

Tax Incentives for Employers in the CARES Act

COVID-19 Response Resource Center: Timely Counsel for your Business

By Mark Davidson and Sara Vizithum on 04.06.2020

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Much of the focus of the attention generated by the CARES Act has been on the Payroll Protection Program (PPP) through the Small Business Association. Loans through the PPP have the potential to be forgiven on a *tax-free* basis. Please see our client alert for a discussion of the PPP.

The CARES Act also adds relief in the form of employee retention credits and a delay of employer payroll taxes highlighted below.

Employee Retention Credit

The Employee Retention Credit is a fully refundable payroll tax credit that qualifying employers may receive by continuing to fund payroll. The IRS has released guidance stating that a business may reduce their payments of payroll tax by anticipated credits and claim refund of additional credits by filing a form. It is not available to businesses who receive a PPP loan. The credit is equal to 50% of wages paid between March 13, 2020 and Dec. 31, 2020, to a maximum credit of \$5,000 per employee.

A business may qualify for the tax credit either as a result of being forced to fully or partially shut down due to a COVID-19 related governmental order or by meeting certain thresholds for reduced gross receipts in a calendar quarter. Most nonprofits may qualify for the credits if they are forced to fully or partially suspend operations due to a COVID-19 related governmental order. Businesses and non-profits with more than one hundred employees have additional requirements, the most important of which is that they may only receive the credit for wages paid to employees not working.

Payroll Tax Deferral

The CARES Act also provided a provision allowing employers to defer the payment of employer side social security taxes. Employers are ordinarily required to deposit their share of social security taxes either monthly or semi-weekly. This provision allows half the amount of employer side social security taxes to be paid by Dec. 31, 2021, and the other half to be paid by Dec. 31, 2022.

Employers may not take advantage of this provision if they receive a PPP loan that is forgiven either in whole or in part.

Other Business Tax Benefits

Please see the client alert highlighting other important tax benefits provided to businesses by the CARES Act.

If you have any questions concerning tax law changes made by the CARES Act, please contact Mark Davidson, Sara Vizithum or Josh Lingerfelt, linked below.

Brooks Pierce is dedicated to keeping our clients fully informed during the COVID-19 crisis. For more information, please visit our [COVID-19 Response Resources](#) page.

Tags: CARES Act, Employee Retention Credit, Payroll Protection Program Loans