

CARES Act: Employee retention credit for employers subject to closure due to the coronavirus pandemic



David M. Kall, Adam Grais | Thursday, March 26, 2020

The legislation includes a payroll tax credit for payments made to employees or businesses forced to close or reduce operations due to government mandates or that have suffered a significant loss in revenues due to the coronavirus pandemic.

Employers claim the credit against the employer's share of FICA taxes on wages paid from March 12, 2020, through December 31, 2020. The tax credit is in addition to the tax credits available for sick pay or FMLA leave under the Family First Coronavirus Recovery Act (FFCRA Credits). If the amount of the credit for the quarter exceeds the employer's FICA tax due (after reduction by FFCRA Credits), then the amount is treated as an overpayment and may be refunded. However, the total amount of the tax credit available is capped at \$5,000 per employee for all quarters.

A for-profit trade or business and a not-for-profit charitable organization may claim the credit if the employer has fully or partially suspend business operations due to a government order limiting commerce, travel, or group meetings due to the COVID-19 pandemic. A for-profit trade or business also may claim the credit starting in the first calendar quarter in which its gross receipts for the quarter are less than 50% of its gross receipts for the same quarter in the prior year and ending after the first calendar quarter in which its gross receipts for the quarter are greater than 80% of its gross receipts for the same quarter in the prior year.

CARES ACT Employee retention credit for employers

For employers that averaged 100 or fewer full-time employees during 2019, the credit equals 50% of the wages paid and group health plan costs allocable to all employees during the government-mandated suspension of operations or the qualifying reduction in receipts. For employers that averaged more than 100 full-time employees during 2019, the credit is available only on those amounts paid or allocable to employees not providing services due to the government-mandated suspension of operations or the qualifying reduction in receipts to the extent those amounts do not exceed the amount the employee would have been paid for working an equivalent duration during the 30 days immediately preceding the period of suspension or reduced revenues.



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