

UPDATES AS OF 06/10/2020 IN RED:

Please see highlighted updates below. Old text from our previous release that has been superseded has been struck through.

PAYROLL RETENTION CREDIT AND PAYROLL TAX PAYMENT DEFERRAL

EMPLOYEE RETENTION CREDIT FOR EMPLOYERS IMPACTED BY COVID-19

Employers may be eligible to receive a credit equal to 50% of qualified wages. The maximum credit available is \$5,000 per employee.

ELIGIBILITY

Employers who receive a covered loan under the Small Business Act section 7(a) (Paycheck Protection Program) are not eligible for this credit

You are eligible if you meet one of the criteria below:

1. You fully or partially suspended your business due to an appropriate governmental authority ordering limited business, travel, or group meetings due to COVID-19.

NOTE: The language in the CARES Act is very general in terms of what a partially suspended business is. We recommend if you believe you are eligible as partially suspended to document your circumstances and reasoning as to your classification of your business as partially suspended. We will continue to monitor for further guidance and update you as it becomes available.

2. Your gross receipts for any quarter in 2020 are less than 50% of gross receipts for the same calendar quarter in the prior year due to COVID-19. Eligibility under this clause ends in the first quarter when your gross receipts are greater than 80% of gross receipts for the same calendar quarter in the prior year.
3. Any tax-exempt organization under section 501(c)

QUALIFIED WAGES

The credit is applicable for wages paid after March 12, 2020 and before January 1, 2021

For eligible employers with 2019 average FTEs of 100 or more, qualified wages are wages paid for an employee who is not working due to a suspension of your business stemming from impacts of COVID-19

For eligible employers with 2019 average FTEs of less than 100, qualified wages are wages paid during one of the following periods:

1. Any wages paid while the business was suspended due to the COVID-19, or
2. If eligible under the gross receipts test, wages paid during any quarter in which the employer is eligible under the gross receipt's method

Wages for which the payroll tax credit under the Expanded FMLA or Emergency Paid Sick Leave Acts has been or will be claimed are not eligible.

Wages cannot exceed the amount the employee would have been paid for working an equivalent duration during the 30 days immediately preceding the eligible period. In effect, employees cannot receive a raise during the period you claim for credit purposes

Qualified wages include the employer's qualified health plan expenses for the period claimed. These expenses need to be appropriately allocated, (e.g. if you pay \$500 in qualified premiums for a month, but only two weeks are eligible for the credit, then only \$250 in premiums are eligible). Additionally, any amounts included in your employees' W-2's as compensation are also not eligible.

LIMITS

Eligible wages paid for any given employee cannot exceed \$10,000 for all quarters. For example, if the wage for an employee in the first quarter is \$20,000, only \$10,000 can be included in the calculation and no wages for that same employee can be included for subsequent quarters. The maximum credit per employee will be \$5,000.

CLAIMING THE CREDIT

Current guidance is that the employer will reduce payroll taxes deposits until the credit is fully recovered. If your credit exceeds your quarterly employment tax liability, the remaining credit is refundable. If payroll taxes in the first period the credit is claimed are not sufficient to recover the credit, you will be able to request an accelerated payment of the remaining credit with the IRS. The IRS expects that these accelerated payments will be processed in two weeks or less.

To request an advance on unrecovered funds, fax a completed IRS form 7200 to (855) 248-0552.

The form and instructions can be downloaded here: <https://www.irs.gov/pub/irs-pdf/i7200.pdf>

DELAY OF PAYMENT OF EMPLOYER PAYROLL TAXES

All employers, even those not subject to changes in their business due to COVID-19, may defer payment of applicable employment taxes from the 3/27/2020 until January 1, 2021. Any taxes deferred will be paid as follows

- 50% will be due December 31, 2021
- Remaining amounts will be due December 31, 2022

Applicable employment taxes are the employer's portion of social security taxes and tier 1 RRTA employment taxes. Please note that the employer's share of Medicare taxes is not included in the deferral.

ELIGIBILITY

~~Employers who receive debt forgiveness of a Small Business Act 7(a) loan (Paycheck Protection Program) are not eligible for the deferral under this section.~~

This communication is being made based on Martin Hood's professional judgement and analysis of COVID-19 relief provisions, including, but not limited to, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the Families First Coronavirus Response Act (FFCRA). It is at least reasonably possible that final regulations and guidance promulgated related to subjects addressed within may differ significantly from those regulations and guidance available at the time this communication was made. It is the sole responsibility of the recipient to evaluate the adequacy of this communication and how this communication is applicable to the recipient's specific facts and circumstances. The recipient is solely responsible for selection of any relief provisions, as well as for maintaining compliance with all the applicable terms and conditions of such relief provisions.