

Nonprofit Organizations

Cares Act Payroll Provisions

Employee Retention Credit ("Credit") and Employer Payroll Taxes Deferral ("Deferral") Provisions

The Credit under the CARES Act provides eligible employers a refundable tax credit equaling 50% of the first \$10,000 in qualified wages paid to an employee. The Deferral under the CARES Act allows employers to defer payment of the employer share of social security taxes.

Credit Key Information

Eligibility: All employers (including all nonprofit organizations) whose operations were fully or partially suspended due to a Covid-19 related governmental order, or whose gross receipts declined by more than 50% when compared to the same quarter in 2019 (i.e., significant decline in gross receipts).

Key Points

- Amount of Credit is limited to 50% of the first \$10,000 of "qualified wages" paid to the employee (providing a maximum Credit per employee of \$5,000).
- Credit is applicable to wages paid from March 13, 2020 through December 31, 2020.
- For employers averaging 100 or fewer full-time employees in 2019, "qualified wages" include wages paid while operations are fully or partially suspended, or during a quarter in which there is a significant decline in gross receipts, without regard to whether employees are working.
- For employers averaging more than 100 full-time employees in 2019, "qualified wages" include wages paid while operations are fully or partially suspended, or during a quarter in which there is a significant decline in gross receipts, provided employees are not providing services with respect to such payment.
- "Qualified wages" include employer health plan expenses allocable to the above wages. However, such term does not include wages as to which the work opportunity credit or any of the family medical leave or sick leave credits have been taken.

Deferral Key Information

Eligibility: All employers (including all nonprofit organizations) may defer payment of the employer share of social security taxes for which they would otherwise be responsible for during the period starting March 27, 2020 through December 31, 2020.

Key Points

- Employers must pay: (1) 50% of the deferred tax liability by December 31, 2021 and, (2) the remaining 50% by December 31, 2022.

Credit Important Considerations

- An employer may not benefit from the Credit if it has received a Paycheck Protection Program ("PPP") loan.
- For employers relying on the significant decline in their gross receipts for the Credit, once gross receipts reach 80% or more of a comparable quarter in 2019, employers may no longer benefit from the Credit.
- Credit may be claimed by offsetting other employment tax liabilities, including employee income and social tax withholdings; excess can be claimed by requesting a refund using **Form 7200**. Reconciliation is done on quarterly Form 720.
- To determine whether the operations of an employer have been fully or partially suspended, all operations of a 501(c)(3) organization are taken into account.
- Number of full-time employees (i.e., 30 hours per week or more) are determined based on the Affordable Care Act standards.
- Qualified wages taken into account may not exceed the wage rate for the 30 days immediately preceding suspension of operations or decline in gross receipts.
- Nonprofit organizations are subject to the qualified sick leave and qualified family leave mandates provided under the FFCRA and the associated credits. For more information, please refer to the **IRS FAQ here**. Employers can elect out of the Credit if desired.

Deferral Important Considerations

- An employer may not benefit from the Deferral if it has had indebtedness forgiven via the PPP.
- No interest or penalties charged to an employer deferring employment taxes under the CARES Act.
- The Credit and the Deferral are not mutually exclusive (i.e., an eligible employer may defer payment under the Deferral while also obtaining a Credit).

Credit

- Up to \$5,000 per employee
- Employers affected by Covid-19
- Offset against payroll tax deposits; refundable

Deferral

- All employers
- Employer share of social security taxes until Dec. 31 2020
- Pay 50% by 12/31/2021, and 50% by 12/31/2022

How to Benefit:

1. Credit

Offset against payroll tax deposits; refundable on Form 7200; reconcile on quarterly Form 941, **available here**.

2. Deferral

Employers will be treated as having timely made all deposits of applicable payroll taxes required to be made during the deferral period if all such deposits are made according to the two deadlines provided above.

Resources:

- **Coronavirus Resource Center**
- **IRS Site Dedicated to Covid-19 Tax Relief**
- **IRS Site Dedicated to the Credit**