

# Understanding Employee Retention Credit

Section 2301 of the CARES Act



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## CARES Act Employee Retention Credit

- Fully refundable tax credit for employers equal to 50% of qualified wages paid to employees
- Applied to qualified wages paid after March 12, 2020 and before January 1, 2021
- Maximum qualified wages totals \$10,000 paid to each employee for a maximum credit of \$5,000 per employee



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## Eligible Employer

**Employers that carry on a trade or business during calendar year 2020 including tax exempt organizations:**

**Either:**

- Fully or partially suspend operation during any calendar quarter in 2020 due to COVID-19
- Experience a significant decline in Gross Receipts during the calendar year
- All sizes of employers are eligible

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## Exceptions of employers

- Government employers are not eligible employers
- Household employers are not eligible
- Self-employed individuals are not eligible for their own earnings but may be able to claim the credit for wages of their employees
- Employers who received a Paycheck Protection Loan

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## Significant decline in gross receipts

- First calendar quarter in 2020 for which its gross receipts are less than 50% of gross receipts from the same calendar quarter in 2019.
- The CARES Act does not require that the significant decline in gross receipts be related to COVID-19.
- Employers should keep record for the relevant calendar quarters in 2019 and 2020 for at least 4 years.

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## Fully or partially suspended

Fully or partially suspended due to “orders from an appropriate governmental authority limiting commerce, travel or group meetings) due to COVID-19”

- Government orders include:
  - An order from the City’s Mayor stating that all non-essential business must close for a specified period.
  - Shelter in place order
  - An order imposing a curfew that impacts operating hours of a trade of business.

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## Fully or partially suspended – Not Qualified

- A statement at a press conference by a government official does not rise to government order.
- An employer that voluntarily suspends operations that is not subject to any government order is not eligible for the credit.
- An employer that operates an essential business is not considered to have full or partial suspension if the government order allows the employer to stay open.
- If the employer's workplace is closed by a government order but the employer is able to continue comparable operations by requiring employees to telework, the employer is not considered to have been fully or partially suspended.

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## Qualified Wages

- Definition depends in part of average number of Full-time employees employed during 2019;
  - If more than 100, qualified wages paid for the time that the employee is not providing services due to full or partial suspension of operations of significant decline in gross receipts of 80% or more.
  - If less than 100, qualified wages = wages paid to any employee during any period of economic hardship (suspension or decline in gross receipts of 50% or more).

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## Qualified Wages Cont.

- Qualified Wages include qualified health plan expenses
- Wages paid to related individuals are not taken into account for purposes of the credit such as a child, brother, sister, father, mother, step everything, etc. (Does not include spouse)



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## Refundable Credit

- Credit is allowed against the Employer's share of Social Security Tax
- If the credit exceeds the ER share of Social Security tax, the excess is treated as an overpayment that firsts offsets any remaining tax liability on the Form 941 and any remaining beyond that is refunded.
- Eligible Employer can file a *Form 7200, Advance Payment of Employer Credits due to COVID-19*, to claim an advance for any remaining credit that exceeded the employment tax deposit. The form is faxed to the IRS.

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**7200** Advance Payment of Employer Credits Due to COVID-19

OMB No. 1545-0029

Form 7200  
March 2020  
Department of the Treasury  
Internal Revenue Service

Go to [www.irs.gov/Form7200](https://www.irs.gov/Form7200) for instructions and the latest information.

Employer identification number (EIN)

Trade name (if any)

Applicable calendar quarter (check one)  
☒ Apr., May, June  
☐ July, August, September  
☐ October, November, December

Number, street, and apt. or suite no. If a P.O. box, see instructions.

City or town, state, and ZIP code. If a foreign address, also complete spaces below. (See instructions.)

Foreign country name Foreign province/county Foreign postal code

Does a third-party payer file your employment tax return? (See instructions.) If "Yes," enter its name. Third-party payer's EIN (if applicable)

**Tip:** File Form 7200 if you can't reduce your employment tax deposits to fully account for these credits that you expect to claim on your employment tax return for the applicable quarter. Don't reduce your employment tax deposits and request advanced credits for the same expected credits. You will need to reconcile your advanced credits and reduced deposits on your employment tax return. You can't request an advance payment of the credit for sick and family leave for self-employed individuals.

**Part I Tell Us About Your Employment Tax Return**

A Check the box to indicate which employment tax return form you file (or will file for 2020):  
☐ 941, 941-PR, or 941-SS ☐ 943 or 943-PR ☐ 944 or 944(SF) ☐ CT-1

B Is this a new business started on or after January 1, 2020? ☐ Yes ☐ No

C Amount reported on line 2 of your most recently filed Form 941 (or wages reported on Schedule R (Form 941), column (c), by your third-party payer (see instructions)). If you file a different employment tax return, see instructions.

