

## IRS Issues Proposed Dependent Care Credit Regulations

The IRS recently issued proposed Code Section 21 Dependent Care Credit Regulations, essentially renumbering the prior regulations and incorporating all the dependent care credit changes that have occurred since the regulations were last issued 22 years ago. Note these regulations relate to the dependent care tax credit under Code Section 21, which do have a significant impact on Code Section 129 dependent care assistance plans. However, these regulations do not impact Code Section 129 specific rules and regulations.

### Some highlights include:

- Expenses related to pre-school or similar programs below the kindergarten level may be employment-related expenses, even though educational activities may be a significant part of these programs.
- Expenses related to kindergarten and above are not employment-related expenses.
- Expenses for Day Camp/Summer Camp are employment-related expenses even if the camp specializes in a particular activity.
- Cost of transportation (e.g. transportation to a day camp or to an after-school program not on school premises) furnished by a dependent care provider may be an employment-related expense.
- Indirect expenses such as application and agency fees may be employment-related expenses if the taxpayer is required to pay these expenses to obtain care.
- Short, temporary absences from work may be disregarded for taxpayers who must pay for dependent care expenses on a weekly or longer basis. Whether an absence is short and temporary depends on the facts and circumstances of the situation.
- In general, taxpayers who work part-time must allocate expenses between days worked and days not worked. However, taxpayers who work part-time but are required to pay for dependent care expenses on a weekly or longer basis are not required to allocate expenses between days worked and days not worked.
- Payments to a taxpayer's spouse or to a parent of the taxpayer's child who is not the taxpayer's spouse are not qualified expenses.

Even though the attached regulations are proposed, taxpayers may apply the proposed regulations immediately.

Select this [link](#) to review the complete proposed Code Section 21 Regulations.