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Chapter H Compensation—Part I

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Federal Tax Coordinator 2d


¶H-1401. Exclusion for employer-provided dependent care assistance from an employee's gross income.

The gross income of an employee (see [¶H-1413](#)) doesn't include amounts paid or incurred by an employer (see [¶H-1414](#) et seq.) for "dependent care assistance" (see [¶H-1419](#)) provided to the employee under a qualified "dependent care assistance program" (see [¶H-1418](#)). ¹ In addition, amounts received under dependent care assistance programs by uniformed services personnel are also excluded from gross income (see [¶H-3102](#)).

¹


[Code Sec. 129\(a\)\(1\)](#).


Where the *cost* of a fringe benefit is excluded from a recipient's income, any excess of the *fair market value* of the benefit over the cost, is *not* included in income, see [¶H-1055](#).

 **RIA observation:** In [Reg § 1.61-21\(b\)\(3\)](#) ([¶H-1055](#)), IRS interprets "amounts paid or incurred by an employer" (see text at footnote 1) to be the employer's cost of providing the care. Thus, even if the *value* of the assistance the employer provides is greater than the cost of providing it, no amount of the employer-provided dependent care assistance is includible (except to the extent the amount exceeds the limitations on the amount excludable, see [¶H-1402](#)) in the employee's gross income. However, the exception to this cost rule is where child care is provided in an on-site facility. In that case, the amount of the exclusion is based on the *value* of the services provided, see [¶H-1408](#). Even then, IRS has a safe harbor rule that can be used to value those services at 125% of the employer's *cost*, see [¶H-1409](#).

As a requirement for the exclusion from an employee's income for employer-provided dependent care assistance, the employee must provide on his return certain information about the person providing the dependent care services, see [¶H-1406](#).

If a plan fails the requirements for dependent care assistance programs, the plan is *still* treated as a dependent care assistance program for non-highly compensated employees, see [¶H-1418](#).

 **Form/Line Finder:** Form 2441 is used to compute the excluded amount by Form 1040 filers. A line-by-line explanation of Form 2441 appears in the Individual Tax Return Form/Line Finder.

 **Forms to use:** Form 1040A, Schedule 2 , is used to compute the excluded amount by Form 1040A filers. Form 1040A, Schedule 2 is reproduced in e-FormRS.

For requirements for dependent care assistance programs offered as part of an employer's "cafeteria plan," see [§ H-2438](#) et seq. And for additional requirements where dependent care assistance program benefits are provided in a flexible spending arrangement (FSA), see [§ H-2459.5](#).

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