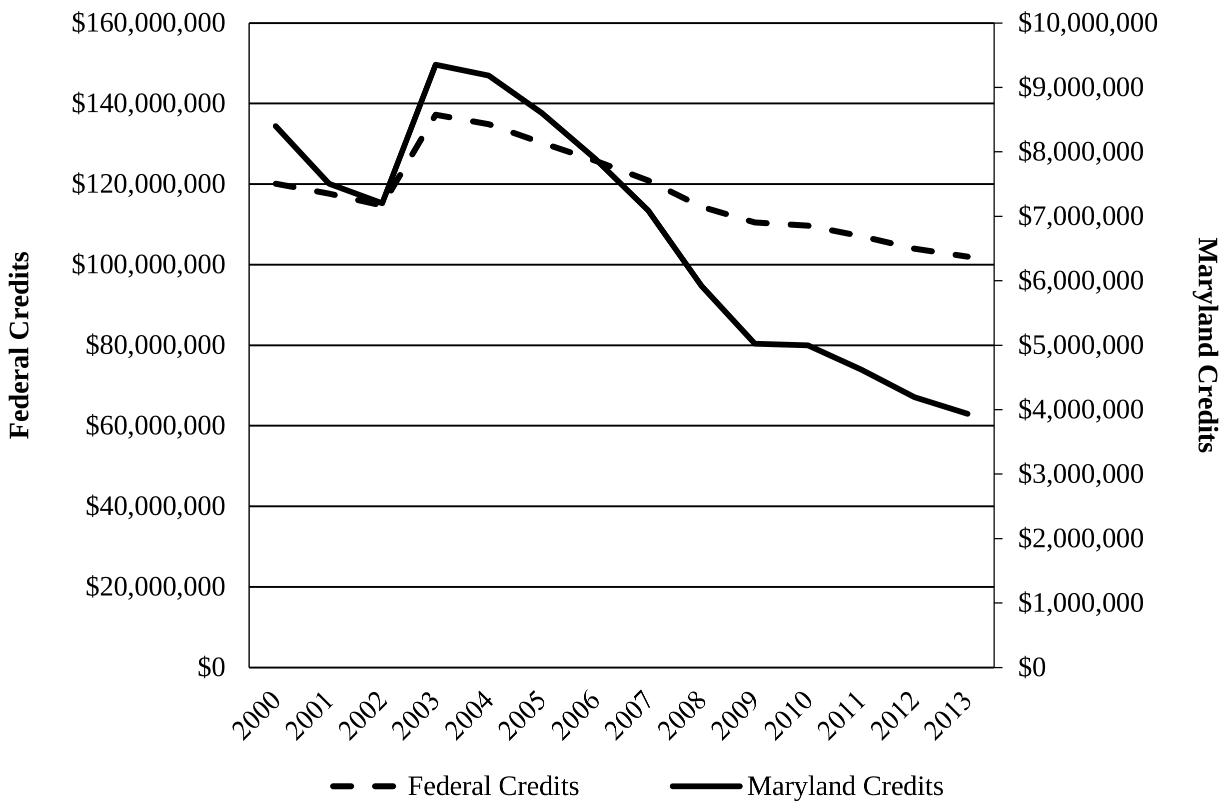
Since the State child and dependent care credit piggybacks off of the federal child and dependent care credit, the State credit trends closely with the federal credit. **Exhibits 5.2** and **5.3** show the number of federal and State child and dependent care tax credit claimants and amounts claimed from tax year 2000 through 2013. The 30% increase in costs for the State credit from 2002 to 2003 corresponds with the expansion of the federal child and dependent care credit, which increased federal aggregate credit costs by 20%. The 2003 federal expansion increased the maximum credit from $1,440 to $2,100. Since that time, both the federal and State aggregate child and dependent care credits have decreased. However, while federal credit costs have decreased by about a quarter from 2003 to 2013, the State credit costs have decreased by 61%. Much of the decline occurred during the Great Recession in 2007 through 2009, when the State credit costs declined on average by 14% annually.

