



UNDERSTANDING THE CARES ACT: EMPLOYEE RETENTION CREDIT

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On March 27, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was enacted to encourage Eligible Employers to maintain their employees on their payroll, despite the business interruption the Coronavirus has caused, with an employee retention tax credit.

What is the Employee Retention Credit?

The Employee Retention Credit is a fully refundable tax credit for employers equal to 50 percent of qualified wages (including allocable qualified health plan expenses) that Eligible Employers pay their employees.

This Employee Retention Credit applies to qualified wages paid after March 12, and before January 1. The maximum amount of qualified wages taken into account with respect to each employee for all calendar quarters is \$10,000, so that the maximum credit for an Eligible Employer for qualified wages paid to any employee is \$5,000.

Who is an Eligible Employer?

Eligible Employers for the purposes of the Employee Retention Credit are those that carry on a trade or business during calendar year 2020, including a tax-exempt organization, that either:

- Fully or partially suspends operation during any calendar quarter in 2020 due to orders from an appropriate governmental authority limiting commerce, travel or group meetings (for commercial, social, religious or other purposes) due to COVID-19; or

- Experiences a significant decline in gross receipts during the calendar quarter.

When is the operation of a trade or business “partially suspended for the purposes of the Employee Retention Credit”?

The operation of a trade or business may be partially suspended if an appropriate governmental authority imposes restrictions upon the business operations by limiting commerce, travel or group meetings (for commercial, social, religious or other purposes) due to COVID-19 such that the operation can still continue to operate, but not at its normal capacity.

What is a “significant decline in gross receipts”?

A significant decline in gross receipts begins with the first quarter in which an employer's gross receipts for a calendar quarter in 2020 are less than 50 percent of its gross receipts for the same calendar quarter in 2019. The significant decline in gross receipts ends with the first calendar quarter that follows the first calendar quarter for which the employer's 2020 gross receipts for the quarter are greater than 80 percent of its gross receipts for the same calendar quarter during 2019.

How do I know which wages qualify?

Qualifying wages are based on the average number of a business's employees in 2019.

Employers with less than 100 employees: If the employer had 100 or fewer employees on average in 2019, the credit is based on wages paid to all employees, regardless if they worked or not. If the employees worked full time and were paid for full time work, the employer still receives the credit.

Employers with more than 100 employees: If the employer had more than 100 employees on average in 2019, then the credit is allowed only for wages paid to employees who did not work during the calendar quarter.

May an Eligible Employer receive both the Employee Retention Credit and a Small Business Interruption Loan under the Paycheck Protection Program that is authorized under the CARES Act?

No. An Eligible Employer may not receive the Employee Retention Credit if the Eligible Employer receives a Small Business Interruption Loan under the Paycheck Protection Program that is authorized under the CARES Act (“Paycheck Protection Loan”). An Eligible Employer that receives a paycheck protection loan should not claim Employee Retention Credits.

We've discussed many of the FAQ's provided by the IRS above, but you can access the full list [here](#).

Related Practices

Labor and Employment



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