

CARES Act: Employee Retention Credit – a COVID-19 Response

March 27, 2020 – As the Coronavirus known as COVID-19 continues to spread itself throughout populations around the globe, extreme social and economic sanctions have been set forth to combat its growth. While these actions, such as mandatory closings of nonessential business, limiting large gatherings, and an overall ideology of social distancing, are necessary to maintain human life, the toll on the global economy will be immeasurable. As a response to the unprecedented corresponding economic downturn, Congress has passed the historic Coronavirus Aid, Relief, and Economic Security Act, or CARES Act.

As businesses large and small have felt the effects, whether through mandatory shut downs of their operations or an organic decline of business due to pressures on their customers to avoid public areas, the owners of these businesses are left with many difficult decisions. A natural progression is for the businesses to cut down on expenses wherever possible while their revenue streams are pinched off. This unfortunately means that, without intervention, mass lay-offs would be imminent in a time when those employees need a steady cashflow more than ever. One of many segments of the CARES Act, known as the Employee Retention Credit (ERC) is this intervention.

In an effort to deter businesses from performing mass lay-offs, the ERC provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees throughout the duration of the COVID-19 pandemic. Employers (including nonprofit employers) can qualify for the ERC if they meet either of the following conditions:

- Operations were fully or partially suspended due to a COVID-19 related sanction
- Gross receipts decline by more than 50 percent when compared to the quarter in the prior year

Once an employer is deemed eligible, the credit amount will be based on the amount of qualified wages paid to employees. For employers with greater than 100 full-time employees, qualified wages are defined as wages paid to employees when they are not providing services due to COVID-19 related circumstances. For eligible employers with 100 or fewer full-time employees however, all employee wages are qualified to be included in the calculation of the tax credit, regardless of whether the business is shut down or not. The credit is available for the first \$10,000 of compensation (including health benefits) paid or incurred for eligible employees beginning March 13, 2020.

Please note that government employers are not eligible for the ERC and Social Security trust funds will not be affected.

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