

Client Impact Event

CARES Act: Employee Retention Credit

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The CARES Act provides relief to eligible employers in the form of a credit against employment taxes as a result of COVID-19.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act provides emergency assistance and health care response for individuals, families and businesses as a result of the 2020 coronavirus (COVID-19) pandemic.

The CARES Act grants eligible employers a credit against employment taxes equal to 50 percent of qualified wages paid to employees who are not working due to the employer's full or partial suspension of business or a significant decline in gross receipts. The credit can be claimed on a quarterly basis, but the amount of wages, including health benefits, for which the credit can be claimed is limited to \$10,000 in aggregate per employee for all quarters.

Background

"Employment taxes" or "payroll taxes" are terms often used for a set of taxes that consists of Social Security taxes, Medicare taxes, unemployment insurance taxes, and state and federal income taxes. Employers collect the taxes by "withholding" (deducting) them from the employees' wages when paid. Employment taxes are simply another way for the government to raise and collect taxes. Employers act as the government's collection agents, much the same way that retail businesses act as the government's collection agents for sales taxes.

New Legislation Explained

Employee retention credit for wages paid during COVID-19 crisis. In response to the coronavirus (COVID-19) crisis, certain employers can claim a refundable credit against the *employer's portion* of the Old-Age, Survivors, and Disability Insurance (OASDI) tax under IRC §3111(a), or the *employer's portion* of the Railroad Retirement Tax Act (RRTA) Tier 1 tax under IRC §3221(a) attributable to the 6.2-percent OASDI tax rate, for each calendar quarter.

The provision provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis. The credit is available to employers whose:

- trade or business is fully or partially suspended during the calendar quarter due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to the coronavirus disease (COVID-19); or
- experiences a 50% decline in gross receipts for the calendar quarter compared to the same quarter in the prior year.

Qualified Wages. The credit applies to qualified wages paid after March 12, 2020 and before January 1, 2021. If the employer has more than 100 full-time employees, qualified wages are wages paid to employees who cannot work during the COVID-19-related circumstances described above. If the employer has 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order.

The allowed credit cannot be more than the OASDI tax or RRTA tax imposed on the employer—reduced by any allowed credits for (1) qualified veterans employment under IRC §3111(e), (2) qualified small business research expenditures under IRC §3111(f), and (3) required qualified sick leave and family leave wages paid—on the wages paid for all of the eligible employer's employees for the calendar quarter. If the credit amount is *more than* the OASDI tax or RRTA tax imposed on the employer (reduced as described above), the excess is treated as an overpayment that must be refunded.

The IRS must waive any penalty under IRC §6656 for failure to deposit the employer's portion of the OASDI tax or the RRTA Tier 1 tax, if the failure was due to the anticipation of the credit.

Client Application

Inform your business clients of the refundable payroll tax credit as a result of the CARES Act. The CARES Act provides the refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis.

Client Profile

Employers who pay wages and are subject to payroll tax.

Effective Date

The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020.