



Instructions for Form IT-216

Claim for Child and Dependent Care Credit

IT-216-I

General Information

Change to the New York State child and dependent care credit for tax year 1997

The percentage of the federal credit can be as high as 60%, depending on your income. See the instructions for line 13 on page 4.

Who Qualifies

If you **qualify** to claim the federal child and dependent care credit, you can **claim** the New York State credit (whether you actually claim the federal credit or not).

If you did not file federal Form 2441, you can still claim the New York State child and dependent care credit on Form IT-216 if **all five** of the following apply.

1. Your filing status is *Single, Head of household, Qualifying widow(er) with dependent child, or Married filing jointly*. However, see *Special Rule for Married Persons Filing Separate Returns* below.
2. The care was provided so you (and your spouse, if you were married) could work or look for work. However, if you did not find a job and have no earned income for the year, you cannot take the credit. If your spouse was a student or disabled, see the line 7 instructions on page 3.
3. You (and your spouse, if you were married) paid over half the cost of keeping up your home. The cost includes rent, mortgage interest, real estate taxes, utilities, home repairs, and food eaten at home.
4. You and your child (or other qualifying person(s) for whom the care was provided) lived in the same home.
5. The person who provided the care was not your spouse or a person whom you can claim as a dependent. If your child provided the care, he or she must have been age 19 or older by the end of 1997.

Married Persons Filing Separate Federal and New York State Returns

If your filing status is married filing separately and **all** of the following apply, you are considered unmarried for purposes of figuring the child and dependent care credit.

- You lived apart from your spouse during the last 6 months of 1997, **and**

- the qualifying person lived in your home more than half of 1997, **and**
- you provided over half the cost of keeping up your home.

If you meet **all** the requirements to be treated as unmarried and meet items 2 through 5 above, you may claim the credit. If you do not meet all the requirements to be treated as unmarried, you **cannot** claim the credit.

Married Persons Filing Joint Federal Returns, but Required to File Separate New York Returns

If you and your spouse file jointly for federal purposes, but are required to file separate New York returns because one spouse is a resident and the other spouse is either a nonresident or part-year resident, you may still claim the credit. However, the credit must be claimed on the return of the spouse with the lower taxable income (computed without regard to such credit).

Married Persons Not Required to File a Federal Return

If you and your spouse are not required to file a federal income tax return, the New York State child and dependent care credit is allowed only if you file a joint New York State tax return (Form IT-100, IT-200, IT-201 or IT-203).

How to Claim the Credit

In addition to the above federal requirements, to claim the New York State child and dependent care credit you must:

- file (or have filed) a New York State return for 1997,
- report the required information about the care provider on line 4 of Form IT-216, **and**
- complete Form IT-216.

Important Terms

Qualifying Person(s)

A qualifying person is:

- Any child **under age 13** whom you can claim as a dependent (but see *Exception for Children of Divorced or Separated Parents* on this page). If the child turned 13 during the year, the child is a qualifying person for the part of the year he or she was under age 13.
- Your disabled spouse who is not able to care for himself or herself.

- Any disabled person not able to care for himself or herself whom you can claim as a dependent for federal purposes (or could claim as a dependent for federal purposes, except that the person had gross income of \$2,500 or more). If this person is your child, see *Exception for Children of Divorced or Separated Parents* below. To find out who is a dependent, see the instructions to federal Form 1040 or 1040A, line 6c.

Caution: To be a qualifying person, the person **must** have shared the same home with you in 1997.