Exhibit 5.2
Federal and State Child and Dependent Care
Tax Credit Claimants
Tax Year 2000-2013



Source: Internal Revenue Service; Comptroller’s Office; Department of Legislative Services

Exhibit 5.3
Federal and State Child and Dependent Care Tax Credits
Tax Year 2000-2013

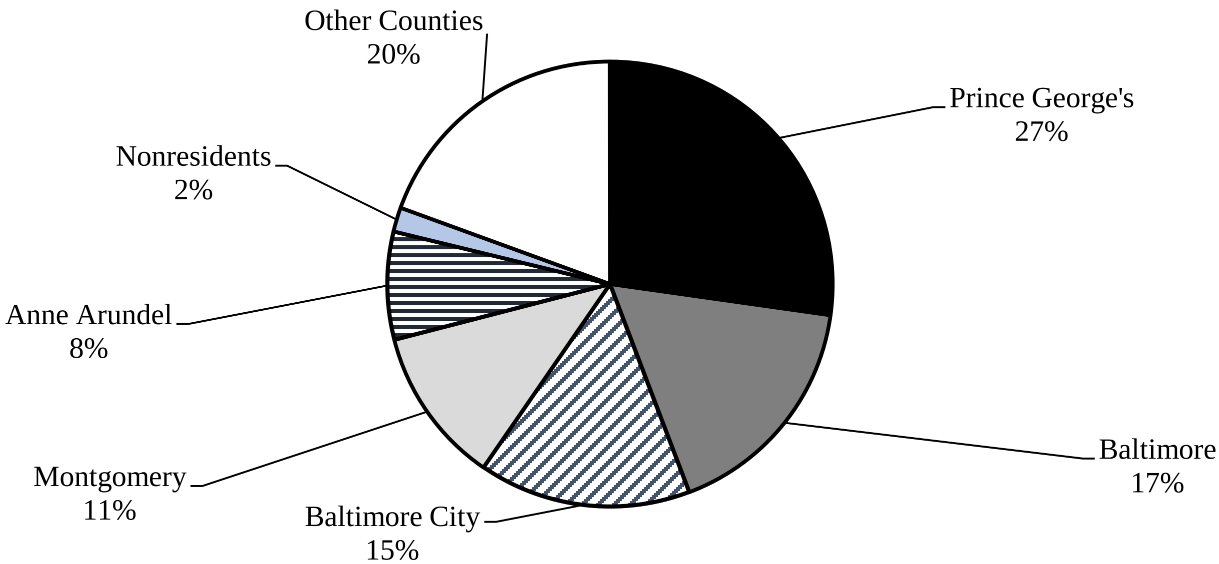


Source: Internal Revenue Service; Comptroller's Office; Department of Legislative Services

Geographic Distribution of Child and Dependent Care Tax Credits

Claims for the child and dependent care tax credit (CDCTC) are not distributed equally across the State. Taxpayers in Baltimore City and Anne Arundel, Baltimore, Montgomery, and Prince George's counties account for almost 80% of the credits claimed in tax year 2014, as shown in **Exhibit 5.4**. Meanwhile, taxpayers in 11 counties received a total of less than 1% of the credits. These percentages have not fluctuated significantly over the years. Claimants in Allegany and Garrett counties had an average credit of under $100 at $95 and $76, respectively, while Baltimore City and Prince George's County claimants had an average credit of $156 in 2014. **Appendix 4** shows the CDCTCs by county in 2014.

