

Treatment of Additional Child Tax Credit and "Regular" Child Tax Credit

Child Support Guidelines, N.D. Admin. Code §§ 75-02-04.1-01(5)(b) and 75-02-04.1-01(7)(a)(4): (IC-CO-04-02)

Question: When determining an obligor's gross and net incomes, how should the additional child tax credit and the "regular" child tax credit be treated?

Answer: The additional child tax credit is treated as gross income to the obligor. The "regular" child tax credit is used in the determination of the obligor's deduction for the hypothetical federal income tax obligation.

By way of background, a tax credit is a credit against income tax itself as distinguished from a deduction which applies only to reduce the taxpayer's income. Certain tax credits are refundable which means that the taxpayer may receive a refund even if he or she does not owe any tax. Further discussion of tax credits is beyond the scope of this response.

For illustration purposes, the additional child tax credit is the amount reflected on line 65 of the Internal Revenue Service 1040 form for 2003. The additional child tax credit is an example of a refundable tax credit. It must be included in the obligor's gross income in accordance with N.D. Admin. Code § 75-02-04.1-01(5)(b).

For illustration purposes, the "regular" child tax credit is the amount reflected on line 49 of the Internal Revenue Service 1040 form for 2003. The "regular" child tax credit is used to determine the obligor's deduction from gross income for the hypothetical federal income tax obligation in arriving at net income in accordance with N.D. Admin. Code § 75-02-04.1-01(7)(a). (The application of the "regular" child tax credit is specifically addressed in N.D. Admin. Code § 75-02-04.1-01(7)(a)(4).)

Reference: Minutes of the Department of Human Services Child Support Guidelines Drafting Advisory Committee, June 6, 2002.

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