

e-Alert

10.07.21

Employee Retention & Payroll Tax Credits Update

Background

Congress previously passed several tax relief programs for employers. These include the Coronavirus Aid, Relief, and Economic Security Act ([CARES Act](#)) in March 2020; the Consolidated Appropriations Act ([CAA](#)) in December 2020; and the American Rescue Plan Act of 2021 ([ARPA](#)) on March 11, 2021. These acts were passed as a tool to help stabilize and provide relief to the economy throughout the COVID-19 pandemic.

Summary

Under the CARES Act, employers are eligible for a tax credit that is equal to the amount of applicable payroll costs they provided during the pandemic. Eligible employers are those who experienced hardship during these times. To qualify for economic hardship, an employer must meet both of the following parameters:

1. The organization was impacted by a government order to cease operations due to COVID-19. For ERTC purposes, a government order includes those issued by federal, state, and local municipalities.
2. The organization showed a decline between 50% – 79% in gross profits when comparing like quarters in Fiscal Year (FY) 2019 to FY20.
 - o If a like quarter in FY20 shows 80% or more in gross profits as compared to FY19, the organization is deemed ineligible for ERTC.

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On May 7, 2020, the IRS determined that health plan expenses would qualify for the credit even if the employees no longer received wages (i.e., they were laid off or furloughed). Applicable health plan expenses include health, dental, and vision insurance premiums, as well as Health Savings Account (HSA) and Flexible Spending Account (FSA) funding.

- **2020:**
 - Employers averaging 100 or fewer full-time employees (working at least 30 hours per week) in 2019 can apply for the tax credit on all qualifying wages and health plan expenses paid to employees, regardless of whether the employees were performing services during this time.
 - However, employers with more than 100 full-time employees in 2019 can only claim the credit on wages and health plan expenses for employees while **not** performing services (laid off, furloughed, or on paid time off).
 - The ERTC is 50% of wages paid between March 13, 2020, through December 31, 2020, including qualified health plan expenses, and is limited to \$5,000 per employee (50% of wages and health plan expenses of up to \$10,000).

- **2021:**
 - Under the [American Rescue Plan Act](#) and previously under the Consolidated Appropriations Act, 2021, the employee retention credit, a provision of the CARES Act, was extended and expanded. It can be claimed through Dec. 31, 2021 by eligible employers who retained employees during the COVID-19 pandemic.
 - The limit goes up to 500 or fewer full-time employees vs. 100 or fewer.
 - The credit remains at 70% of qualified wages up to a \$10,000 limit per quarter so a maximum of \$7,000 per employee per quarter for all of 2021.

For example, an employer could claim \$7,000 per quarter per employee or up to \$28,000 for 2021. However, under this law, certain startup businesses — those started after Feb. 15, 2020, in general, that had an average of \$1 million or less in gross receipts and otherwise did not qualify for the credit — may be allowed a credit of up to \$50,000 per quarter, once the [Infrastructure Investment and Jobs Act](#) passes.

Paid Sick and Family Leave Tax Credits

Under the CAA, employers were no longer mandated to provide sick time as of December 31, 2020. Employers who voluntarily continued providing sick time to their employees between January 1, 2021, and March 31, 2021, are eligible for additional tax credits. ARPA extended tax credits through to September 30, 2021.

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Eligible employers must have 500 employees or less to qualify. Eligible tax credits are equivalent to the amount of sick time wages paid to an employee, the employer's portion of Medicare tax, and all (employer and employee) health-care premiums.

Employers may apply for these tax credits through their Form 941 during their regularly scheduled employment taxes, or they may request an advanced payment of these funds by submitting a Form 7200.

Employer Next Steps

- Continue to watch for the final ruling of the **Infrastructure Investment and Jobs Act**.
- Review your payroll and other financial records to determine if your company may be eligible for any tax credits.
- If you are a Full-Service or Managed Payroll client and would like our assistance with gathering reports for your accountants, please [email us](#).

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