Exhibit 5.4
Child and Dependent Care Tax Credit Claims by County
Tax Year 2014



Source: Comptroller's Office; Department of Legislative Services

Child and Dependent Care Subtraction Modification Over Time

While claims for the State child and dependent care subtraction modification have not diminished over the past 15 years, these claims have experienced some fluctuation. **Exhibit 5.5** shows the State child and dependent care expenses claimed by Maryland adjusted gross income from tax year 2000 through 2013. The expenses increased 18.0% from 2002 to 2003 when the allowable federal child and dependent care expenses amount increased from $2,400 to $3,000 for one child and from $4,800 to $6,000 for two or more children. The amount of claims for the subtraction modification peaked in 2006 with $640 million in child and dependent care expenses claimed, equating to approximately $30 million in total State income tax benefits and $19 million in local income tax benefits. During the Great Recession, the amount claimed decreased dramatically, by 29.2%, to a low of $460 million in expenses claimed in 2008. The amount claimed in 2013 was approximately $527 million, which equated to total State income tax benefits of approximately $25 million and local income tax benefits of approximately $16 million.

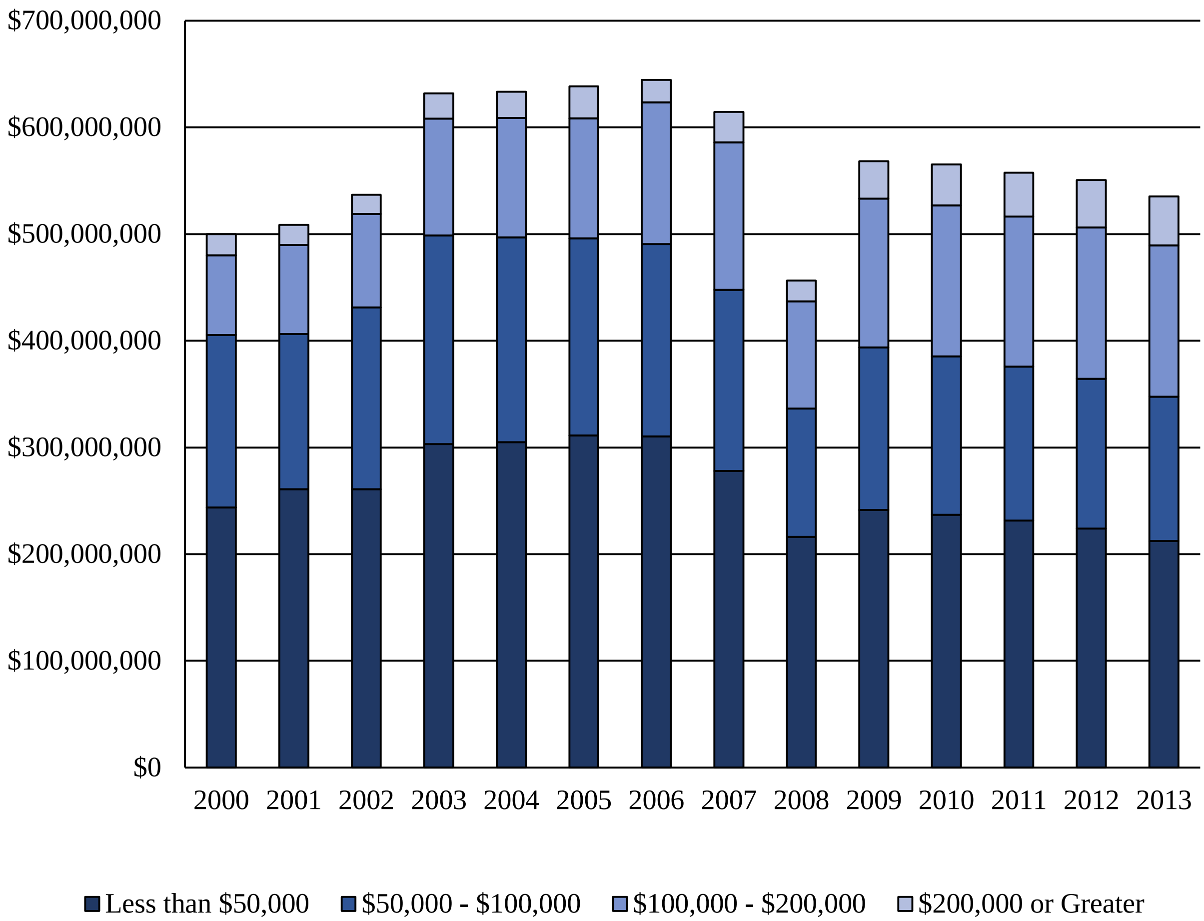
The expenses claimed under the subtraction modification have not diminished over time like the child and dependent care credit because the subtraction modification expenses are not limited to taxpayers with federal adjusted gross income under a certain amount. Taxpayers with

