



## Office of Children and Family Services

### Child Care Creation and Expansion Tax Credit Program: Frequently Asked Questions (FAQs)

#### **Q: What is the Child Care Creation and Expansion Tax Credit Program?**

A: This tax credit was developed in response to the critical shortage of infant and toddler child care that is available and accessible to working parents in New York State. To spur the creation and expansion of child care programs and address this vital need, the Office of Children and Family Services (OCFS) is administering a new tax credit program for businesses that provide additional infant/toddler child care opportunities for their employees. Eligible businesses that create and occupy new infant/toddler child care seats, or expand existing programs, in 2023 and/or 2024 can apply for the tax credit.

#### **Q: How would this credit benefit my business/employees?**

A: The Child Care Creation and Expansion Tax Credit is intended to support businesses that provide subsidized infant or toddler care for their employees. This initiative is designed to incentivize and assist businesses that generate greatly needed infant and toddler child care seats. Businesses with a location in New York subject to tax under Tax Law Article 9-A, 22 or 33, and provide licensed or registered child day care seats for their employees, either directly or through a third-party, can apply for the tax credit. The child care seats must be newly created or expanded, and the seats cannot have existed prior to April 1, 2023. Businesses must limit the cost imposed on employees to no more than 40% of the established child care rate.

For further information, please visit the [Child Care Creation and Expansion Tax Credit Program home page](#).

#### **Q: Is my business eligible?**

A: To be eligible for a tax credit under the Child Care Creation and Expansion Tax Credit, a business entity must:

- 1) operate a business location in New York State, and be a business entity required to file a tax return pursuant to Article 9-A, 22 or 33, of the Tax Law;

- 2) be a child care program, or contract with such child care program, as defined in this title, that is licensed or registered pursuant to NYS SSL §390;
- 3) create or expand child care seats in the infant and/or toddler categories, directly or through a third party, for the employees of such business entity on or after April 1, 2023 and before January 1, 2025, with children occupying the seats;
- 4) be in substantial compliance with any child care licensing laws and regulations related to the entity's business sector or other laws and regulations as determined by the OCFS commissioner; and
- 5) not owe past due state taxes or local property taxes unless the business entity is making payments and complying with an approved binding payment agreement entered into with the taxing authority.

Please also visit the [Child Care Creation and Expansion Tax Credit Program home page](#) to view additional criteria.

**Q: How do I apply?**

A: Applications for the tax credit will be made available online on January 1, 2025 and must be completed and successfully uploaded by January 31, 2025, immediately following the end of the service year. The service year shall mean the 12-month period, or portion thereof, commencing on January 1 and ending on December 31. It is highly recommended that applications be submitted at least 10 business days prior to the deadline to ensure that they upload properly and are received by OCFS. Please visit the [program web page](#) to view instructions and additional information pertaining to the application and eligibility criteria. A taxpayer must submit a complete application to OCFS on a form prescribed by the Commissioner by January 31 immediately following the end of the service year. *Applications that are incomplete as of the January 31 deadline will not be considered. Applications that are submitted after the due date will not be considered. OCFS has no obligation to inform the taxpayer whether an application is complete or incomplete.*

**Q: If I have questions or need assistance with my application, who do I reach out to?**

A: Please contact the OCFS Division of Child Care Services via email at [Ocfs.sm.ChildCareBusinessTaxCredit@ocfs.ny.gov](mailto:Ocfs.sm.ChildCareBusinessTaxCredit@ocfs.ny.gov)  
Please also visit the [program web page](#) for further application details.

**Q: How will I know if my application was accepted?**

A: Upon submission of the application, OCFS will notify the business entity that its application was received and is being evaluated. If the application is deemed complete

and all criteria for eligibility have been met, OCFS will notify the applicant and issue a Certificate of Tax Credit to the business entity to accompany its tax filing for the relevant service year.

**Q: How will I know if my application was approved?**

A: If the application is deemed eligible and approved, OCFS will generate and send a Tax Credit Certificate to the business that will include the total amount of the approved tax credit.

