

# Employer Childcare Program/ Contribution Credit

Attach to your California tax return.

Name(s) as shown on your California tax return

SSN or ITIN, Corporation no., or FEIN

Secretary of State (SOS) file number

**Part I Employer Childcare Program Credit.** Read the instructions before completing this part.

**Section A - Number of Children**

- 1 a** Number of children the childcare facility(ies) will legally accommodate (no minimum number required). **1a** \_\_\_\_\_
- b** The number of children served by these facilities. **1b** \_\_\_\_\_
- c** The number of children of **employers** served by the qualified childcare plan. **1c** \_\_\_\_\_

**Section B — Credit Computation**

<b>2</b> Costs paid or incurred for startup expenses of establishing a childcare program or constructing a childcare facility in California. See Part I instructions	<b>2</b>		00
<b>3</b> Costs paid or incurred this year for contributions to California childcare information and referral services. See Part I instructions.	<b>3</b>		00
<b>4</b> Add line 2 and line 3.	<b>4</b>		00
<b>5</b> Multiply line 4 by 30% (.30).	<b>5</b>	00	
<b>6</b> Pass-through credit from Schedule K-1 (100S, 541, 565, or 568).	<b>6</b>	00	
<b>7</b> Add line 5 and line 6. Do not enter more than \$50,000 (any amount in excess of \$50,000 may not be claimed or carried over). <b>S corporations:</b> Go to line 8. <b>All others:</b> Skip line 8 and go to line 9.	<b>7</b>	00	
<b>8</b> S corporations: Enter (.333) of the amount on line 7. Do not enter more than \$16,667	<b>8</b>	00	
<b>9</b> Credit carryover from 2008	<b>9</b>	00	
<b>10</b> Tentative Credit. <b>S corporations:</b> Add line 8 and line 9. <b>All others:</b> Add line 7 and line 9.	<b>10</b>	00	
<b>11</b> Total available credit. Enter the smaller of the amount on line 10 or \$50,000 (any excess can be carried over)	<b>11</b>		00
<b>12</b> Enter amount of credit claimed (may be limited) on the current year tax return. See instructions	<b>12</b>		00
<b>13</b> Subtract line 12 from line 11	<b>13</b>		00
<b>14</b> Excess available credit. Subtract line 11 from line 10. If less than zero, enter -0-	<b>14</b>		00
<b>15</b> Credit carryover available for future years. Add line 13 and line 14	<b>15</b>		00

**Section C — Credit Recapture** (for the Employer Childcare Program Credit). See General Information, Part I, F, Recapture

(a) Total credit claimed for all years	(b) Proration percentage: (60 months less number of months facility operated) ÷ 60 months	(c) Credit recapture amount, column (a) x column (b)
<b>16</b>		

Include the amount on line 16, column (c), in the total on: Form 540, line 63; Long Form 540NR, line 73; Form 541, line 34; Form 100, Schedule J, line 5; Form 100S, Schedule J, line 5; Form 100W, Schedule J, line 5; Form 109, Schedule K, line 4; Form 565, Schedule K, line 20c; or Form 568, Schedule K, line 20c.

**Part II Employer Childcare Contribution Credit.** Read the instructions before completing this part.

	(a) Name of employee's dependent	(b) Contribution amount	(c) 30% (.30) of column (b), but not more than \$360	(d) Number of weeks of care ÷ 42, but not more than 100%	(e) Credit amount, Column (c) x column (d)
<b>1</b>	_____	\$ _____	\$ _____	_____ %	\$ _____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
<b>2</b>	Pass-through credit from Schedule K-1 (100S, 541, 565, or 568) . . . . .				<b>2</b> _____ 00
<b>3</b>	Total current year credits. Add amounts in line 1, column (e), and line 2 . . . . .				<b>3</b> _____ 00
<b>4</b>	S corporations only: Enter (.333) of the amount on line 3 . . . . .				<b>4</b> _____ 00
<b>5</b>	Credit carryover from 2008 . . . . .				<b>5</b> _____ 00
<b>6</b>	Total available credit. <b>S corporations:</b> Add line 4 and line 5 <b>All others:</b> Add line 3 and line 5 . . . . .				<b>6</b> _____ 00
<b>7</b>	Amount of credit claimed on the current year tax return. See General Information, Part II, D, Limitations . . . . .				<b>7</b> _____ 00
<b>8</b>	Credit carryover available for future years. Subtract line 7 from line 6 . . . . .				<b>8</b> _____ 00

**What's New**

**New Job Credit** – For taxable years beginning on or after January 1, 2009, a new jobs credit will be allowed to qualified employers in the amount of \$3,000 for each qualified full-time employee hired during the taxable year. For more information [ftb.ca.gov](http://ftb.ca.gov) and search for **new jobs** or get FTB 3527, New jobs Credit.