Maryland adjusted gross income (MAGI) of less than $50,000 claimed 51.3% of the expenses in 2000, decreasing to 39.7% of the expenses claimed in 2013. Meanwhile, taxpayers with MAGI of $100,000 or more claimed 18.9% of the expenses in 2000, increasing to 35.1% of the expenses in 2013.

Exhibit 5.5

Child and Dependent Care Subtraction Modification by Maryland Adjusted Gross Income

Tax Year 2000-2013



Source: Comptroller's Office; Department of Legislative Services

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Chapter 6. Options to Expand the Maryland Child and Dependent Care Tax Incentives

Possible ways to expand the State child and dependent care tax credit (CDCTC) include making the credit refundable, increasing the phase-out of federal adjusted gross income (FAGI), and increasing the credit percentage. The amount of the eligible child and dependent care subtraction modification that may be claimed could also be increased.

Making the Credit Refundable

Many low-income individuals have little or no tax liability. For example, about 140,400 taxpayers, or a little less than one-half of the taxpayers who claimed the State refundable earned income tax credit, did not have any tax liability. Given that low-income individuals typically have little or no tax liability, research has concluded that refundability is a key component of earned income tax credit programs.

Twelve states offer refundable credits for child and dependent care expenses incurred by taxpayers: Arkansas, Colorado, Hawaii, Iowa, Louisiana, Maine, Minnesota, Nebraska, New Mexico, New York, Oregon, and Vermont. Some of these states limit the cost of refundability by not allowing a refundable credit if the taxpayer's adjusted gross income exceeds a certain threshold. For instance, Louisiana does not provide a refund for taxpayers with FAGI of $25,000 or more.

Based on data from the Internal Revenue Service and the Comptroller's Office, if Maryland made the CDCTC refundable to taxpayers with FAGI of less than $25,000 ($12,500 for married filing separately), the Department of Legislative Services (DLS) estimates that approximately 200,000 taxpayers could receive an additional $84 million in tax credits each year. The vast majority of these taxpayers may be currently eligible for the tax credit, but do not claim the credit due to little or no tax liability.

Altering the Credit Phase-out

Under current law, the CDCTC begins to phase out for taxpayers with FAGI of $41,000 ($20,500 for a married individual filing a separate return) so that taxpayers with FAGI of $50,000 or more ($25,000 for married filing separately) are ineligible for the credit. One option to expand the tax credit to more taxpayers would be to increase the phase-out range so that the phase-out begins at a higher level of FAGI. For example, DLS estimates that an increase in the beginning point of the phase-out to $66,000 with a full phase out at FAGI of $75,000 (the phase-out range for married filing separately would be $33,000 to $37,500) could allow approximately 20,000 more taxpayers to claim the credit at an annual cost of approximately $3 million.

Increasing the Credit Percentage

The State CDCTC is the lessor of 32.5% of the federal child and dependent care credit or the taxpayer's State income tax liability. Increasing the percentage from 32.5% to 50.0% would increase the maximum benefit for a taxpayer with $3,000 of qualified expenses for one dependent from $341 to $525. If the taxpayer had $6,000 of qualified expenses for two dependents, the maximum credit would increase from $683 to $1,050.

DLS estimates that increasing the credit percentage to 50% would enable taxpayers already claiming the credit to claim an additional $2 million in tax credits. While approximately 24,000 taxpayers claimed the credit in tax year 2014, not as many would benefit from increasing the percentage to 50%. Increasing the credit percentage only benefits taxpayers if they have a tax liability greater than the credit that they are eligible for under current law. Additionally, the State offers other nonrefundable credits, like the earned income credit and the poverty level credit. Thus, increasing the CDCTC may merely reduce the other nonrefundable tax credit amounts that the taxpayer receives.

