

Note: This document briefly summarizes provisions in the Coronavirus Aid, Relief, and Economic Security Act (“the CARES Act”) that could possibly be of interest to church plans, ministries and plan members. This summary reflects those CARES Act provisions as they are currently understood on March 31, 2020, without any agency guidance. As guidance is issued that may be applicable, we plan to provide information to you on that guidance or to refer you to that guidance, but may not be able to update the summary with that information. This summary is for general information only. It is not a complete analysis and should not be relied upon as legal advice.

Employee Retention Credit for Employers Subject to Closure Due to COVID-19

Quick Summary (read below for details)

- Employers can receive a refundable credit against applicable employment taxes
- The credit amount is 50% of qualified wages with a maximum that applies
- Ministers’ wages are not qualified wages
- Qualifying employers will have suspended operations due to government order or have experienced a significant decline in gross receipts (see below)
- Employers receiving a PPP loan are ineligible
- Guidance on how to claim these credits has not yet been issued (as of 3/30/20)

Summary

Employers can receive a refundable credit against applicable employment taxes of up to \$5,000 per employee in 2020.

Employers with 100 or fewer full-time employees (measured by average employment in 2019) – this credit applies if the employer fully or partially suspends operations due to an order from a government authority or if the employer experiences a decline in revenue for any calendar quarter in 2020 of 50% or more compared to the same calendar quarter in 2019. All qualifying wages count towards this credit, whether employees are working or not.

Employers with more than 100 full-time employees (measured by average employment in 2019) – the same conditions apply as for employers with 100 or fewer employees described above, but the credit only applies to qualifying wages paid to employees who are not working.

Credit Amount

The credit amount is 50% of qualified wages (see bullets below) paid to an employee on or after March 13, 2020 through December 31, 2020 in each calendar quarter. The maximum qualified wages total per employee for all quarters is \$10,000. (50% of \$10,000 maximum wages per employee equals a maximum credit of \$5,000 per employee)

The credit is against an employer’s applicable employment taxes (see bullets below) for each calendar quarter, with any excess refunded to the employer.

Qualified Wages

- Employers with more than 100 full-time employees on average during 2019: wages paid to employees not providing services due to a Coronavirus Disease 2019 (“COVID-19”)-related suspension of operations or significant decline in gross receipts
- Employers with 100 or fewer full-time employees on average during 2019: wages paid to any employee, whether working or not
- Wages are only included if paid during the period from March 13, 2020 through December 31, 2020.

- Wages do not include payments made under section 7001 or 7003 of the Families First Coronavirus Response Act (“FFCRA”) (required paid sick leave or required paid family leave)
- Wages include a pro-rata portion of employer’s qualified health plan expenses to the extent such amounts are excluded from an employee’s gross income and properly allocated to those employees with qualified wages
- Wages included are those defined in Internal Revenue Code (“Code”) section 3121(a) and compensation defined in Code section 3231(e)
 - **Note:** service performed by ministers in the exercise of their ministry is excluded from the definition of employment in Code section 3121

Applicable Employment Taxes

These employment taxes include the employer portion of Social Security taxes (Code Section 3111(a)), which is generally 6.2% of an employee’s wages, reduced by any of the following credits received by an employer:

- employment of qualified veterans under Code section 3111(e)
- research expenditures of qualified small businesses under Code section 3111(f)
- required paid sick leave under section 7001 of the FFCRA
- required paid family leave under section 7003 of the FFCRA

Eligible Employer

An employer (including a tax-exempt employer) carrying on trade or business during calendar year 2020 that experiences a full or partial suspension of operations due to orders from a government authority limiting commerce due to COVID-19, or that experiences a significant decline (more than 50%) in gross receipts when compared to the same quarter in the previous year is eligible.

Employers receiving a PPP loan are not eligible for this credit.

The credit may no longer be claimed when the full \$10,000 per employee qualified wage maximum is reached, or when an employer’s gross receipts for a quarter in 2020 are greater than 80% of the gross receipts for the same calendar quarter in 2019.