Exception for Children of Divorced or Separated Parents

If you were divorced, legally separated, or lived apart from your spouse during the last 6 months of 1997, you may be able to take the credit even if your child is not your dependent. If your child is not your dependent, he or she is a qualifying person only if **all five** of the following **federal** requirements apply to you:

1. You had custody of the child for a longer time in 1997 than the other parent. For the definition of custody, see federal Publication 501, *Exemptions, Standard Deduction, and Filing Information*.
2. One or both of the parents provided over half of the child's support in 1997.
3. One or both of the parents had custody of the child for more than half of 1997.
4. The child was under age 13 or was disabled and could not care for himself or herself.
5. The other parent claims the child as a dependent because
 - as the custodial parent, you signed federal Form 8332, *Release of Claim to Exemption for Child of Divorced or Separated Parents*, or a similar statement agreeing not to claim the child's exemption for 1997, **or**
 - your divorce decree or written agreement went into effect before 1985 and it states that the other parent can claim the child as a dependent, and the other parent gave at least \$600 for the child's support in 1997. This rule does not apply if your decree or agreement was

changed after 1984 to say that the other parent cannot claim the child as a dependent.

Qualified Expenses

These include amounts paid for household services and care of the qualifying person(s) while you worked or looked for work. Child support payments are **not** qualified expenses. Also, expenses reimbursed by a state social service agency are **not** qualified expenses unless you included the reimbursement in your income.

Household Services

These are services needed to care for the qualifying person as well as to run the home. They include, for example, the services of a cook, maid, babysitter, housekeeper, or cleaning person if the services were partly for the care of the qualifying person(s). Do not include services of a chauffeur or gardener.

You may also include your share of the employment taxes paid on wages for qualifying child and dependent care services.

Care of the Qualifying Person

Care includes the cost of services for the qualifying person's well-being and protection. It does not include the cost of clothing or entertainment.

You may include the cost of care provided outside your home for your dependent under age 13 or any other qualifying person(s) who regularly spends at least 8 hours a day in your home. If the care was provided by a dependent care center, the center must meet all applicable state and local regulations. A **dependent care center** is a place that provides care for more than six persons (other than persons who live there) and receives a fee, payment, or grant for providing services for any of those persons, even if the center is not run for profit.

You may include amounts paid for food and schooling **only** if these items are part of the total care and cannot be separated from the total cost. But **do not** include the cost of schooling for a child in the first grade or above. Also, **do not** include any expenses for sending your child to an overnight camp.

Prior Year's Expenses

If you had qualified expenses for 1996 that you didn't pay until 1997, you may be able to claim these qualified expenses and increase the amount of credit you can take in 1997. For more

information, see *Amount of Credit in federal Publication 503, Child and Dependent Care Expenses*. Also, see the instructions for line 11 on page 4.

Earned Income

Generally, this is your wages, salaries, tips, and other employee compensation. This is usually the amount shown on federal Form 1040, line 7. But earned income does not include a scholarship or fellowship grant if you did not get a wage and tax statement (federal Form W-2) for it.

Earned income does include certain nontaxable earned income, such as meals and lodging provided for the convenience of your employer. Earned income also includes 414(h) retirement contributions shown on your wage and tax statement(s), New York State Form IT-2102 (Copy 1) or federal Form W-2 (Copy 2). For more information, see federal Publication 503, *Child and Dependent Care Expenses*. However, including nontaxable earned income will only give you a larger credit if your other earned income (and your spouse's other earned income if filing a joint return) is less than the qualified expenses entered on line 5 of Form IT-216.

If you were a statutory employee and are filing Schedule C or C-EZ with your federal return, to report income and expenses as a statutory employee, earned income also includes the amount from line 1 of that Schedule C or C-EZ.

If you were self-employed, earned income also includes the amount shown on federal Schedule SE, line 3, minus any deduction you claim on federal Form 1040, line 26. If you use either optional method to figure self-employment tax, subtract any deduction you claim on federal Form 1040, line 26, from the total of the amounts on federal Schedule SE, Section B, lines 3 and 4b to figure your earned income.

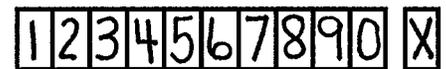
Note: You must reduce your earned income by any loss from self-employment.

If you are **filing a joint federal return**, disregard community property laws. If your spouse died in 1997 and had no earned income, see federal Publication 503. If your spouse was a student or disabled in 1997, see the line 7 instructions for Form IT-216.