Increasing the Subtraction Modification

Taxpayers may subtract from taxable income expenses incurred by the taxpayer for household and dependent care services not exceeding the dollar limit allowed under § 21(c) of the Internal Revenue Code. A taxpayer may subtract actual expenses up to the legal maximum of $3,000 for one child or $6,000 for two or more children. DLS estimates that increasing the subtraction modification by an average of $1,000 would enable taxpayers already claiming the subtraction modification to claim an additional $8 million in State income tax benefits and an additional $6 million in local income tax benefits annually.

Appendix 1
Federal and State Child and Dependent Care Tax Credit Percentages and Amounts

FAGI Over	But Not Over	Federal %	Federal Credit Based on Expenses of $3,000	Federal Credit Based on Expenses of $6,000	Maryland % of Federal Credit	Maryland Credit Based on Expenses of $3,000	Maryland Credit Based on Expenses of $6,000
$0	$15,000	35%	$1,050	$2,100	32.50%	$341	$683
15,000	17,000	34%	1,020	2,040	32.50%	332	663
17,000	19,000	33%	990	1,980	32.50%	322	644
19,000	21,000	32%	960	1,920	32.50%	312	624
21,000	23,000	31%	930	1,860	32.50%	302	605
23,000	25,000	30%	900	1,800	32.50%	293	585
25,000	27,000	29%	870	1,740	32.50%	283	566
27,000	29,000	28%	840	1,680	32.50%	273	546
29,000	31,000	27%	810	1,620	32.50%	263	527
31,000	33,000	26%	780	1,560	32.50%	254	507
33,000	35,000	25%	750	1,500	32.50%	244	488
35,000	37,000	24%	720	1,440	32.50%	234	468
37,000	39,000	23%	690	1,380	32.50%	224	449
39,000	41,000	22%	660	1,320	32.50%	215	429
41,000	42,000	21%	630	1,260	29.25%	184	369
42,000	43,000	21%	630	1,260	26.00%	164	328
43,000	44,000	20%	600	1,200	22.75%	137	273
44,000	45,000	20%	600	1,200	19.50%	117	234
45,000	46,000	20%	600	1,200	16.25%	98	195
46,000	47,000	20%	600	1,200	13.00%	78	156
47,000	48,000	20%	600	1,200	9.75%	59	117
48,000	49,000	20%	600	1,200	6.50%	39	78
49,000	50,000	20%	600	1,200	3.25%	20	39
50,000	No limit	20%	600	1,200	0.00%	0	0

Note: These percentages and amounts differ for taxpayers that file as married filing separately.

FAGI: federal adjusted gross income

Source: Internal Revenue Service; Department of Legislative Services

Appendix 2
Overview of States with Child and Dependent Care Incentives

State	Benefit	Allowable Expenses	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
Arkansas	Credit equal to 20% of the allowable federal CADC credit	Eligible expenses for federal credit	No	$210	$420
	Credit equal to 20% of the allowed federal CADC credit	Eligible expenses for federal credit, if the care expenses are incurred for children under the age of 6 years in an approved early childhood program May not be claimed if tax filer is also claiming credit under A.C.A. § 26-51-502(b)	Yes	210	420
California	Credit equal to a percentage of the allowable federal CADC credit based on tax filer's income: • 50% if FAGI is $40,000 or less • 43% if FAGI is >$40,000 and $\leq$ $70,000	Eligible expenses for federal credit, if the expenses are incurred for care provided in California	No	525	1,050

