

CARES Act: Employee Retention Tax Credit is Available

When to consider the employee retention tax credit over PPP loan

With all of the coverage and focus on the Paycheck Protection Program (PPP) loans, many businesses are unaware of the Employee Retention Tax Credit (ERTC) that is available under the CARES Act. The ERTC was set up to help businesses retain employees. There is a small catch, however: a business who participates in the PPP cannot also receive this tax credit.

So, when does this make sense?

“Typically, PPP-ineligible businesses – those with over 500 employees (depending upon NAICS code) or those with less than 100 employees who undergo substantial layoffs – would want to use the employee retention tax credit,” says Justin Mentele, partner at K·Coe Isom. “We recommend that all businesses take the ERTC into consideration, because for some operations without immediate cash flow needs, it could have nice long-term benefits that pay out intermittently.”

ERTC Overview

The Treasury has defined the employee retention tax credit as a broad-based refundable tax credit designed to encourage employers to keep employees on their payroll. The credit is 50% of up to \$10,000 in wages paid by an employer whose business is fully or partially suspended because of COVID-19, or whose gross receipts decline by more than 50%.

Availability and Eligibility

1. The credit is available to all employers regardless of size including tax exempt organizations. There are only two exceptions: (1) state and local governments and their instrumentalities and (2) small businesses who take Small Business Loans.
2. To qualify, the employer has to meet one of two alternative tests. The tests are calculated each calendar quarter – Either:
 - the employer’s business is fully or partially suspended by government order due to COVID-19 during the calendar quarter (for example, a restaurant that is essential, but had to close its dining room so it was partially shut-down, or a bank with lobby closure), or
 - the employer’s gross receipts are below 50% of the comparable quarter in 2019. Once the employer’s gross receipts go above 80% of a comparable quarter in 2019 they no longer qualify after the end of that quarter.

Guidelines for Calculation of the Credit

- The amount of the credit is 50% of the qualifying wages paid up to \$10,000 in total per employee.
- It is effective for wages paid after March 13, 2020 through December 31, 2020.
- The definition of qualifying wages varies by whether an employer had, on average, more or less than 100 employees in 2019.

Less than 100. If the employer had 100 or fewer employees on average in 2019, then the credit is based on wages paid to all employees whether they actually worked or not. In other words, even if the employees worked full time and got paid for full time work, the employer still gets the credit.

Greater than 100. If the employer had more than 100 employees on average in 2019, then the credit is allowed only for wages paid to employees **who did not work** during the calendar quarter.

In both cases, “wages” includes not just cash payments but also a portion of the cost of employer provided health care.

Payment

Employers can be immediately reimbursed for the credit by reducing the amount of payroll taxes they have withheld from employees’ wages that they are required to deposit with the Treasury.

Should you have questions regarding the applicability of the ERTC or PPP for your business, contact a K-Coe advisor.