

## CARES ACT – SEC. 2301 EMPLOYEE RETENTION PAYROLL CREDIT – QUICK REFERENCE

### In General

The CARES Act provides a tax credit against employment taxes to employers whose operations have fully or partially been suspended as a result of a government order in relation to Covid-19, or who have experienced a greater than 50% reduction in quarterly receipts. The credit is generally equal to 50% of qualified wages (including health insurance) up to \$10,000 per employee per quarter. The credit offsets payroll taxes, with any excess being refundable.

### Details

#### Eligibility

- Any employer who was in business at any time during 2020 is eligible for the credit if:
  - o Business operations are fully or partially suspended during a calendar quarter due to a government order related to Covid-19<sup>1</sup>; or
  - o Gross receipts for a given quarter are less than 50% of gross receipts for the same calendar quarter in the prior year.<sup>2</sup>
- However, employers receiving a Paycheck Protection Program loan are not eligible for the credit.<sup>3</sup>
- Businesses can opt out of the credit, but procedures for doing so have not been released.

#### Amount and Application of Credit

- The credit allowed each quarter is equal to 50% of “qualified wages” for each employee during that quarter.<sup>4</sup>
  - o For employers with more than 100 full time employees, “qualified wages” only include wages paid to employees not providing services.
  - o For employers with 100 or fewer employees, “qualified wages” includes wages paid to any employee.
  - o The amount of qualified wages for any employee for all calendar quarters cannot exceed \$10,000.<sup>5</sup>
- Otherwise allowable credit is reduced by credits allowed under the FFCRA for sick or family leave pay.
- Allowable credits are used to offset the Social Security portion of payroll taxes.
  - o Any excess credit amount is refundable.<sup>6</sup>

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<sup>1</sup> E.g. order limiting commerce, travel, or group meetings.

<sup>2</sup> Tax-exempt organizations are also eligible for relief if their operations are similarly suspended.

<sup>3</sup> If a PPP loan is received, any credits taken will need to be repaid.

<sup>4</sup> Qualified Wages include health care costs attributable to those wages.

<sup>5</sup> This appears to be an overall limit, not a per-quarter limit.

<sup>6</sup> Advance payments of the credit can be requested on IRS Form 7200.