State	Benefit	Allowable Expenses	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
	• 34% if FAGI is >$70,000 and ≤ $100,000 • No credit if FAGI exceeds $100,000				
Colorado	Credit equal to a percentage of the federal CADC credit based on tax filer's income: • 50% if FAGI is $25,000 or less • 30% if FAGI is > $25,000 and ≤ $35,000 • 10% if FAGI is > $35,000 and ≤ $60,000 • No credit if FAGI exceeds $60,000	Eligible expenses for federal credit	Yes	525	1,050
	Credit equal to 25% of the tax filer's child care expenses, up to a maximum of $500 for one dependent and $1,000 for two or more dependents	Eligible expenses for federal credit for dependent under age 13	Yes	500	1000

State	Benefit	Allowable Expenses	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
	No credit if FAGI > $25,000				
Delaware	Credit equal to 50% of the claimed and allowed federal CADC credit	Eligible expenses for federal credit	No	525	1,050
District of Columbia	Credit equal to 32% of the allowed federal CADC credit	Eligible expenses for federal credit	No	336	672
Georgia	Credit equal to 30% of the claimed and allowed federal CADC credit	Eligible expenses for federal credit	No	315	630
Hawaii	Credit equal to a percentage of the eligible expenses based on tax filer's income: • 25% if Hawaii AGI is $22,000 or less • 25%, reduced by 1% for each $2,000 by which Hawaii AGI is > $22,000 and ≤ $40,000 • 15% if Hawaii AGI is > $40,000	Eligible expenses for federal credit, except that expenses are limited to $2,400 for one child/dependent and $4,800 for two children/dependents	Yes	600	1,200

State	Benefit	Allowable Expenses	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
Idaho	Deduction of expenses eligible for the federal CADC credit	Eligible expenses for federal credit	No	222	444
Iowa	Credit equal to a percentage of the federal CADC credit based on tax filer's income: • 75% if Iowa net income is > $10,000 • 65% if Iowa net income is ≥ $10,000 and < $20,000 • 55% if Iowa net income is ≥ $20,000 and < $25,000 • 50% if Iowa net income is ≥ $25,000 and < $35,000 • 40% if Iowa net income is ≥ $35,000 and < $40,000 • 30% if Iowa net income is ≥ $40,000 and < $45,000	Eligible expenses for federal credit	Yes	788	1,575

State	Benefit	Allowable Expenses	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
	• No credit if Iowa net income is ≥ $45,000				
Kentucky	Credit equal to 20% of the allowed federal CADC credit	Eligible expenses for federal credit	No	210	420
Louisiana	Credit equal to a percentage of the federal CADC credit based on tax filer's income: • 50% if FAGI is $25,000 or less • 30% if FAGI is > $25,000 and ≤ $35,000 • 10% if FAGI is> $35,000 and ≤ $60,000 • 10%, but not to exceed $25, if FAGI > $60,000	Eligible expenses for federal credit	Yes, if FAGI ≤ $25,000	525	1,050
	Credit equal to a percentage of the state CADC credit for the care of a child under the age of 6 years at a child care facility rated two stars or higher by the state quality rating system as follows:	Eligible expenses for federal credit	Yes, if FAGI ≤ $25,000	1,050	2,100

State	**Benefit**	**Allowable Expenses**	**Refundable**	**Maximum: One Child/Dependent**	**Maximum: Two or More Children/Dependents**
	• 200% if a five-star facility • 150% if a four-star facility • 100% if a three-star facility • 50% if a two-star facility • No credit for one-star or nonparticipating facility				
	Credit for care of dependents "who are physically or mentally incapable of caring for themselves" equal to the applicable percentage of expenses allowable for federal CADC credit	Eligible expenses for federal credit	No, but carryforward permitted	1,050	2,100
Maine	Credit equal to 25% of the allowable federal CADC credit, increased to 50% for "quality child care services"	Eligible expenses for federal credit	Yes, up to $500	525	1,050
Maryland	Deduction of expenses allowed under federal CADC credit	Eligible expenses for federal credit	No	172	345

