

May 2020

**Client Advisory**

## COVID-19 Employer Tax Credits Available Immediately

Last week, the Internal Revenue Service issued a news release (IR-2020-89) reminding employers affected by the COVID-19 pandemic of three tax credits available to them.

### Employee Retention Credit

The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") provides for an employer credit to encourage a business financially impacted by COVID-19 to keep employees on the payroll.

- Eligible Employers
  - o Shut down - the business was fully or partially suspended pursuant to a government order due to COVID-19 during the calendar quarter.
  - o Gross receipts - The credit begins with the 1st calendar quarter in 2020 in which the business' gross receipts fell below 50% of gross receipts for the comparable quarter in 2019. The employer no longer qualifies for the credit after the end of a quarter where the business' gross receipts go over 80% of the gross receipts for the comparable quarter in 2019.
- Ineligible Employers
  - o State and local governments and their instrumentalities.
  - o Small businesses who took out Paycheck Protection Program (PPP) loans. For further information click [here](#).
- Qualified Wages - is based on the number of full-time employees in 2019.
  - o If 100 or less employees on average, the credit is based on wages paid to all employees, regardless if they worked or not.
  - o If more than 100 employees, the credit is allowed only for wages paid for the time they did not work.
- Amount of Credit - 50% of up to \$10,000 in qualified wages (including allocable health plan expenses) paid to an employee for all calendar quarters.
  - o Qualified health plan expenses - expenses incurred or paid by the employer allocable to employee qualified wages to provide and maintain a group health plan, but only to the extent these amounts are excluded from the employee's gross income.
  - o Example: Eligible employer pays Employee B \$8,000 in qualified wages in Q2 2020 and \$8,000 in qualified

wages in Q3 2020. The credit available to the employer for the qualified wages paid to Employee B is equal to \$4,000 in Q2 and \$1,000 in Q3 due to the overall limit of 50% of up to \$10,000 of qualified wages per employee for all calendar quarters. See, IRS Fact Sheet 2020-05 (May 2020) [here](#).

- Applicable Period - wages paid after March 12, 2020 and before January 1, 2021.
- How to receive credit?
  - o Employers can reduce their required deposit of payroll taxes that have been withheld from employees' wages by the amount of the credit.
  - o If the employment tax deposits are insufficient to cover the tax credit, the employer may receive payment by filing Form 7200.
- Miscellaneous
  - o Qualified wages are subject to withholding of federal income tax and both employer's and employee's share of social security and Medicare taxes (unlike the two credits listed below, which are not subject to these withholdings).
  - o Employers can receive both Employee Retention and Paid Sick Leave (below) tax credits, but not for the same wages.
  - o Employers should maintain records supporting the credit for at least 4 years.

### Paid Sick Leave Credit and Extended Family Leave Credit

The Families First Coronavirus Response Act ("FFCRS") provides certain employers (generally with fewer than 500 employees) tax credits for the cost of providing paid sick and family leave wages for leave related to COVID-19. For greater details on the requirements of paid sick leave and extended family leave see [this Archer Alert](#).

- Paid Sick Leave
  - o Eligible employee - employees unable to work because of coronavirus quarantine or self-quarantine or has coronavirus symptoms and is seeking medical diagnosis.
  - o Eligible employees are entitled to paid sick leave for up to 10 days (up to 80 hours) at the employee's regular rate of pay up to \$511 per day and \$5,110 in total.

## o Caregiver Sick Leave

— Employees unable to work due to caring for someone with coronavirus or caring for a child because child's school or place of care is closed or the childcare provider is unavailable due to coronavirus.

— Paid sick leave of up to 2 weeks (up to 80 hours) at 2/3 of the employee's regular rate of pay (up to \$200 a day and \$2,000 in total).

## • Extended Family Leave (amends FMLA)

o Employees unable able to work due to caring for a child because child's school or place of care is closed or the childcare provider is unavailable due to coronavirus.

o Paid family and medical leave up to 10 weeks at 2/3 of the employee's regular pay (up to \$200 a day and \$10,000 in total).

## • Amount of Credit - 100% of the amount of paid sick leave, caregiver sick leave, or extended family leave (plus related health plan expenses and the employer's share of Medicare tax on the leave).

## • Applicable Period - leave taken beginning on April 1, 2020, and ending on December 31, 2020.

## • How to receive credit?

o Employers can reduce their required deposit of payroll taxes that have been withheld from employees' wages by the amount of the credit.

o If the employment tax deposits are insufficient to cover the tax credit, the employer may receive payment by filing Form 7200.

## • Miscellaneous

o Sick leave wages and family leave wages are not subject to payroll taxes.

Please reach out to your Archer contact or any member of [Archer's COVID-19 Task Force](#) with any questions you may have.

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