D Enter the total number of employees you have. See instructions.

**Part II Enter Your Credits and Advance Requested**

1	Total employee retention credit for the quarter. See instructions.	1
2	Total qualified sick leave wages eligible for the credit and paid this quarter. See instructions.	2
3	Total qualified family leave wages eligible for the credit and paid this quarter. See instructions.	3
4	Add lines 1, 2, and 3	4
5	Total amount by which you have already reduced your federal employment tax deposits for these credits for this quarter	5
6	Total advanced credits requested on previous filings of this form for this quarter	6
7	Add lines 5 and 6	7
8	Advance requested. Subtract line 7 from line 4. If zero or less, don't file this form.	8

Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? See the instructions for details. ☐ Yes, Complete below. ☐ No

Designee's name and phone number

Select a 5-digit personal identification number (PIN) to use when talking to the IRS

Under penalty of perjury, I declare that I have examined this form, including any accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Sign Here Your signature Date Printed title

Printed name Printed name of preparer's name Preparer's signature Date Best daytime phone

Preparer's name Firm's EIN

How To File Fax your completed form to 855-248-0552.

For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions. Cat. No. 503801 Form 7200 (3-2020)

## Example of Form 7200

- You will need to reconcile any advance credit payments and reduced tax deposits on your Form 941.
- This form can be filed multiples times during a quarter.
- You can file this form at any time before the end of the month following the quarter in which you paid the qualified wages.

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## Retention Credit Worksheet

Retention Credit Worksheet						
ID	Employee Name	Date Paid	Average Payroll	ER Pd Health Ins	50% Average Wages	Balance Left only 10000.00
1	Jane Doe	03.21.20	700.00	0.00	350.00	
		DATE	500.00	50.00	275.00	
		DATE			0.00	
		DATE			0.00	
		DATE			0.00	
Total to Date			1200.00	50.00	625.00	8,800.00
2	John Doe	03.21.20	900.00	100.00	500.00	
		DATE			0.00	
		DATE			0.00	
		DATE			0.00	
		DATE			0.00	
Total to Date			900.00	100.00	500.00	9,100.00

**Claiming the credit**

Quarterly Filer:

In order to claim the new Employee Retention Credit, eligible employers will report their total qualified wages and the related health insurance costs for each quarter on their quarterly employment tax returns, which will be Form 941 for most employers, beginning with the second quarter. The credit is taken against the employer's share of social security tax but the excess is refundable under normal procedures.

941 Depositors:

In anticipation of claiming the credit, employers can retain a corresponding amount of the employment taxes that otherwise would have been deposited, including federal income tax withholding, the employees' share of Social Security and Medicare taxes, and the employer's share of Social Security and Medicare taxes for all employees, up to the amount of the credit, without penalty, taking into account any reduction for deposits in anticipation of the paid sick and family leave credit provided in the [Families First Coronavirus Response Act \(PDF\)](#).

Prior Payrolls:

Eligible employers can also request an advance of the Employee Retention Credit by submitting Form 7200.

### Claiming the credit

#### Quarterly filers:

In order to claim the new Employee Retention Credit, eligible employers will report their total qualified wages and the related health insurance costs for each quarter on their quarterly employment tax returns, which will be Form 941 for most employers, beginning with the second quarter. The credit is taken against the employer's share of social security tax but the excess is refundable under normal procedures.

