



## Section 125 Dependent Care Guidelines

IRS form 2441 should be filed with your tax form 1040 when dependent care has been deducted from your pay. The Dependent Care deduction should be shown in box 10 of the W2 form from your employer.

Employer provided dependent care assistance is tax-free only if the following conditions are met:

1. Each individual for whom you receive dependent care assistance is;
  - a) A dependent under the age of 13 whom you are entitled to claim as a dependent on your tax return, or
  - b) A spouse or other tax dependent who is physically or mentally incapable of caring for him or herself (special rules apply to certain circumstances where non-custodial parents are entitled to claim the individual as a dependent).
2. The dependent care assistance is provided for the care of a dependent described above or for the related household service and is incurred to enable you to be gainfully employed.
3. If the dependent care services are provided outside your household, they are incurred for the care of a dependent who is described in 1.a) above or who regularly spends at least 8 hours per day in your household.
4. If the dependent care is provided by a dependent care center (i.e. a facility that provides care for more than 6 individuals not residing at the facility) the center complies with all applicable state and local laws and regulations.
5. If the services are provided by a camp, the dependent does not stay overnight at the camp.
6. Payment for the services are not made to a child of yours who is under the age of 19 at the end of the year for which the expenses are incurred or to an individual for whom you or your spouse is entitled to a personal tax exemption as a dependent.
7. The reimbursement (or fair market value of the dependent care expenses) are provided for the applicable year and may not exceed the least of the following limits:
  - a) \$5000 (\$2500 if you are married and do not file a joint tax return for the year).
  - b) Your taxable compensation (after any reductions under the 401(k) plan, dependent care assistance plan and medical/dental plans).
  - c) If you are married, your spouse's actual deemed earned income.

For purposes of 7.a) above, if two employees are married to each other and file a joint tax return, a single \$5000 limit applies to both spouses together. For purposes of 7.c) above, your spouse will be deemed to have earned income of \$200 (\$400 if you have 2 or more dependents described in paragraph 1) above, for each month in which your spouse is: physically or mentally incapable of caring for him or herself or a full time student at an educational institution. For all purposes of paragraph 7) above, certain separated spouses are not treated as married.

8. You must report to the IRS on your tax return the name, address and social security number (or other tax payer identification number, if required) of any dependent care service provider who provides services to you during the relevant calendar year).

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