

Your COVID-19 Advisory Team:



Coronavirus Aid, Relief & Economic Security (CARES) Act & IRS Tax Relief

REVIEW of RECENT TAX PROVISIONS FOR BUSINESSES AND INDIVIDUALS

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CPAs and Business Advisors

Recent Tax Relief Due to COVID-19

- Tax Return Deadlines Extended
 - **Now Due July 15**
- Individual Provisions
 - Stimulus Relief Payments
 - Retirement Plans
- Business Provisions
 - Employer Payroll Tax Incentives
 - Net Operating Losses & Loss Limitations
 - Qualified Improvement Property
- IRS is *temporarily* halting most of its enforcement and collection actions from April 1, 2020 – July 15, 2020

Filing & Payment Relief

- **Tax Return Deadlines Extended:**
- Originally required to file and pay by April 15 NOW July 15
 - Federal income tax returns & income tax payments
 - Individuals, regular corporations (C corps), estates & trusts with a calendar-year end, and
 - Self-employment taxes owed by proprietors and others
 - First AND second quarter 2020 estimated tax payments
 - Form 709 federal gift tax
 - Form 706 estate and generation-skipping tax
 - HSA & Archer MSA contributions for 2019
 - IRA contributions for 2019
 - 2019 contributions to qualified plans by employers w/income tax return due dates of 4/15

Individual Provisions – Stimulus Relief Payments

- Individuals will receive a tax credit of \$1,200 (\$2,400 for joint filers) plus \$500 for each child under the age of 17
- Phase-out begins with Adjusted Gross Income (AGI) of \$75,000 for individuals and \$150,000 for joint filers (\$112,500 for heads of household)
- Not available to nonresident aliens, individuals who can be claimed as a dependent by another taxpayer, and estates and trusts
- Rebates are being treated as an advance refund of a 2020 tax credit.
 - Will NOT be included in your taxable income.
- Based on 2019 returns filed (if not yet filed 2018)

Individual Provisions – Retirement Plans

- No 10% early distribution penalty for eligible “coronavirus-related distributions”. Can be taken up until Dec. 31, 2020. Limited to \$100,000 in distributions from qualified retirement plans.
- Can rollover “coronavirus-related distribution” within 3 years of distribution
 - IF do NOT rollover - tax on the distribution can be spread over three years (starting with 2020 as the year of distribution).
- May borrow up to 100% of vested account balance (up to \$100,000).
 - Existing loans of up to \$100,000 from qualified plans, and repayment can be delayed for one year.
- The required minimum distribution rules are temporarily suspended for 2020. If you have already taken RMD – eligible for rollover.

Individual Provisions – Other

- AGI limitations are modified for charitable contributions for 2020, to 100% of AGI for individuals.
- Allows for a \$300 “above the line” charitable deduction (cash donations) for taxpayers in 2020. (For taxpayers who don’t itemize.)
- Student loans paid by employers - the Act provides an exclusion up to \$5,250 from income for payments of an employees education loans.

Business Provisions – Employer Payroll Incentives

- Employee Retention Credit (CARES ACT)
- Employer Payroll Tax Deferrals (CARES ACT)
- Payroll Credit for Required Sick Leave (FFCRA)
- Payroll Credit for Required Family Leave (FFCRA)

Employee Retention Credit

- Refundable payroll tax credit - capped at \$5,000 per employee.
- Calculation is 50% of eligible wages up to \$10,000 (per employee) paid by an eligible employer to its employees between March 13, 2020, and Dec. 31, 2020, examples:
 - If an employee earned \$8,000 in Q2 and \$8,000 in Q3, the eligible credit is \$4,000 in Q2 and \$1,000 in Q3 – no more credits eligible for that employee
 - If an employee earned \$7,000 between 3/13-12/31/2020, the total credit available would be \$3,500
- Credits claimed via reduction of the 941 payroll deposit
 - Or the IRS can advance credit payments to eligible employers – using Form 7200
- **CANNOT take advantage of this credit if you take out a Small Business Interruption Loan (the Paycheck Protection Program forgivable loan).**
- **CANNOT use wages for this credit for which employer received credit paid under sick/family leave per FFCRA, or a Work Opportunity Tax Credit (code sec 51)**

Employee Retention Credit

- Eligible employers are: 1) Business whose operations were fully or partially suspended in a calendar quarter due to Covid-19 related shutdown orders, or 2) declined in gross receipts in a 2020 calendar quarter by more than 50% compared to the same quarter in 2019 qualify. The credit continues through 2020 until the employer has gross receipts greater than 80% of the 2019 comparable quarter.
- **Eligible employers with 100 or less FTEs during 2019.** All wages paid between March 13, 2020 and Dec. 31, 2020, qualify for the 50% retention credit, whether or not the employee was furloughed due to Covid-19 or because of an employer's reduction in gross receipts.
- **Eligible employers with more than 100 FTEs during 2019.** Only wages between March 13, 2020 and Dec. 31, 2020, paid to employees who are not providing services because their employer's business is fully or partially suspended or because of their employer's reduction in gross receipts qualify for the 50% retention credit. Qualified wages paid to an employee cannot exceed what that employee would have been paid for working an equivalent duration during the 30 days immediately preceding such period.

