

DECLARATION OF EMERGENCY

**Department of Revenue
Policy Services Division
and
Department of Social Services
Office of the Secretary**

School Readiness Tax Credits
(LAC 61:I.1903)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Revenue and the Department of Social Services to use emergency procedures to establish Rules, R.S. 36:474, R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103, which allow the departments to make reasonable rules and regulations, the Secretary of the Department of Revenue and the Secretary of the Department of Social Services hereby find that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule. This Emergency Rule shall be effective upon approval of the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs or the passage of 60 days following publication whichever occurs first, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

This Emergency Rule is necessary to effectuate the intent of the legislature. The statutes in question clearly state that the Senate Committee of Revenue and Fiscal Affairs and the House Committee on Ways and Means have 60 days after publication of the Emergency Rule to take action on such Rule. Additionally, by statute any Rule needs to be effective by December 1 in order to be applicable to the tax year beginning January 1, 2008. A delay in promulgating this Rule would have an adverse impact on the entire school readiness tax credit program.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered

By the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions

§1903. Administration of the School Readiness Tax Credits

A. General School Readiness Tax Credit Provisions

1. For purposes of the tax credits in R.S. 47:6101 through 6109, a child will be deemed to be five years of age or less if the child is five years of age or less on any day of the taxable year for which a credit is claimed.

2. The term "business" as used in this regulation means any for-profit or not-for-profit entity not including any individual operating in their personal capacity.

3. The credits provided for in R.S. 47:6101 through 6109 are applicable against individual income tax and corporation income and franchise tax but not against income taxes imposed on estates and trusts.

B. Child Care Expense Tax Credit

1. The Department of Revenue shall make available to qualifying child care facilities a credit certificate to be given to each taxpayer claiming the child care expense tax credit.

The credit certificate will consist of a provider portion of the certificate and a taxpayer portion of the certificate.

2. The provider shall complete the provider portion of the credit certificate and shall submit the certificate to each taxpayer who had a child at the facility during the calendar year no later than January 31 of the succeeding year. The provider portion of the credit certificate will include, but not be limited to, the following information: the child care facility name, the child care facility star rating, the child care facility Louisiana tax identification number, the child care facility Department of Social Services license number, the name of the child attending the facility and the issue date and effective year. The provider shall submit to the Department of Revenue a list of all taxpayers to whom a certificate was issued.

3. The taxpayer shall complete the taxpayer portion of the certificate which will include, but not be limited to, the following information: the name and social security number of the taxpayer claiming the credit and the name, social security number and date of birth for the qualifying child for whom this credit is claimed on the tax return. The taxpayer must submit or maintain the certificate as required by the Secretary of the Department of Revenue in forms and instructions.

4. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine the child care provider's quality rating.

C. Child Care Provider Tax Credit

1. The average monthly number of children as used in R.S. 47:6105 is to be determined on a calendar year basis and the provider shall claim the credit for the tax year that includes December 31. The child care provider tax credit will be calculated based on the average monthly number of children participating full-time in the Child Care Assistance or Foster Care Program, from January to December of a calendar year, as follows:

a. full-time participation is considered when the Child Care Assistance or Foster Care Program pays for at least 12 days of service per child during the month; or

b. part-time participation is considered when the Child Care Assistance or Foster Care Program pays for at least 40 hours of service per child during the month; or

c. part-time participation is considered when the Child Care Assistance or Foster Care Program pays for at least 5 days but no more than 11 days of service per child during the month;

d. two part-time participants are considered one full-time participant for purposes of this calculation.

2. The Department of Social Services shall provide documentation to each qualifying provider of the average monthly number of children participating in the Child Care Assistance Program or in the Foster Care Program. If the provider has multiple sites, the Department of Social Services shall provide this information for each site. The certificate shall be delivered or mailed to all qualifying child care providers by March 1 of the year following the year the credit is earned. The certificate shall include, but not be limited to, the following information: the child care facility name, the child care facility star rating, the child care facility Department of Social Services license number and the issue date and effective year.

3. Child care providers that operate as a corporation or sole proprietorship shall submit or maintain the credit

certificate as required by the Secretary of the Department of Revenue in forms and instructions.

4. For child care providers that operate as flow through entities such as partnerships, LLCs electing partnership treatment, or S corporations passing credits through to shareholders, every partner, member, or shareholder claiming the credit must submit or maintain copies of the information issued by the Department of Social Services for each site. Every partner, member, or shareholder claiming the credit must submit or maintain a schedule showing how the total credit is allocated to each partner, member or shareholder.

5. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine and/or verify the provider's quality rating.

D. Credit for Child Care Directors and Staff

1. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

2. In order to claim this credit, the Department of Social Services, or their representative, must provide child care facility directors and staff members with a certificate no later than January 31 that states which level of qualification the employee meets according to the criteria established by the Department of Social Services. The taxpayer must submit or maintain the certificate as required by the Secretary of the Department of Revenue in forms and instructions.

3. Each child care facility director and staff member will also have to verify that he/she has worked at the same child care facility for at least six months in the calendar year, unless otherwise approved by the Department of Social Services.

4. Child care director and staff levels will have such meaning as provided by regulation issued by the Department of Social Services.

E. Business-Supported Child Care Credits

1. Business Child Care Expense Credit

a. In order for a business to claim this credit, the business must provide the Department of Revenue the following information: the name and Louisiana revenue tax identification number of the child care facility to or for whom the eligible expenses were paid or made, the amount and nature of qualifying expenses at each child care facility as defined in R.S. 47:6102 and the child care facility's quality rating.

b. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine and/or verify the facility's quality rating.

2. Payments and Donations to Child Care Resource and Referral Agencies

a. In order for a business to claim this portion of the business child care expense credit, the taxpayer must provide the Department of Revenue a receipt from the child care resource or referral agency for the amount of money the taxpayer paid and/or donated during the taxable year.

b. If the child care resource or referral agency is part of a larger charitable organization, only fees and/or donations made to the child care resource or referral agency division of that organization will qualify for this credit. For example, if Volunteers of America has a division that

functions as a child care resource or referral agency, only fees and donations made to the division of that organization would qualify for the credit while all other donations to Volunteers of America would not.

c. The Department of Social Services shall provide to the Department of Revenue a list of qualifying child care resource or referral agencies for each calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474 , R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Department of Revenue and the Department of Social Services, LR 33:

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and
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