**Farmworker Housing Credit** – For taxable years beginning on or after January 1, 2009, the farmworker housing credit has been consolidated into the low-income housing tax credit. For more information, get form FTB 3521, Low-Income Housing Credit.

**General Information**

**Round Cents to Dollars** – Round cents to the nearest whole dollar. For example, round \$50.50 up to \$51 or round \$25.49 down to \$25. If you do not round, the Franchise Tax Board (FTB) will disregard the cents.

**Registered Domestic Partners (RDPs)** – For purposes of California income tax, references to a spouse, husband, or wife also refer to a California registered domestic partner (RDP), unless otherwise specified. When we use the initials RDP they refer to both a California registered domestic “partner” and a California registered domestic “partnership,” as applicable. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

The Employer Childcare Program Credit and the Employer Childcare Contribution Credit will be available until January 1, 2012.

**A Purpose**

Use form FTB 3501, Employer Childcare Program/Contribution Credit, to figure a credit if you are an employer and have established or contributed to a qualified employee childcare program, constructed a childcare facility in California, or contributed to California childcare information and referral services. See Revenue and Taxation Code Sections 17052.17, 17052.18, 23617, and 23617.5 for more information.

**Pass-Through Entities**

Also, use form FTB 3501 to figure any recapture of the employer childcare program credit and to claim pass-through employer childcare program/contribution credits you received from S corporations, estates or trusts, partnerships, or limited liability companies (LLCs) classified as partnerships.

S corporations, estates or trusts, partnerships, and LLCs classified as partnerships should complete form FTB 3501 to figure the credit to pass through to shareholders, beneficiaries, partners, or members. Attach this form to Form 100S, California S Corporation Franchise or Income Tax Return; Form 541, California Fiduciary Income Tax Return; Form 565, Partnership Return of Income; or Form 568, Limited Liability Company Return of Income. Show the pass-through credit for each

shareholder, beneficiary, partner, or member on Schedule K-1 (100S, 541, 565, or 568), Share of Income, Deductions, Credits, etc.

**Part I — Employer Childcare Program Credit**

**B Description**

You may claim a credit of 30% (.30) of costs you paid or incurred for establishing a childcare program, or constructing a childcare facility in California for use primarily by the children of your employees, the children of your tenants' employees, or both.

Two or more employers (other than a husband and wife or RDPs) who share in the costs eligible for the credit may claim the credit in proportion to the respective share of the costs they paid or incurred. When a husband and wife or RDPs file separate returns, either spouse/RDP may claim the credit or each may claim half (50%) of the credit.

**C Qualifications**

**Childcare Program Startup**

You may claim this credit if you paid or incurred costs for the startup expenses of establishing a childcare program or constructing childcare facilities in California, and you either:

- Are an employer.
- Own commercial or office space that you lease to an employer.

## Information and Referral Services

You may also claim a credit for contributions to California childcare information and referral services that:

- Identify local childcare services.
- Offer information describing these resources to employees.
- Refer employees to childcare services where there are vacancies.

If two or more employers establish a childcare facility, the credit is allowed if the facility's primary use is by one or both of the following:

- The children of the employees of each of the employers.
- The children of the employees of tenants of each of the taxpayers.

An owner of a commercial building in California, who is required by local ordinance to provide a childcare facility, is not allowed to take a credit for the startup expenses of establishing a childcare program or constructing a childcare facility.

## D Definition of Startup Expenses

Startup expenses include, but are not limited to the following:

- Feasibility studies.
- Site preparation.
- Construction, renovation, or acquisition of facilities for purposes of establishing or expanding on-site or near-site centers by one or more employers, or one or more building owners leasing space to employers.

## E Limitations

The amount of credit for any taxable year is limited to \$50,000 (form FTB 3501, Part I, line 7). You may not claim or carry over to succeeding years any credit amount over \$50,000.

S corporations may claim only 1/3 of the credit against the 1.5% entity-level tax (3.5% for financial S corporations). Any of the 1/3 credit not used by the S corporation in the year it was generated can be carried over to succeeding years until exhausted. In addition, S corporations can pass through 100% (limited to \$50,000 annually at the S corporation level) of the credit to their shareholders.

If a taxpayer owns an interest in a disregarded business entity [a single member LLC (SMLLC) not recognized by California, and for tax purposes treated as a sole proprietorship owned by an individual or a branch owned by a corporation], the credit amount received from the disregarded entity that can be utilized is limited to the difference between the taxpayer's regular tax figured with the income of the disregarded entity, and the taxpayer's regular tax figured without the income of the disregarded entity.