State	Benefit	Allowable Expenses	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
	Credit equal to percentage of “properly claimed” federal CADC credit based on tax filer’s income: • 32.5% if FAGI is ≤ \$41,000 • 29.25%, reduced by 3.25% for each \$1,000 by which FAGI is > \$41,000 and ≤ \$50,000 • No credit allowed if FAGI > \$50,000	Eligible expenses for federal credit	No	341	683
Massachusetts	Deduction of eligible expenses	Eligible expenses for federal CADC credit, except that expenses are limited to \$4,800 for one child/dependent and \$9,600 for two or more children/dependents	No	254	509
Minnesota	Credit, for tax filers with income no greater than \$25,750, equal to the federal CADC credit for which the tax filer is eligible, up to a	Eligible expenses for federal credit	Yes	720	1,440

State	Benefit	Allowable Expenses	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
	maximum of $720 for one child/dependent or $1,440 for two or more children/ dependents. For tax filers with income over $25,750, the credit is reduced by $18 for every additional $350 of income for one child/dependent or $36 for two or more children/dependents. No credit if income exceeds $39,400 Income limitations indexed for inflation (figures above reflect 2015 limitations)				
Montana	Deduction of eligible expenses for tax filers with Montana AGI not exceeding $22,800 for a household with one qualified individual; $25,200 for a household with two qualified individuals; or $27,600 for a household with three or more qualified individuals	Expenses for household and dependent care services necessary for gainful employment in order to maintain a household that includes a qualified individual (*i.e.*, a child under the age of 15 or a dependent or spouse who is incapable of self-care due to a	No	144	180 for two; 240 for three or more

State	Benefit	Allowable Expenses	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
		physical or mental illness) Expenses are limited to \$2,400 for one qualified individual, \$3,600 for two qualified individuals, or \$4,800 for three or more qualified individuals. Expenses are reduced by half the amount of the tax filer's Montana AGI that exceeds \$18,000			
Nebraska	Credit equal to percentage of allowed federal CADC credit based on tax filer's income: • 100% if FAGI is < \$22,000 • 90% if FAGI ≥ \$22,000 and < \$23,000 • 80% if FAGI ≥ \$23,000 and < \$24,000	Eligible expenses for federal credit	Yes, if FAGI does not exceed \$29,000	1,050	2,100

State	Benefit	Allowable Expenses	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
	• 70% if FAGI ≥ \$24,000 and < \$25,000 • 60% if FAGI ≥ \$25,000 and < \$26,000 • 50% if FAGI ≥ \$26,000 and < \$27,000 • 40% if FAGI ≥ \$27,000 and < \$28,000 • 30% if FAGI ≥ \$28,000 and < \$29,000 • 25% if FAGI > \$29,000				
New Mexico	Credit of 40% of eligible expenses reduced by the amount of tax filer's federal CADC credit used to offset federal tax liability No credit if New Mexico modified gross income exceeds \$30,160	Expenses incurred and paid to a caregiver in New Mexico for care of a dependent under the age of 15	Yes	480	960 for two; 1,200 for three or more

State	Benefit	Allowable Expenses	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
New York	Credit equal to percentage of allowable federal CADC credit based on tax filer's income: • 110% if NY AGI is \$25,000 or less • Between 109% and 100% if NY AGI is > \$25,000 and < \$40,000 • 100% if NY AGI is ≥ \$40,000 and ≤ \$50,000 • Between 99.5% and 20.5% if NY AGI is > \$50,000 and < \$65,000 • 20% if NY AGI is ≥ \$65,000	Eligible expenses for federal credit	Yes	1,155	2,310
Ohio	Credit equal to percentage of federal CADC credit for which the tax filer is eligible, based on tax filer's income. • 100% is Ohio AGI < \$20,000				

State	Benefit	Allowable Expenses	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
	• 25% if Ohio AGI ≥ \$20,000 and < \$40,000 • No credit if Ohio AGI ≥ \$40,000				
Oklahoma	Credit equal to 20% of allowed federal CADC credit, except that if Oklahoma AGI is less than FAGI, the Oklahoma credit is prorated based on the ratio that the Oklahoma AGI bears to FAGI. No credit if FAGI > \$100,000	Eligible expenses for federal credit	No	210	420
Oregon	A credit of a percentage of child care expenses, based on (1) the tax filer's AGI, (2) whether the care is for a child or an adult, and (3) if a child, the age of the tax filer's youngest child	Expenses eligible for federal credit Expenses are limited to \$12,000 for one qualifying individual or \$24,000 for two or more qualifying individuals	Yes	9,000	18,000
Rhode Island	Credit equal to 25% of federal CADC credit	Expenses eligible for federal credit	No	263	525