#### 941 Depositors:

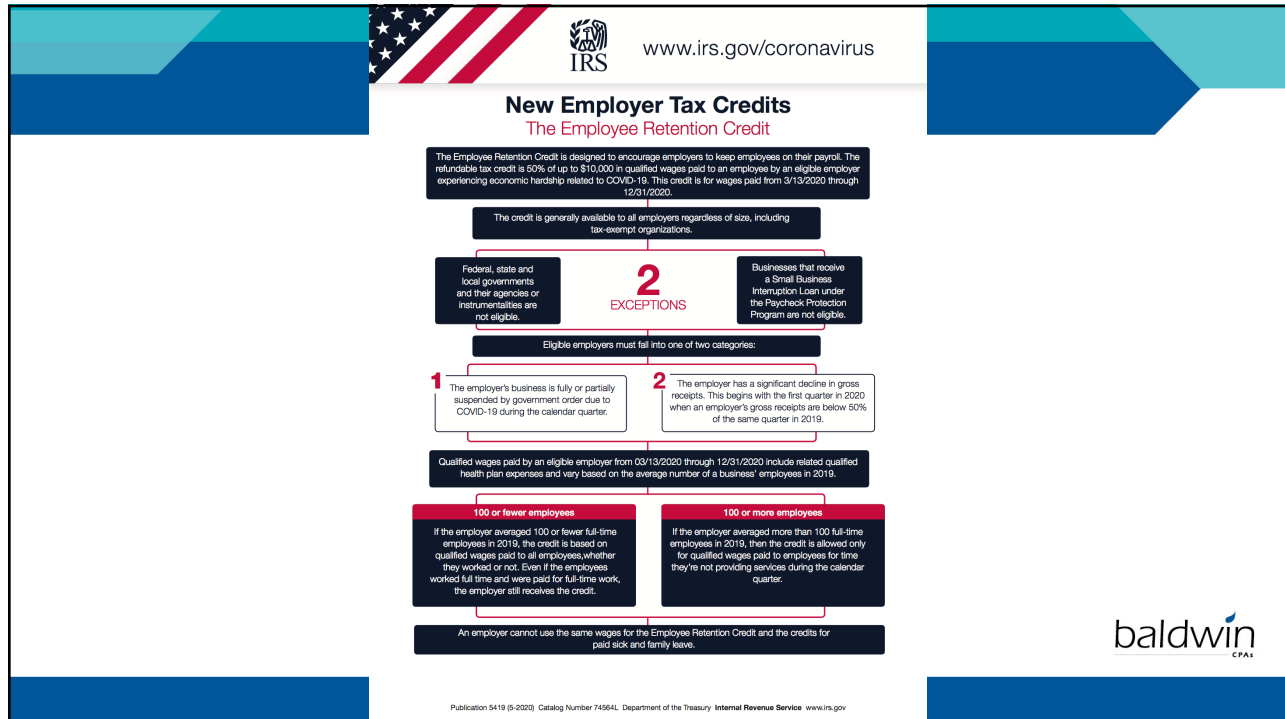
In anticipation of claiming the credit, employers can retain a corresponding amount of the employment taxes that otherwise would have been deposited, including federal income tax withholding, the employees' share of Social Security and Medicare taxes, and the employer's share of Social Security and Medicare taxes for all employees, up to the amount of the credit, without penalty, taking into account any reduction for deposits in anticipation of the paid sick and family leave credit provided in the [Families First Coronavirus Response Act \(FFCRA\)](#).

#### Prior Payrolls:

Eligible employers can also request an advance of the Employee Retention Credit by submitting Form 7200.

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## Leave Credits

The paid sick leave credit and paid family leave credit are available for eligible employers who pay qualified sick leave wages and/or qualified family leave wages from 4/1/2020 through 12/31/2020, and who have fewer than 500 employees.

Type of Credit	IF an employee is unable to work because:	Then
<b>Paid Sick Leave Credit</b>	<ul style="list-style-type: none"> <li>They're subject to a COVID-19 quarantine or isolation order.</li> <li>They're advised to self-quarantine because of COVID-19.</li> <li>They have COVID-19 symptoms and are seeking a medical diagnosis.</li> </ul>	The credit is at the employee's regular rate of pay, up to \$511 per day and \$5,110 in total up to 80 hours. The employer is also eligible for credits for qualified health plan expenses for the employee and the employer's portion of Medicare tax expenses for the employee.
<b>Paid Sick Leave Credit</b>	<ul style="list-style-type: none"> <li>They're caring for someone who is subject to a COVID-19 quarantine or isolation order, or for someone who is advised to self-quarantine because of COVID-19.</li> <li>They're caring for a child whose school or place of care is closed due to COVID-19.</li> <li>They're caring for a child whose child care provider is unavailable due to COVID-19.</li> </ul>	The credit is for two-thirds of the employee's regular rate of pay, up to \$200 per day and \$2,000 in total, for up to 80 hours. The employer is also eligible for credits for qualified health plan expenses for the employee and the employer's portion of Medicare tax.
<b>Family Leave Credit</b>	<ul style="list-style-type: none"> <li>They're caring for a child whose school or place of care is closed due to COVID-19</li> <li>They're caring for a child whose child care provider is unavailable due to COVID-19.</li> </ul>	<ul style="list-style-type: none"> <li>This credit is equal to two-thirds of the employee's regular rate of pay, capped at \$200 per day or \$10,000 in total.</li> <li>Up to 10 weeks of qualifying leave can be counted toward the Family Leave Credit. This can be combined with the sick leave credit, so an employer could be entitled to a credit for pay for up to 12 weeks – 2 weeks of sick leave and 10 weeks of family leave.</li> <li>The employer is also eligible for credits for qualified health plan expenses for the employee and the employer's portion of Medicare tax.</li> </ul>

For more details, see: [www.irs.gov/coronavirus/new-employer-tax-credits](https://www.irs.gov/coronavirus/new-employer-tax-credits)

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## Questions?

- A recording of this webinar will be posted to our website at <https://baldwincpas.com/content/webinars>
- Additional resources can be found there as well



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## Contact Us

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