An SMLLC may be disregarded as an entity separate from its owner, and is subject to statutory provisions that recognize otherwise disregarded entities for certain tax purposes. Get Form 568, Limited Liability Company Tax booklet, for more information.

If the disregarded entity reports a loss, the taxpayer may not claim the credit this year, but can carry over the credit amount received from the disregarded entity.

This credit cannot reduce the minimum franchise tax (corporations and S corporations), the annual tax (limited partnerships, limited liability partnerships, and LLCs classified as partnerships), the alternative minimum tax (corporations, exempt organizations, individuals, and fiduciaries), the built-in gains tax (S corporations), or the excess net passive income tax (S corporations). This credit cannot reduce regular tax below the tentative minimum tax (TMT). Get Schedule P (100, 100W, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations, for more information.

This credit is taken in lieu of any deduction otherwise allowable for the same costs. Therefore, any deduction allowed for the same costs or contributions must be reduced by the amount of credit claimed for the current taxable year (the amount shown on form FTB 3501, Part I, line 12).

The amount of credit you can claim on your tax return may be limited (in addition to the annual limitation). Refer to the credit instructions in your tax booklet for more information. These instructions also explain how to claim this credit on your tax return. Use credit code number **189** when you claim this credit.

**This credit is not refundable.**

### Business Tax Credit Limitation

For taxable years beginning on or after January 1, 2008, and before January 1, 2010, business tax credits can only offset 50% of the net tax, if a corporation's taxable income is \$500,000 or more, or if an individual's net business income is \$500,000 or more.

Business tax credits disallowed due to the 50% limitation may be carried over. The carryover period for disallowed credits is extended by the number of taxable years the credits were not allowed. For more information see the applicable Schedule P (100, 100W, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations. Taxpayers are required to keep track of the disallowed business tax credits on a worksheet and provide it to the FTB upon request.

### Assignment of Credits

#### Corporate Members of a Unitary or Combined Group

For taxable years beginning on or after July 1, 2008, credit earned by members of a combined reporting group may be assigned to an affiliated corporation that is a member of the same combined reporting group. A credit assigned may only be applied by the affiliated

corporation against their tax in a taxable year beginning on or after January 1, 2010. For taxable years before July 1, 2008, this credit could not be allocated or otherwise transferred to another taxpayer, even if the other taxpayer was a member of a unitary or combined group or otherwise affiliated with the taxpayer that earned the credit.

For more information, get form FTB 3544, Election to Assign Credit Within Unitary Group.

## F Recapture

If the childcare center is disposed of or stops operating within 60 months after completion, the portion of the credit claimed that represents the remaining portion of the 60-month period must be recaptured. You must add the recapture amount to your tax liability in the taxable year of disposition or nonuse. Figure any recapture amount in Part I, Section C.

Estates or trusts, partnerships, and LLCs, classified as partnerships, must identify the recapture amounts for their beneficiaries, partners, and members on Schedule K-1 (541, 565, or 568). In addition, S corporations must identify recapture amounts for their shareholders on Schedule K-1 (100S), which will differ from the amount recaptured by the S corporation on Form 100S, Schedule J, line 5.

## G Carryover

If the available credit exceeds your tax liability for the current taxable year, you may carry over the excess credit to succeeding years until exhausted.

If the available credit generated this year (limited to \$50,000), plus any credit carried over from a prior year, exceeds \$50,000, you may carry over the amount in excess of \$50,000 to succeeding years.

Apply the carryover to the earliest taxable year(s) possible. In no event can this credit be carried back and applied against a prior year's tax.

## H Basis and Depreciation

You must reduce the depreciable basis of the childcare facility(ies) by the amount of the credit attributable to the facility(ies) in the taxable year the credit is allowed. You may elect to take depreciation in lieu of this credit, or you may depreciate the cost of the facility(ies) that exceeds the amount of the credit claimed.

## Part II — Employer Childcare Contribution Credit

### A Description

You may claim a credit up to 30% (.30) of costs you paid or incurred for contributions made to a qualified care plan on behalf of any of your California employees' dependents under the age of 12.

Two or more employers (other than a husband and wife or RDPs) who share in the costs eligible for the credit may claim the credit in proportion to the respective share of the costs they paid or incurred. When a husband and wife or RDPs file separate returns, either spouse/RDP may claim the credit or each may claim half (50%) of the credit.

## B Qualifications

You may claim this credit if you are an employer who made contributions to a qualified care plan for any of your California employees' dependents **under** the age of 12.