Filling in Your Claim Form

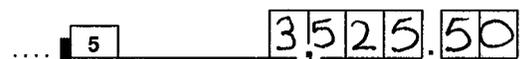
Form IT-216 for 1997 has been designed to let us use the latest scanning and image-processing equipment. Rectangular boxes have been printed on the form to guide you in making your handwritten entries. This will enable our scanning equipment to read your return more accurately and let us process it more efficiently. Please spend a moment reviewing the method below for making your entries:

- Please print (using a blue or black ballpoint pen; no pencils, please) or type all "X" marks and money amounts in the boxes or spaces provided.
- Do not use dollar signs, commas, decimal points, dashes or any other punctuation marks or symbols.
- Write your numerals like this:



- Carefully enter your money amounts so that the whole dollar amount ends in the box immediately to the left of the cents decimal and the cents amount starts in the box immediately to the right of the cents decimal.
- Make your money amount entries in the boxes, allowing one numeral for each area.

Example: If your entry for line 5 is \$3,525.50, your money field entry should look like:



- Leave blank any spaces and boxes that do not apply to you.

Line Instructions (for all filers)

All filers complete lines 1 through 14 as applicable. (**Form IT-100 filers** - Do not file Form IT-216 unless you have already filed your Form IT-100 for 1997 and did not claim the child and dependent care credit on it.)

Line 1

File Form IT-216 with your original 1997 New York State income tax return. If you have already filed your original return, you may file Form IT-216 by itself. If you haven't previously filed your income tax return for this year, you **must** file one with this claim.

Line 2

List the name, qualified expenses paid in 1997, social security number and

year of birth for the qualifying person(s) for whom you are claiming the New York State child and dependent care credit.

Caution: To be eligible to claim the New York State child and dependent care credit, you must provide a correct and valid social security number (SSN) for each person listed on your tax return. If the Internal Revenue Service (IRS) has issued you an Individual Taxpayer Identification Number (ITIN) because either you or a qualifying person claimed on Form IT-216 is a resident or nonresident alien, enter this ITIN in place of the social security number.

If you have applied for a social security number by filing federal Form SS-5 with the Social Security Administration or you have applied for an ITIN by filing federal Form W-7 with the IRS, but you have not received your SSN or ITIN by the April 15, 1998, filing deadline, you can either:

- 1) File Form IT-370 requesting an automatic extension of time to file until August 15, 1998. (This extension does not give you any extra time to pay any tax owed. You should pay any New York taxes you expect to owe to avoid interest or penalty charges. For more information, see Form IT-370, *Application for Automatic Extension of Time to File for Individuals*.)
- 2) File your return on time without claiming the child and dependent care credit and do not attach Form IT-216. After receiving the SSN, file Form IT-216 and claim the credit.

Also, be sure to place an **X** in the box under the heading *Person with disability* if the qualifying person had a disability and was incapable of caring for himself or herself during 1997.

Line 4

Complete columns (A) through (D) for each person or organization that provided the care. If you have more than two providers, list the information on a separate sheet. You can use federal Form W-10, *Dependent Care Provider's Identification and Certification*, or any other source listed in its instructions to get the information from the care provider. If you do not give correct or complete information, your credit may be disallowed unless you can show you used due diligence in trying to get the required information.

Due Diligence

You can show a serious and earnest effort (due diligence) to get the

information by keeping in your records a federal Form W-10 completed by the care provider. Or you may keep one of the other sources of information listed in the instructions for Form W-10. If the provider does not give you the information, complete the entries you can on line 4 of Form IT-216. For example, enter the provider's name and address. Write **See Attached** in the columns for which you do not have the information. Then, attach an explanation to your Form IT-216 indicating that the care provider did not give you the information you requested.

Columns (A) and (B)

Enter the care provider's name and address. If you were covered by your employer's dependent care plan and your employer furnished the care (either at your workplace or by hiring a care provider), enter your employer's name in column (A). Next, write **See wage and tax statement** in column (B). Then leave columns (C) and (D) blank. If your employer paid a third party (not hired by your employer) on your behalf to provide the care, you must give information on the third party in columns (A) through (D).