**Q: How many slots can a business entity receive a credit for?**

A: The credit will be allowed for up to 25 child care seats that are occupied. The amount of such credit will be reduced if the total amount of credits authorized for business entities that submitted timely and completed applications exceeds \$25 million per service year (2023 and 2024).

**Q: What if a business entity creates more than 25 slots?**

A: The maximum amount of creditable slots is not to exceed 25. If a program creates more than 25 child care seats, the credit will be calculated based on the child care seats up to 25 that will result in the greatest credit amount of the business entity, subject to the availability of funds.

**Q: How is “creates child care” defined?**

A: “Creates child care” shall mean the making available of new child care seats in a child care program by a business entity, directly or through a third-party, for employees of such business entity, where such child care program was not available prior to April 1, 2023, provided that the costs imposed on such employees for such child care program do not exceed 40% of the child care market rate.

**Q: How is “expands child care” defined?**

A: “Expands child care” shall mean the increase in the number of child care seats in a child care program made available by a business entity, directly or through a third party, for employees of such business entity, provided that such increase requires a new or amended license or registration issued by OCFS pursuant to NYS SSL §390 on or after April 1, 2023, and, provided further, that the costs imposed on such employees for such child care program do not exceed 40% of the child care rate.

**Q: How is “occupied” defined?**

A: “Occupied” shall mean, for each service year in which a child care program is in operation, the average daily number of children in attendance on the premises of such child care program.

**Q: What is the definition of “in attendance on the premises”?**

A: “In attendance on the premises” shall include both children physically in attendance on the premises of a child care program and children who are enrolled to be physically in attendance on the premises on a weekly basis, but are absent from the child care program.

**Q: My business created slots on or after 4/1/2023; however, these slots were not occupied until 2024. Can I still claim these seats?**

A: Yes. Seats that were created on or after 4/1/2023, but not occupied until the 2024 year can be claimed on the 2024 tax year application.

**Q: For the purposes of calculating the credit, how will infant and toddler be defined?**

A: The tax credit is for newly created infant and toddler seats. For the purposes of calculating the credit, infant shall mean a child up to 18 months of age at a day care center, or a child up to 24 months of age at a family day care or group family day care. For the purposes of calculating the credit, toddler shall mean a child 18 months of age up to 36 months of age at a day care center, or a child 24 months of age up to 36 months of age at a family day care or group family day care.

**Q: How is the rate calculated for credited slots?**

A: A business entity that meets all requirements may be eligible to claim a credit for the portion of the service year in which the child care program was in operation, equal to the sum of:

- (a) the product of the number of occupied additional infant seats and 20% of the child care market rate for the program’s county and modality multiplied by the number of weeks occupied; AND
- (b) the product of the number of occupied additional toddler seats and 20% of the child care market rate for the program’s county and modality multiplied by the number of weeks occupied. Note: Due to differences in market rates per modality

and county, multiple sums using the formula above may need to be combined in order to reach the Total Tax Credit amount.

For more information about rates for specific modality and counties, please refer to: <https://ocfs.ny.gov/main/policies/external/2022/lcm/22-OCFS-LCM-14.pdf>

**Q: I operate a child care program, am I eligible to apply for this tax credit?**

A: If your child care program meets the eligibility requirements below, you are eligible to apply:

- 1) operate a business location in New York State, and be a business entity required to file a tax return pursuant to Article 9-A, 22 or 33 of the Tax Law;
- 2) be a child care program, or contract with such child care program, as defined in this title, that is licensed or registered pursuant to NYS SSL §390;
- 3) create or expand child care seats in the infant and/or toddler categories, directly or through a third party, for the employees of such business entity on or after April 1, 2023 and before January 1, 2025, with children occupying the seats;
- 4) be in substantial compliance with any child care licensing laws and regulations related to the entity's business sector or other laws and regulations as determined by the OCFS commissioner; and
- 5) not owe past due state taxes or local property taxes unless the business entity is making payments and complying with an approved binding payment agreement entered into with the taxing authority.

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**NOTE:** The child care program must have created new slots to provide additional infant/toddler child care opportunities for their own employees. The increase in capacity must be reflected on your licenses, and the change must be dated on or after 4/1/2023. The employees cannot be paying more than 40% of the market rate for the newly created slots.