For purposes of this credit, self-employed individuals may also claim this credit if they make contributions to a qualified care plan for their dependents **under** the age of 12.

The credit is not available if the employee's dependent is in the care of a person who:

- Qualifies as a dependent of that employee or that employee's spouse/RDP.
- Is a son, stepson, daughter, or stepdaughter of that employee and is under the age of 19 at the close of the taxable year.

## C Definitions

**Qualified care plan** includes, but is not limited to the following:

- On-site service
- Center-based service
- In-home care
- Home-provider care
- Dependent care specialized center

Facilities must be located in California and operated under the authority of a license when required by state law.

Employer contributions include direct payments to childcare programs or providers. Employer contributions **do not** include amounts contributed to a qualified care plan pursuant to a salary reduction agreement.

## D Limitations

The amount of this credit cannot exceed \$360 per dependent in any taxable year.

If the childcare received is less than 42 weeks, prorate the credit as indicated in Part II, line 1, column (d).

If you, as an employer, make contributions to a qualified care plan and also collect fees from parents to support childcare facilities that you own and operate, the contributions available for figuring the allowable credit may be limited.

If the sum of contributions and fees exceeds the total cost of childcare, you must reduce the contributions by the amount in excess of cost.

S corporations may claim only 1/3 of the credit against the 1.5% entity-level tax (3.5% for financial S corporations). Any of the 1/3 credit not used by the S corporation in the year it was generated can be carried over to succeeding years until exhausted. In addition, S corporations can pass through 100% (limited to \$360 annually at the S corporation level) of the credit to their shareholders.

If a taxpayer owns an interest in a disregarded business entity, [a single member LLC (SMLLC) not recognized by California, and for tax purposes treated as a sole proprietorship owned by an individual or a branch owned by a corporation], the credit amount received from the disregarded entity that can be utilized is limited. The limitation is the difference between the taxpayer's regular tax figured **with** the income of the disregarded entity, and the taxpayer's regular tax figured **without** the income of the disregarded entity.

If the disregarded entity reports a loss, the taxpayer may not claim the credit this year, but can carry over the credit amount received from the disregarded entity.

This credit cannot reduce the minimum franchise tax (corporations and S corporations), the annual tax (limited partnerships, limited liability partnerships, and LLCs classified as partnerships), the alternative minimum tax (corporations, exempt organizations, individuals, and fiduciaries), the built-in gains tax (S corporations), or the excess net passive income tax (S corporations). This credit cannot reduce regular tax below TMT. Get Schedule P (100, 100W, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations, for more information.

This credit is taken in lieu of any deduction otherwise allowable for the same costs. Therefore, any deduction allowed for the same costs or contributions must be reduced by the amount of credit claimed for the current taxable year (the amount shown on Part II, line 7).

The amount of this credit you can claim on your tax return may be limited. Refer to the credit instructions in your tax booklet for more information. These instructions also explain how to claim this credit on your tax return. Use credit code number **190** when you claim this credit.

## This credit is not refundable.

**Business Tax Credit Limitation** – For taxable years beginning on or after January 1, 2008, and before January 1, 2010, business tax credits can only offset 50% of the net tax, if a corporation's taxable income is \$500,000 or more, or if an individual's net business income is \$500,000 or more.

Business tax credits disallowed due to the 50% limitation may be carried over. The carryover period for disallowed credits is extended by the number of taxable years the credits were not allowed. For more information see the applicable Schedule P (100, 100W, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations. Taxpayers are required to keep track of the disallowed business tax credits on a worksheet and provide it to the FTB upon request.

## E Assignment of Credits

### Corporate Members of a Unitary or Combined Group

For taxable years beginning on or after July 1, 2008, credit earned by members of a combined reporting group may be assigned to an affiliated corporation. A credit assigned may only be applied by the affiliated corporation against their tax in a taxable year beginning on or after January 1, 2010. For taxable years before July 1, 2008, this credit could not be allocated or otherwise transferred to another taxpayer, even if the other taxpayer was a member of a unitary or combined group or otherwise affiliated with the taxpayer that earned the credit.

For more information, get form FTB 3544, Election to Assign Credit Within Unitary Group.

## F Carryover

If the available credit exceeds your tax liability for the current taxable year, you may carry over the excess credit to succeeding years until exhausted.

Apply the carryover to the earliest taxable year(s) possible. In no event can this credit be carried back and applied against a prior year's tax.

## G Basis

When you claim this credit for contributions to a qualified care plan used at a facility(ies) that you own, reduce the depreciable basis of the facility(ies) by the amount of the credit in the taxable year the credit is allowed.