

**Employee Retention Tax Credit**

The CARES provided a payroll tax credit designed to create liquidity for employees to retain employees during the COVID-19 pandemic. However, if a Paycheck Protection Loan is obtained, the employer will not be eligible for the tax credit.

Eligible Employer:	Any employer engaged in business in 2020 and with respect to any calendar quarter: (1) the business was fully or partially suspended by government authority limiting commerce, travel, or group meetings due to COVID-19, or (2) the gross receipts for a calendar quarter declined by more than 50% compared to same quarter in the prior year. If the business satisfies the greater than 50% reduction in gross receipts for a calendar quarter, the business may continue to claim the payroll tax credit until the end of the quarter in which gross receipts first exceed 80% of the gross receipts for the same quarter in the prior year. This means that an employer will be eligible for the tax credit for any calendar quarter during which the business is suspended, in whole or in part, on account of a governmental order due to the COVID-19. A business also is eligible if its gross receipts for a calendar quarter declines by more than 50% compared to the calendar quarter for the prior year, and continues to be eligible for the tax credit until its gross receipts are at least 80% of the gross receipts of the calendar quarter for the prior year.
Tax Credit Amount:	50% of qualified wages of each employee for an eligible calendar quarter shall be tax credit amount against the employer’s portion of social security payroll taxes for such calendar quarter. The employer’s portion of the SS payroll taxes is equal to 6.2% of wages.
Qualified Wages Limitation	Qualified wages for an employee are limited to \$10,000 for all eligible calendar quarters.
Refundable Tax Credit	If the tax credit amount exceeds the total employer portion of the SS payroll tax for such eligible quarter such excess shall be treated as an overpayment and refunded to the employer by the IRS.
Qualified Wages for Employers having, on average, more than 100 Full Time Equivalent Employees during 2019	Wages of employees who are not providing services due to full or partial suspension of business by government authority limiting commerce, travel, or group meetings due to COVID-19.

Qualified Wages for Employers having, on average, 100 or fewer Full Time Equivalent Employees during 2019	All wages paid to employees during eligible quarters. Aggregation rules apply to affiliated or related employers in determining the number of employees.
Wage Exclusion	Wages are excluded for which tax credits are claimed on account of the expanded sick leave and family leave provisions of the FFCRA.
Health Plan Expenses	Wages include health plan expenses excludible from the employee's gross income to the extent allocable to otherwise qualified wages.
No Double Benefit	Wages for which a tax credit is claimed under this provision are not eligible for tax credits under IRC Section 45S.
SBA Section 7(a) loan	Employers receiving SBA Section 7(a) loan are not eligible for the tax credit under this provision.

---

Meyers, Roman, Friedberg & Lewis  
Eton Tower  
28601 Chagrin Blvd., Suite 600  
Cleveland, Ohio 44122  
[www.meyersroman.com](http://www.meyersroman.com)  
phone: **216.831.0042**  
fax: **216.831.0542**

The information you obtain at this site is not, nor is it intended to be, legal advice.  
Please consult an attorney for individual advice regarding your own situation.  
Copyright © 2020 Meyers, Roman, Friedberg & Lewis - All Rights Reserved