Column (C)

If the care provider is an individual, enter his or her social security number (SSN). Otherwise, enter the provider's employer identification number (EIN). If the provider is a tax-exempt organization, write **Tax-Exempt** in column (C).

Column (D)

Enter the total amount you **actually paid** in 1997 to the care provider. Also, include amounts your employer paid to a third party on your behalf. It does not matter when the expenses were incurred. Do not reduce this amount by any reimbursement you received.

Line 5

Using the filing description below that fits you, enter the amount of your qualified expenses as instructed.

- If you filed federal Form 2441 to claim the federal child and dependent care credit, enter on Form IT-216, line 5, the amount from federal Form 2441, line 3.
- If you filed Form 2441 **only** to complete Part III because you have dependent care benefits reported in box 10 of your federal Form W-2, enter on Form IT-216, line 5, the amount from line *e* of the *Worksheet* below.

Worksheet

a. Enter the amount of qualified expenses you incurred and paid in 1997. Do not include on this line any excluded benefits shown on federal Form 2441, line 18	a. _____
b. Enter \$2,400 (\$4,800 if two or more qualifying persons)	b. _____
c. Enter the amount from federal Form IT-2441, line 18	c. _____
d. Subtract line c from line b. If zero or less, stop . You cannot take the credit. Exception: If you paid prior year (1996) expenses in 1997, see the line 11 instructions on page 4.	d. _____
e. Enter the smaller of line a or line d here and on Form IT-216, line 5	e. _____

— If you did not file federal Form 2441 but are completing Form IT-216 to claim the New York State child and dependent care credit, enter the amount of qualified expenses you incurred and paid in 1997. **Do not include** the following expenses on line 5.

1. Qualified expenses you incurred in 1997 but did not pay until 1998. However, next year you may be able to use these expenses to increase your 1998 credit.
2. Qualified expenses you incurred in 1996 but did not pay until 1997. If you had prior year expenses you did not pay until 1997, see the instructions for line 11 on the next page.

For more information, see *Qualified Expenses* on page 2.

Line 6

Enter **only your** earned income on line 6 (do not include your spouse's). For more information, see *Earned Income* on page 2.

Line 7

If you are filing your return using filing status ②, *Married filing joint return*, enter **only your spouse's** earned income on line 7. If you are using any other filing status, enter the amount from line 6 on line 7.

Spouse Who Was a Student or Disabled

Your spouse was a **student** if he or she was enrolled as a full-time student at a school during any 5 months of 1997. Your spouse was **disabled** if he

or she was not capable of self-care. Figure your spouse's earned income on a monthly basis.

For each month or part of a month your spouse was a student or was disabled, he or she is considered to have worked and earned income. His other earned income for each month is considered to be at least \$200 (\$400 if more than one qualifying person was cared for in 1997). If your spouse also worked during that month, use the higher of \$200 (or \$400) or his or her actual earned income for that month. If, in the same month, both you and your spouse were either students or disabled, this rule applies to only one of you for that month.

For any month that your spouse was not disabled or a student, use your spouse's actual earned income if he or she worked during the month.

Line 8

Enter the smallest of line 5, 6, or 7. Federal limitations require you to use the lesser of qualified expenses, your earned income, or your spouse's earned income (if applicable), in the computation of the federal credit.

Line 9

Enter your federal adjusted gross income from Form IT-200, line 8, IT-201, line 18, or Form IT-203, line 18, *Federal Amount* column.

Line 10

Enter on line 10 the appropriate decimal amount for your federal adjusted gross income shown on line 9.

Line 11

This is your eligible federal child and dependent care credit. If you claimed the child and dependent care credit on your federal return, the amount shown on Form IT-216, line 11, should be the same as the amount shown on federal Form 2441, line 9, before any federal limitation.

If you had qualified expenses for 1996 that you didn't pay until 1997, you may be able to claim these qualified expenses and increase the amount of credit you can take in 1997. If you can take a credit for 1996 expenses paid in 1997, write **PYE** and the amount of the credit you are claiming for prior year expenses on the dotted line next to line 11. Also include this amount in the line 11 amount box. Attach a statement showing how you figured the credit for 1996 expenses.

