

Abstract: If your company has been able to keep some or all of its workers on its payroll, remember that you may still be able to qualify for the payroll tax credit created under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. This article discusses the details of this potentially valuable tax break.

Don't forget about the payroll tax credit

For many businesses, retaining employees has been difficult, if not impossible. If your company has been able to keep all or some of its workers, you may still be able to qualify for the payroll tax credit created under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, known as the Employee Retention Credit.

Assessing your qualifications

The Employee Retention Credit is a refundable payroll tax credit for 50% of wages paid by eligible employers to certain employees. The credit is available to employers whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel or group meetings during the novel coronavirus (COVID-19) crisis.

The credit is also available to employers that have experienced a greater than 50% reduction in quarterly receipts, measured on a year-over-year basis. When such an employer's gross receipts exceed 80% of the comparable quarter in 2019, the employer no longer qualifies for the credit beginning with the next quarter.

Examining wages paid

For employers that had an average number of full-time employees in 2019 of 100 or fewer, all employee wages are eligible, regardless of whether an employee is furloughed or has experienced a reduction in hours.

For employers with more than 100 employees in 2019, only wages paid to employees who are furloughed or face reduced hours because of the employer's closure or reduced gross receipts are eligible for the credit. No credit is available for wages paid to an employee for any period for which the employer is allowed a Work Opportunity Tax Credit with respect to the employee.

In the context of the credit, the term "wages" includes health benefits and is capped at the first \$10,000 in wages paid by the employer to an eligible employee. Wages *don't* include amounts considered for required paid sick leave or required paid family leave under the Families First Coronavirus Response Act. In addition, wages applicable to this credit aren't taken into account for the employer credit toward paid family and medical leave.

Claiming advance payments and refunds

The IRS can advance payments to eligible employers. If the amount of the credit for any calendar quarter exceeds applicable payroll taxes, the employer may be able to claim a refund of the excess on its federal employment tax return.

In anticipation of receiving the credits, employers can fund qualified wages by 1) accessing federal employment taxes, including withheld taxes, that are required to be deposited with the IRS or 2) requesting an advance of the credit from the IRS on Form 7200, “Advance Payment of Employer Credits Due to COVID-19.” The IRS may waive applicable penalties for employers who don’t deposit applicable payroll taxes in anticipation of receiving the credit.

Obtaining relief

The credit applies to wages paid after March 12, 2020, and before Jan. 1, 2021. Contact our firm for help determining whether you qualify and, if so, how to claim this tax break.