State	Benefit	Allowable Expenses	Refundable	Maximum: One Child/Dependent	Maximum: Two or More Children/Dependents
South Carolina	Credit equal to 7% of eligible expenses	Expenses eligible for federal credit, if the expenses are "directly attributable to items of South Carolina gross income"	No	210	420
Vermont	Credit equal to 24% of the allowed federal CADC credit	Expenses eligible for federal credit	No, but carryforward permitted	252	504
	Credit equal to 50% of the allowed federal CADC credit No credit if FAGI is > \$30,000 if single or > \$40,000 if married, filing jointly	Expenses eligible for federal credit, except that expense must be for "services provided in [Vermont] in a registered home or licensed facility certified by the Agency of Human Services as meeting national accreditation or national credential standards endorsed by the agency"	Yes	525	1,050
Virginia	Deduction of expenses equal to the amount of expenses on which the federal CADC credit is based	Expenses eligible for federal credit	No	173	345

AGI: adjusted gross income
CADC: child and dependent care
FAGI: federal adjusted gross income

Source: Department of Legislative Services; National Women's Law Center

Appendix 3
Child and Dependent Care Tax Credit Claims
Tax Year 2000-2014

Tax Year	Claimants	Change in Number of Claimants	Total Credits Claimed (adjusted for inflation)	Change in Total Credits Claimed	Average Claim Amount
2000	38,441		$8,398,789		$218
2001	39,330	2.3%	7,507,036	-10.6%	191
2002	39,532	0.5%	7,200,936	-4.1%	182
2003	40,487	2.4%	9,352,158	29.9%	231
2004	40,546	0.1%	9,184,661	-1.8%	227
2005	40,073	-1.2%	8,601,360	-6.4%	215
2006	38,229	-4.6%	7,894,217	-8.2%	206
2007	36,282	-5.1%	7,088,262	-10.2%	195
2008	32,603	-10.1%	5,920,561	-16.5%	182
2009	29,157	-10.6%	5,021,364	-15.2%	172
2010	29,298	0.5%	4,996,460	-0.5%	171
2011	28,343	-3.3%	4,618,107	-7.6%	163
2012	26,724	-5.7%	4,191,780	-9.2%	157
2013	25,973	-2.8%	3,933,785	-6.2%	151
2014	24,336	-6.3%	3,620,812	-8.0%	149

Source: Comptroller's Office; Department of Legislative Services

Appendix 4
Child and Dependent Care Tax Credit Claims by County
Tax Year 2014

County	Returns	Credit	Average Credit
Allegany	106	$10,019	$95
Anne Arundel	1,881	283,545	151
Baltimore City	3,568	557,338	156
Baltimore	4,104	614,422	150
Calvert	193	29,501	153
Caroline	107	14,083	132
Carroll	307	43,134	141
Cecil	191	27,528	144
Charles	684	99,377	145
Dorchester	104	13,251	127
Frederick	582	78,706	135
Garrett	37	2,826	76
Harford	668	88,118	132
Howard	682	93,745	137
Kent	49	5,860	120
Montgomery	2,736	411,517	150
Prince George’s	6,314	986,378	156
Queen Anne’s	133	18,808	141
St. Mary’s	273	38,306	140
Somerset	50	7,210	144
Talbot	126	19,527	155
Washington	422	51,101	121
Wicomico	314	44,322	141
Worcester	127	18,547	146
Nonresident	578	63,643	110
Total	**24,336**	**$3,620,812**	**$149**

Source: Comptroller’s Office; Department of Legislative Services