

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

24-2007.0

HB 1193, *relative to the establishment of a child care tax credit program.*

Ways and Means

Establishes the Child Care Tax Credit Program and amends the Granite State Paid Family Leave Plan Tax Credits

This proposed legislation adds a new paragraph for Child Care Credit. The credit is to be applied towards the taxpayer's Business Profits Tax (BPT) liability within the subsequent 5 tax years. The new paragraph sets out the requirements to be met by the taxpayer to qualify to apply for the Child Care Credit.

The proposed legislation states that expenditures qualifying for this credit claim shall be taxpayer expenditures made on behalf of the taxpayer's current employees and shall be made directly to a state licensed childcare facility or state licensed prekindergarten. The proposed legislation does not provide further specifics to define the type of expenses that would be paid under those stated circumstances that would qualify for the credit. The DRA assumes that all types of payments made by the taxpayer under those stated circumstances shall be eligible.

The proposed RSA 77-A:5, XVII also states that the Child Care Credit shall not exceed \$100,000 for any taxpayer in any taxable year and that the aggregate of the tax credits that may be issued by the DRA to all taxpayers claiming the credit shall not exceed \$10,000,000 for any fiscal year.

The proposed RSA 77-A:5, XVII requires taxpayers applying for the Child Care Credit to submit their application to the DRA by June 30 following the tax year during which the "research and development" occurred. DRA assumes that the intent was to instead reference "the qualifying expenditures paid" and that this credit is not related to research and development activity. The DRA shall determine the final amount of credit awarded to each taxpayer claiming this credit by September 30 of each year.

A new section is added to RSA 77-E:3-f to the Business Enterprise Tax (BET) to allow the Child Care Credit, as computed for BPT, as a credit against the taxpayer's BET. The DRA assumes that a taxpayer may claim the Child Care Credit only against the BPT, or only against the BET, or apportioned against each tax provided that the total credit shall not exceed the maximum Child Care Credit awarded.

RSA 77-E:3-e is amended for the claim of the Granite State Paid Family Leave Plan Tax Credits under Business Enterprise Tax (BET) to include expenditures for maternity or paternity leave greater than 12 weeks by sponsoring employer for family and medical leave insurance coverage offered to employees pursuant to RSA 21-I:103 for the taxable period in which the premium is paid. The proposed legislation is not clear whether the credit allowed here is 50% of the

expenditures for maternity or paternity leave greater than 12 weeks or the full expenditures for maternity or paternity leave greater than 12 weeks. The proposed legislation did not provide clarification as to what would constitute expenditures for maternity or paternity leave. The DRA suggests additional clarifying language, or a definition be added. The DRA assumes that these expenditures for maternity or paternity leave greater than 12 weeks are expenditures within the family and medical leave insurance coverage offered to employees under RSA 21-I:103.

The DRA would be responsible for updating all necessary tax return forms and electronic management systems related to this bill. The proposed legislation would not result in any additional administrative costs that could not be absorbed in the DRA operating budget.

This proposed legislation is effective July 1, 2024. The applicability date shall apply to taxable periods ending on or after December 31, 2025.

The DRA suggests that additional legislative language be provided to clarify the type of taxpayer expenditures made directly to a state licensed childcare facility or state licensed prekindergarten that qualifies for the claim of the Child Care Credit.

Page 1, Lines 19 and 20 of the LSR uses the term “research and development occurred”. If this was referenced in error, the DRA suggests amending that language to read “the qualified expenditures paid”.

The DRA suggests additional clarifying language added to Section 2 of the proposed legislation clarifying whether the credit allowed is 50% of the expenditures for maternity or paternity leave greater than 12 weeks or the full expenditures for maternity or paternity leave greater than 12 weeks.

The DRA also suggests that additional legislative language be provided to clarify the types of expenditures that qualify for maternity or paternity leave.

The DRA suggests additional language in the proposed RSA 77-A:5 XVII and RSA 77-E:3-f to clarify that the taxpayer may choose to apply the Child Care Credit against BET, BPT, or a combination of both:

The taxpayer may claim a credit against the business profits tax due pursuant to RSA 77-A, against the business enterprise tax due pursuant to RSA 77-E, or apportioned against each provided the total credit claimed shall not exceed the maximum Child Care credit allowed. Credits provided under this chapter shall not be deemed taxes paid for the purposes of RSA 77-A:5, X.