Line 12

Transfer the amount from line 11 to line 12 and complete the remainder of Form IT-216.

Line 13

For 1997, the New York State child and dependent care credit is a minimum of 20% and as much as 60% of the federal credit, depending on the amount of your New York adjusted gross income. Enter in the space provided, your New York adjusted gross income using the following:

- **Form IT-200 filers** — amount from line e of the worksheet below.
- **Form IT-201 filers** — amount from line 31 of Form IT-201.
- **Form IT-203 filers** — amount from line 31 of Form IT-203.

Use the table on Form IT-216 to determine the decimal to be entered on line 13.

Worksheet for IT-200 Filers	
a. Enter the amount from Form IT-200, line 11	a. _____
b. Enter the amount from Form IT-200, line 12	b. _____
c. Enter the amount from Form IT-200, line 13	c. _____
d. Add lines b and c	d. _____
e. Subtract line d from line a. Enter this amount here and on Form IT-216, in the New York adjusted gross income space	e. _____

Line 14

If you are attaching this claim to your original 1997 New York State income tax return and you answered *No* at line 1:

- **Residents** — Transfer the line 14 amount to Form IT-200, line 34, or Form IT-201, line 57.
- **Nonresidents** — Transfer the line 14 amount to Form IT-203, line 39.
- **Part-year residents** — Transfer the line 14 amount to Form IT-203, line 39 **and continue** on line 15 of Form IT-216.

If you have previously filed your 1997 New York State income tax return and you answered *Yes* at line 1:

- **Residents and nonresidents** — mail your completed form to:
STATE PROCESSING CENTER
PO BOX 61000
ALBANY, NY 12261-0001

Line Instructions for Part-Year Residents Only (Lines 15-22)

Lines 15 through 22 need to be completed **only** by part-year residents claiming the New York State child and

dependent care credit who are filing, or have previously filed, an IT-203, *Nonresident and Part-Year Resident Income Tax Return*, for 1997. The amounts for these lines can be found on the appropriate lines of Form IT-203 or Form IT-203-ATT, *Itemized Deductions and Other Credits and Taxes*, or the instructions for Form IT-203.

The New York State child and dependent care credit must first reduce your tax liability to zero before the remaining excess is eligible to be refunded. The amount to be refunded will be based on the ratio of resident period income to the combined income from both the resident and nonresident periods.

Line 21

Divide line 19 by line 20 and carry the result to four decimal places. **Do not enter more than 100% (1.0000)** even if your actual result is more than 100%. If the result is zero percent (0%), you have no remaining excess child care credit available to be refunded. Do not complete line 22.

Line 22

If line 21 is greater than 0%, multiply line 18 by line 21. If you answered *No* at line 1, transfer the line 22 amount to Form IT-203, line 56 and attach Form IT-216 to your Form IT-203. This amount represents the refundable portion of your part-year resident child and dependent care credit.

If you have previously filed your 1997 New York State income tax return and you answered *Yes* at line 1, mail your completed form to:

STATE PROCESSING CENTER
PO BOX 61000
ALBANY, NY 12261-0001.

Privacy Notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions and forms, is found in Articles 22, 26, 26-A, 26-B, 30, 30-A and 30-B of the Tax Law, Article 2-E of the General City Law and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer tax liabilities due the state and city of New York and the city of Yonkers. We will also use this information for certain tax offset and exchange of tax information programs authorized by law, and for any other purpose authorized by law.

Information concerning quarterly wages paid to employees and identified by unique random identifying code numbers to preserve the privacy of the employees' names and social security numbers will be provided to certain state agencies for research purposes to evaluate the effectiveness of certain employment and training programs.

Failure to provide the required information may result in civil or criminal penalties, or both, under the Tax Law.

This information will be maintained by the Director of the Registration and Data Services Bureau, NYS Tax Department, Building 8 Room 905, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the U.S. and Canada, call (518) 485-6800.