Employer Payroll Tax Deferral

- Employers can defer payment of the employer share (6.2%) of Social Security taxes due on wages paid from enactment date of March 27, 2020, and ending December 31, 2020. Self-employed individuals can defer employer FICA (S/E) taxes for same time period.
- Two-year deferral of payment:
 - 50% of the deferred payroll, (or S/E, taxes) due on December 31, 2021, and
 - 50% due on December 31, 2022
- **CANNOT** elect to defer employer payroll tax if you take out a Paycheck Protection Program forgivable loan and you receive forgiveness on that debt.

Payroll Credits – Required Sick & Family Leave (FFCRA)

- **Families First Coronavirus Response Act (FFCRA):** Requires sick/family leave pay for employers of *less than 500* employees effected by COVID-19
 - Eligible employers may elect to receive a refundable credit in the full amount of the required sick leave and family leave pay. Eligible self-employed individuals also qualify for comparable credits against SE tax (however no double benefit for those who are both employee and self-employed).
- **Effective 4/1/2020 – thru 12/31/2020**
- **Reducing employment tax deposits:** Claimed by reducing 941 tax deposits by the gross wages, Medicare, and prorated employer portion of health insurance and retirement costs. If the total of the FFCRA payroll costs exceed the 941 tax deposit –may use form 7200 to get the excess refunded.
- **No restrictions to take these credits if have small business loans.**
 - **CAUTION: IF FFCRA payroll credits taken, those wages may not be used for PPP loan forgiveness**

Payroll Credits – Required Sick & Family Leave (FFCRA)

Under the FFCRA, an employee qualifies for paid sick time if the employee is unable to work **(or unable to telework)** due to a need for leave because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
6. is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Under the FFCRA, an employee qualifies for expanded family leave if the employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

Payroll Credits – Required Sick & Family Leave (FFCRA)

Amount of pay and duration of leave varies depending on the above mentioned reasons.

- **Duration of leave required/eligible for credit:**

- For reasons 1-4, and 6:
 - Full-time employee – maximum of 10 days/80 hours is eligible for credit
 - Part-time employees – average hours of two-week period (see DOL FAQ #5)
- For reason 5: up to 10 weeks of leave at either 40 hours/week (full time) or the average hours/week for part time (family leave payments not required for first 10 days of leave)

All leave hours/weeks are cumulative, so once an employee hits their limit, they do not get additional FFCRA leave.

- **Calculation of pay required/eligible for credit (employers may pay more):**

- For reasons 1,2 or 3 - regular rate of pay* (not less than min. wage), with a max of \$511/day - \$5,110 total per employee
- For reasons 4,5 or 6 - 2/3 the regular rate of pay* (not less than min. wage) with a max of \$200/day - \$2,000 total per employee for reasons 4 and 6, or up to \$200/day and \$10,000 for reason 5 (extended leave)

*Regular rate of pay is defined by FLSA

Summary of COVID-19 Employer Payroll Incentives

Chart credit to Plante Moran & Michael Krucker	EMPLOYEE RETENTION CREDIT	EMPLOYER PAYROLL TAXES DEFERRAL	PAID SICK LEAVE CREDIT	PAID FAMILY LEAVE CREDIT
Employee Threshold	None, however calculation is modified for above 100	None	<500	<500
Required Effect from COVID-19	Operations must be fully or partially suspended or result in a substantial reduction in gross receipts	None	Employee must not be working for 1 of the 6 COVID-19 related reasons	Employee must be on leave to take care of a child whose school or care provider is closed
Manner of Obtaining Cash Benefits	Retain all payroll taxes and withholdings up to credit amount; optional periodic advance payment in excess; optional periodic advance payment of excess; quarterly cash refund for remainder	Retain eligible employer social security taxes	Retain all payroll taxes and withholdings up to credit amount; optional periodic advance payments of excess; quarterly cash refund for remainder	Retain all payroll taxes and withholdings up to credit amount; optional periodic advance payments of excess; quarterly cash refund for remainder

