

PMAA REGULATORY ALERT

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IRS OFFERS EMPLOYEE RETENTION TAX CREDIT TO QUALIFYING BUSINESSES

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The United States Treasury Department and the Internal Revenue Service launched the Employee Retention Credit, designed to encourage businesses to keep employees on their payroll. The refundable tax credit is 50% of up to \$10,000 in wages paid by an eligible employer whose business has been financially impacted by COVID-19. The credit is available to marketers who are continuing to pay employees during the COVID-19 outbreak.

I. Qualifying Businesses

The credit is available to all employers regardless of size, including tax-exempt organizations with only two exceptions:

- State and local governments and their instrumentalities and
- Small businesses who take small business loans.

Qualifying employers must fall into one of two categories:

- The employer's business is fully or partially suspended by government order due to COVID-19 during the calendar quarter.
- The employer's gross receipts are below 50% of the comparable quarter in 2019. Once the employer's gross receipts go above 80% of a comparable quarter in 2019, they no longer qualify after the end of that quarter.

These measures are calculated each calendar quarter.

II. Calculating the Credit

The amount of the credit is 50% of qualifying wages paid up to \$10,000 in total. Wages paid after March 12, 2020, and before Jan. 1, 2021, are eligible for the credit. Wages taken into account are not limited to cash payments, but also include a portion of the cost of employer provided health care.

III. Qualifying Wages

Qualifying wages are based on the average number of a business's employees in 2019.

- ***Employers with less than 100 employees:*** If the employer had 100 or fewer employees on average in 2019, the credit is based on wages paid to all employees, regardless if they worked or not. If the employees worked full time and were paid for full time work, the employer still receives the credit.
- ***Employers with more than 100 employees:*** If the employer had more than 100 employees on average in 2019, then the credit is allowed only for wages paid to employees who did not work during the calendar quarter.

IV. Obtaining the Credit

Employers can be immediately reimbursed for the credit by reducing their required deposits of payroll taxes that have been withheld from employees' wages by the amount of the credit.

Eligible employers will report their total qualified wages and the related health insurance costs for each quarter on their quarterly employment tax returns or Form 941 beginning with the second quarter. If the employer's employment tax deposits are not sufficient to cover the credit, the employer may receive an advance payment from the IRS by submitting [Form 7200](#), Advance Payment of Employer Credits Due to COVID-19.

Eligible employers can also request an advance of the Employee Retention Credit by submitting Form 7200.

V. Additional Information

Updates on the implementation of this [credit](#), Frequently Asked Questions on [Tax Credits for Required Paid Leave](#) and other information can be found on the [Coronavirus page](#) of [IRS.gov](#).