CARES Act Provides Tax Relief to Businesses that Retain Employees

By Ivan H. Golden

The Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") enacted on Friday, March 27, provides relief in the form of a fully refundable payroll tax credit to businesses affected by the COVID-19 pandemic that retain and continue to pay their employees during the crisis.

The payroll tax credit is available to employers, including nonprofit organizations, whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel, or group meetings; or who have experienced a greater than 50% reduction in quarterly receipts. The credit generally applies to otherwise qualified wages paid between March 13 and December 31, 2020.

The credit generally is equal to 50% of qualified wages paid to an eligible employee, not to exceed $10,000 per employee, per year. For example, an eligible employer that pays an eligible employee $10,000 during the second quarter of 2020 would qualify for a $5,000 credit. To the extent the credit exceeds the employer's employment tax for the quarter, it will be treated as an overpayment and refunded.

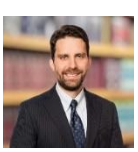
For employers who had, on average, 100 or fewer full-time employees in 2019, all employee wages are eligible for the 50% credit, regardless of whether an employee is furloughed. For employers who had, on average, more than 100 full-time employees in 2019, only wages paid to employees who are furloughed or face reduced hours as a result of the employer's closure or reduced gross receipts are eligible for the credit. In addition, the amount of wages eligible for the credit is capped at the first $10,000 paid by the employer to each eligible employee.

Wages do not include amounts paid to employees for paid sick leave or paid family leave under the Families First Coronavirus Response Act. However, qualifying amounts paid by an eligible employer for sick leave or family leave under the Families First Coronavirus Response Act separately qualify for a refundable 100% credit against an employer's payroll tax liability.

Under the CARES Act, IRS has the authority to advance payments to eligible employers and to waive applicable penalties for employers who do not deposit applicable payroll taxes in anticipation of receiving the credit.

In addition to the 50% credit against employment taxes, the CARES Act also allows employers to defer payment of the employer portion of the Social Security payroll tax (6.2%) through December 31, 2020. The deferred payments will be due in two installments, with the first half due on December 31, 2021, and the balance due on December 31, 2022.

The IRS is expected to publish official guidance shortly on the implementation of the 50% payroll tax credit, including the timing of refunds, and the payroll tax deferral.



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