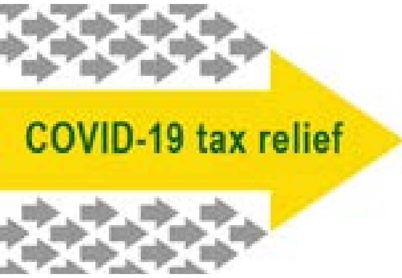
COVID-19 PAYROLL TAX RELIEF

The Families First Coronavirus Relief Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) make two separate, but related, tax credits available to employers, including tax-exempt organizations, whose business is affected by the COVID-19 crisis. The **Consolidated Appropriations Act of 2021 (CAA21)** extended and expanded these credits.



Families First Coronavirus Response Act (FFCRA) provides small and mid-size businesses with fully refundable tax credits to reimburse them for the costs of paid sick and family leave wages to their employees for COVID-19-related leave.

Coronavirus Aid, Relief, and Economic Security (CARES) Act encourages eligible employers to keep employees on their payroll by providing eligible employers with an employee retention tax credit. The CARES Act also permits employers to defer payment of their remaining 2020 Social Security payroll tax liabilities for up to two years.

FFCRA Paid Leave Tax Credit

Eligible employers can claim these tax credits based on qualifying leave wages paid for the period between April 1, 2020, and December 31, 2020:

Payroll Credit for Required Sick Leave

- Employer has fewer than 500 employees per entity
- Pays employees who request up to 80 hours of leave for COVID-19-related self-care or care of others
- Credit limited to lesser of 100% or two-thirds of employee's regular pay or daily rate of $511/$200 depending on reason for leave

Payroll Credit for Emergency Family Medical Leave

- Employer has fewer than 500 employees including affiliates as defined by FMLA
- Pays employees who request up to 10 weeks of paid leave (following two weeks of sick leave/unpaid leave) to care for a child under age 18 whose school or care provider is unavailable due to COVID-19
- Credit limited to the lesser of two-thirds of employee's regular pay or daily rate of $200 for up to 10 weeks or $10,000 aggregated

Extended FFCRA under CAA21

- Employers are eligible for the tax credits for leave granted under FFCRA until March 31, 2021
- Employers are not legally required to provide leave under the FFCRA beyond December 31, 2020

Learn more about the FFCRA Paid Leave Tax Credit

Employee Retention Tax Credit (CARES Act)

- An eligible employer is one that has had:
  - Operations fully or partially suspended due to COVID-19-related government order that limits commerce, travel or group meetings; or
  - Gross receipts for the 2020 quarter decline more than 50% when compared to the same quarter in the prior year (eligibility continues through the 2020 quarter in which gross receipts are greater than 80% of gross receipts in the same 2019 quarter)
- For employers with more than 100 employees, tax credit is 50% of wages up to $10,000 paid to employees who are not performing service (max credit of $5,000 per employee)
- For employers with 100 or fewer employees, tax credit is 50% of wages up to $10,000 paid to any and all employees (max credit of $5,000 per employee)
- This credit is also available to nonprofit organizations
- Governmental employers are not eligible for the credit
- Self-employed individuals are not eligible for this credit for their self-employment services or earnings

Extended ERC under CAA21

- The credit calculation and qualification remain the same for 2020, but businesses who received the Paycheck Protection Program (PPP) loan are now eligible for the credit.
- The ERC is extended through June 30, 2021
- For 2021, the credit rate is increased from 50% to 70% of qualified wages
- For 2021, the limit on per-employee qualified wages from $10,000 for the year is increased to $10,000 for each quarter

- For 2021, the gross receipts decline from the same quarter in 2019 is reduced from 50% to 20%. The same quarter in 2020 can be used if the employer was not in business in 2019
- For 2021, created a safe harbor to allow employers to use prior quarter gross receipts to determine eligibility

Q&A on the CARES Act Employee Retention Tax Credit

Payroll Tax Deferral (CARES Act)

- Employers of any size and self-employed individuals can defer payment of the employer share (6.2%) of the Social Security tax on wages beginning March 27, 2020, and ending December 31, 2020
- Fifty percent of the deferred tax payments will be due by December 31, 2021, with the remaining portion due by December 31, 2022

CLAIMING THE CREDITS

There are three ways an eligible employer can claim these credits. Note that eligible employers may be entitled to tax credits under both FFCRA and the CARES Act, but not for the same wages. Further, while the ERC eligibility was expanded to include PPP loan recipients, the payroll identified for the ERC cannot also be paid out of PPP funds.

1. **Claim the Refundable Credits**
   Employers can claim the credits on their quarterly payroll tax return, generally IRS Form 941. Due to the quarterly nature of payroll tax returns, an employer would have to wait until the end of the quarter to claim the credits and refund any excess. PPP loan recipients who are now eligible to retroactively claim the ERC can do so by claiming the entire 2020 credit on the 2020 4th quarter Form 941.

2. **Withhold Payroll Tax Deposits**
   To more quickly obtain the benefits from the credits and cash to fund the wages paid, eligible employers may withhold payroll tax deposits equal to the amount of the anticipated credits for the quarter. No failure-to-deposit penalties will apply if the amounts retained are equal to or less than the amount of the credits.

3. **Apply for Advancement**
   Employers may apply for an advance payment of the credits on IRS Form 7200 to the extent the credits exceed required payroll tax deposits. IRS Form 7200 can be filed several times during each quarter if additional credits are expected.

RECORD KEEPING REQUIREMENTS

The IRS requires you to maintain documentation (and retain the documentation for four years) on how you:

- Determine the amount of qualified sick and family leave wages eligible for the credit
- Determine the amount of the employee retention credit
- Determine the amount of qualified health plan expenses that you allocated to wages
- Determine that the employees were qualified to receive sick and family leave wages, including any additional information detailed in the IRS FAQ
- Show your eligibility for the employee retention credit based on suspension of operations or a significant decline in gross receipts

YEO & YEO CAN HELP

Taking advantage of these credits can be a complex process for many employers, especially since guidance is still pending on specific aspects of the credits. Yeo & Yeo is closely monitoring the guidelines as they become available and can help you with:

- Assessing eligibility and consulting on which method of claiming credits is most suitable for your situation
- Preparation of current or amended Forms 941
- Preparing IRS Form 7200 to request an advance payment of tax credits
- Calculating the amount of credit on a pay-period basis or other frequency
- Guidance on record retention and documentation requirements

Visit Yeo & Yeo's **COVID-19 Resource Center** at yeoandyeo.com for ongoing regulatory updates and helpful government website links.

Contact your Yeo & Yeo professional or local Yeo & Yeo office for assistance with these payroll tax relief credits.

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