Summary of COVID-19 Employer Payroll Incentives

<u>Chart credit to Plante Moran & Michael Krucker</u>	EMPLOYEE RETENTION CREDIT	EMPLOYER PAYROLL TAXES DEFERRAL	PAID SICK LEAVE CREDIT	PAID FAMILY LEAVE CREDIT
Credit Calculation	50% of up to \$10,000 of qualified wages per employee	6.2% of all wages subject to social security tax	Up to \$200 or \$511 per day per employee, depending on the reason for the absence; maximum of 10 days; increased by healthcare expenses and employer Medicare tax	Up to \$200 per day per employee; maximum of \$10,000; increased by healthcare expenses and employer Medicare tax
Qualified Wages	All wages if <100 employees; wages only of employees not working for others	All wages subject to social security tax	Only sick leave wages required to be paid under FFCRA	Only family leave wages required to be paid under FFCRA
Treatment of Allocable Health Plan Expenses	Included in qualified wages and subject to same overall limitation	Not eligible for benefits	Direct increase to credit amount	Direct increase to credit amount

Summary of COVID-19 Employer Payroll Incentives

<u>Chart credit to Plante Moran & Michael Krucker</u>	EMPLOYEE RETENTION CREDIT	EMPLOYER PAYROLL TAXES DEFERRAL	PAID SICK LEAVE CREDIT	PAID FAMILY LEAVE CREDIT
Effective Date	March 13, 2020	March 27, 2020	April 1, 2020	April 1, 2020
Expiration Date	All December 31, 2020			
Business Interruption Loan (PPP) Restrictions	Cannot claim credits if obtained PPP loan	Cannot defer payroll tax if PPP loan is forgiven	None	None
Self-Employment (SE) Tax Benefits	None	SE tax equivalent eligible for deferral	SE tax credit available for sick leave equivalent of self-employed individual	SE tax credit available for family leave equivalent of self-employed individual

NOL Changes

- For losses arising in tax years 2018, 2019 and 2020, a *five-year* carryback is now allowed to help businesses recoup some of their prior taxes. Law also applies to pass-through businesses and sole-proprietors. (was only 2 years prior)
- Removes the 80% limitation of taxable income under prior Tax Cuts Jobs Act (TCJA). Now allows NOL to fully offset taxpayer's taxable income for years 2018, 2019, 2020.
- May need to **AMEND** tax returns to get this benefit. Also - consider additional opportunities for maximizing losses, such as a cost segregation study.

Limitation on Business Losses

- CARES Act retroactively postpones the effective date of the Excess Business Loss limitation to taxable years beginning after 2020.
- **Excess Loss Limitations:** The cap on the deduction for business losses on individual returns is suspended. Under tax reform (TCJA), the amount of trade or business losses over \$500,000 for couples and \$250,000 for other filers was nondeductible, with any excess carried forward. The stimulus law suspends this loss limitation rule generally for 2018 through 2020.
- **May need to AMEND to get this benefit or to consider amending 2018 and 2019 returns to re-compute taxable income without the Excess Business Loss limitation if you had limited losses.**

Qualified Improvement Property

- A technical correction was made to the TCJA regarding qualified improvement property by making it 15-year property (rather than 39 yr). This makes these improvements eligible to be expensed immediately.
- The change is made as if included in the TCJA and thus it's effective for property acquired and placed in service after September 27, 2017.
- QIP placed in service after 2017 retroactively qualifies for the depreciation deduction. Thus, QIP placed in service in 2018 or 2019 will retroactively qualify for the 100% depreciation deduction.
- May be opportunity to AMEND tax filings to get this benefit in increased deductions in 2017, 2018 or 2019 tax returns.

Business Provisions - Other

- **Retirement Plans:** The bill gives pension funding relief for failures to meet contribution requirements to defined contribution plans during 2020
- **Minimum Tax Credits:** The bill accelerates the year for which a fully refundable credit can be claimed to 2019, and allows corps to elect to claim fully refundable minimum tax credits in 2018
- **Business Interest Limitations:** TCJA limits for deducting interest on business debt by some businesses is increased (applicable to large business gross revenue >\$25 mil). Interest expense deduction limitations are more taxpayer favorable. Under prior legislation, net interest expense was limited to 30% of adjusted taxable income. This limitation has been increased to 50% for tax years 2019 and 2020.
- **Health Plans:** The rules of high-deductible health plans amended to allow them to cover telehealth and remote care svc without charging deductible.
- **Charitable Deductions:** The taxable income limit on charitable gifts of cash by C corps rises to 25% for 2020 (up from 10%)
 - Does not change limitations to private foundations or donor advised funds



Questions



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Thank you for joining us!

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