



COLORADO

Department of Revenue

Taxation Division

Office of Tax Policy
P.O. Box 17087
Denver, CO 80217-0087

DOR_TaxPolicy@state.co.us

PLR 24-002

April 10, 2024

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX

Via Electronic Mail: XXXXXXXXXXXX

Re: Donor Qualification for the Child Care Contribution Credit

Dear XXXXXXXXXXXX:

You submitted a request for a private letter ruling on behalf of XXXXXXXXXXXX (the “Agency”), to the Colorado Department of Revenue (“Department”) pursuant to 1 CCR 201-1, Rule 24-35-103.5. This letter is the Department’s private letter ruling. This ruling is binding on the Department to the extent set forth in 1 CCR 201-1, Rule 24-35-103.5. It cannot be relied upon by any taxpayer other than the taxpayer to whom the ruling is made.

Issue

Whether a taxpayer who makes a monetary contribution to Agency is allowed to claim the child care contribution tax credit pursuant to section 39-22-121(1.5), C.R.S., with respect to the contribution.

Conclusion

A taxpayer who makes a monetary contribution to Agency is allowed to claim the child care contribution tax credit pursuant to section 39-22-121(1.5), C.R.S.

Background¹

Agency currently holds a license from the Colorado Department of Human Services as a child placement agency as required by section 26-6-905(1), C.R.S. Agency operates a nonprofit child care facility located at XXXXXXXXXXXX where Agency provides child care to children exclusively under the age of twelve. Specifically, Agency works with women who are seeking to place their child or children for adoption. Agency’s primary focus is addressing the needs of the child and promoting what is in their best interest. Agency evaluates the placement resource, which is typically the adoptive family, and determines if the family has the resources and ability required to care for that specific child’s unique needs. Additionally, Agency provides recommendations to the district court regarding the placement. Agency also provide

¹ Paragraph (4)(b)(ii) of 1 CCR 201-1, Rule 24-35-103.5 requires the request for a private letter ruling to include a statement of facts. This section generally recites the statement of facts provided in the initial request or in any supplement or amendment thereto, which is not an indication that the Department found such facts relevant to its analysis. Some relevant facts may be redacted or omitted to ensure confidentiality as required by section 24-35-103.5(5), C.R.S. The terms used in this section to describe the factual background are generally those of the requester.

ongoing placement supervision to ensure that the child's best interests are being served, that the child's needs as well as all state licensing requirements are met.

Discussion

A taxpayer who makes a monetary contribution to Agency is allowed the child care contribution tax credit pursuant to section 39-22-121(1.5), C.R.S. Taxpayers that make a qualifying monetary contribution to promote child care in Colorado may claim an income tax credit equal to 50% of the total qualifying contribution.² The maximum credit allowed to a taxpayer for all contributions made during a tax year is \$100,000.³

Agency operates a "child care facility." Among other things, credit is allowed for contributions made for the establishment or operation of a child care facility that uses the donation to provide child care.⁴ Section 39-22-121(6.5), C.R.S., broadly defines "child care facility" to include any facility required to be licensed by the Colorado Department of Human Services pursuant to part 9 of article 6 of title 26 or the Colorado Department of Early Childhood pursuant to part 3 of article 5 of title 26.5.⁵ That subsection further enumerates several types of facilities that are included within the definition, including "child placement agencies." A person operating a child placement agency is required to hold a license pursuant to section 26-6-905(1), C.R.S. Because Agency is a child placement agency licensed by the Colorado Department of Human Services, Agency is operating a "child care facility."

The credit is limited to contributions that will be used to promote child care in Colorado as defined by the statute.⁶ "Child care" means care provided to a child twelve years of age or younger.⁷ Agency's placement and ongoing supervision services, for which it is licensed by the Colorado Department of Human Services, are provided exclusively to children under the age of twelve. Therefore, all monetary contributions to Agency for the purpose of operating its child placement agency qualify for the child care contribution credit subject to the credit percentage, maximum contribution, and other limitations imposed by section 39-22-121, C.R.S.

Miscellaneous

This ruling is premised on the assumption that Agency has completely and accurately disclosed all material facts, that all representations are true and complete, and that Agency has otherwise complied with the requirements of section 24-35-103.5, C.R.S., and the rules promulgated pursuant thereto. The Department reserves the right, among others, to independently evaluate Agency's facts, representations, and assumptions. The ruling is null and void if any such fact, representation, or assumption is incorrect and has a material bearing on the conclusions reached in this ruling. This ruling is binding on the Department, and is subject to modification or revocation, in accordance with 1 CCR 201-1, Rule 24-35-103.5.

Sincerely,

Office of Tax Policy
Colorado Department of Revenue

This ruling cannot be relied upon by any other taxpayer other than the taxpayer to whom the ruling is made.

² Section 39-22-121(1.5), C.R.S.

³ *Id.* at (5).

⁴ *Id.* at (2.5).

⁵ *Id.* at (6.5)(a). An approved facility school, as such term is defined in section 22-2-402(1), C.R.S., is also a "child care facility" for purposes of the credit. *Id.* at (6.5)(b).

⁶ Section 39-22-121(1.5), C.R.S.

⁷ *Id.* at (1.7).