

Steven Roy Management

Cambyes Financial Advisors, LLC

Small Business Tax Credits for Employee Retention
From: Tax and Finance in the Time of Coronavirus

Cambyes Financial Advisors, LLC
Steven Roy Management
13027 Victory Blvd. PMB 722
North Hollywood, CA 91606
WWW.StevenRoyManagement.Com

[o] (818) 489-4228
[f] (818) 450-0426

Steven@StevenRoyManagement.Com
[Telephone] (818) 489-4228
[Fax] (818) 450-0426

Reviewed and Drafted By:

- Nastaran Motiei MBA (Managing Member)
- Steven J Roy MS, MST, EA (Managing Member)

Revised: 08/2020

Disclaimers and Disclosures

The information contained in this publication has been gathered from sources that are believed to be reliable but is not guaranteed as to completeness, currency, or accuracy.

Nothing contained in this publication should be construed as the giving of business, legal or tax advice or the making of a recommendation. It should not be relied on as the basis for any decision or action. The information contained in this document is general in nature and may not apply to the specifics of your situation or transaction. You must rely only on the advice of qualified tax and/or legal counsel to advise you on your specific situation or transaction.

Steven Roy Management, the authors, or their affiliates do not represent or warrant that this information, including any third-party information, is accurate, current, or complete and the information should not be relied on as such.

The data and analysis contained in this publication are provided "as is" and without warranty of any kind, either expressed or implied as to its accuracy, completeness, timeliness, originality, merchantability, fitness for a particular purpose and/or non-infringement. Neither Steven Roy Management, the authors, nor their affiliates, employees, nor any third-party provider, shall have any liability for any loss sustained by anyone who has relied on the information contained in any publication produced by them.

In no event, shall Steven Roy Management, the authors, nor their affiliates have any liability for any direct, indirect, special, incidental, punitive, consequential (including without limitation, lost profits) or other damages. Nothing contained in this document is intended to create a contract (express or implied), or any other legal right or remedy or otherwise to create legally enforceable obligations on the part of Steven Roy Management, the authors, or their affiliates.

All opinions expressed are subject to change without notice.

IRS Circular 230 Disclosure

In order to comply with requirements imposed by the Internal Revenue Service, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

Small Business Credits for Employee Retention

Employers may claim a 50 percent tax credit for the Qualified Wages paid to employees from March 13 to December 31, 2020. Employers may claim a maximum \$5,000 credit per employee (50% of \$10,000 of employee wages). (CARES Act)

To qualify, firm activity must be suspended due to government actions related to coronavirus or the firm must experience a 50 percent decline in gross receipts during a calendar quarter when compared to the same quarter in the previous year.ⁱ

There are a number of tools to determine your eligibility for this credit. The best one we have found, so far, is on tax and legal publisher Thomson Reuters' site: Employee Retention Credit Eligibility Tool: [Qualification Tool](#)

For firms with fewer than 100 employees, the credit applies to all employees – even those who were able to continue working. For firms with 100 employees or more, the credit applies only to employees not able to do their duties due to a business suspension or lack of business. In either case, Qualified Wages include wages paid to the employee and certain health care expenses (insurance) incurred by the employer.

Other choices you exercised during the crisis may affect your eligibility for the Employee Retention Credit:

- If you applied for and received a Small Business Interruption Loan under the Paycheck Protection Program you are not eligible for the Employee Retention Credit.
- Wages for this credit do not include wages for which you receive a tax credit for paid sick and family leave under the Families First Coronavirus Response Act.
- Wages counted for this credit cannot be counted for the credit for paid family and medical leave under IRC § 45S of the Internal Revenue Code.
- Employees are not counted for this credit if you are allowed a Work Opportunity Tax Credit under IRC § 51 of the Internal Revenue Code for the employee.

To claim the Employee Retention Credit, report your total Qualified Wages and health insurance costs for each quarter on your quarterly employment tax returns (usually Form 941) beginning with the second quarter return. Technically, the credit offsets your share of social security tax but the excess is refundable. (The Service updated Form 941 to encompass this - It is now three pages long. Make sure you are using the correct version of the form!)

You may retain 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. You do not need to wait until you file your 941. If you have already filed second quarter returns or made payroll tax deposits for the quarter you may recover the credit by reducing upcoming deposits or requesting an advance credit on [Form 7200, Advance of Employer Credits Due To COVID-19](#).

To avoid processing delays: Fax your completed form 7200 to 855-248-0552. Do not mail it to the processing center!

Sources: CARES Act, [H.R. 748](#), P.L. 116-136. (Small Business Provisions)

General Information, SBA:

- [The Small Business Owner's Guide to the CARES Act](#)

Small Business Credit for Employee Retention

- IRS Website: [New Employer Tax Credits](#)
- IRS Website: [COVID-19-Related Employee Retention Credits: General Information FAQs](#)
- IRS Website: [Employee Retention Credit](#)
- Thomson Reuters' Website: Employee Retention Credit Eligibility Tool: [Qualification Tool](#)
- Treasury: [Employee Retention Tax Credit: What You Need to Know](#)
- Journal of Accountancy: [Employer tax credits form, employee retention credit guidance posted](#)
- AICPA: [CARES Act and Families First Coronavirus Response Act Summary](#)
- IRS Website: [FAQs: Employee Retention Credit under the CARES Act](#)
- IRS Publication 5419: [New COVID 19 Employer Tax Credits – Employee Retention Credit](#) - (Flowchart)
- IRS Website: [COVID-19-Related Tax Credits: How to Claim the Credits](#)
- IRS (Form, Instructions, and Narrative) [About Form 7200, Advance Payment of Employer Credits Due to COVID-19](#)

End Notes

The notes in this presentation are intended to assist tax and financial professionals and ardent do-it-yourselfers. The notes offer a deeper analysis of issues than is commonly appropriate to a seminar presentation designed to familiarize non-professionals with the issues and rules they may confront. Please note that these Endnotes are, for the most part, extracted without editing from relevant source documents. Please do not judge Steven Roy Management's ability to articulate clear thoughts based on this part of our presentation.

Since the PPP loan program has closed, much of the material related to loan qualification, head count, and initial application is predominantly of historical interest. It is included here 1. in case Congress enacts a CARES 2 relief package that employs similar criteria (which seems a likely scenario as of 07/25/2020) and 3. For reference if agencies challenge the bona-fides of the original application, fund grant, and debt forgiveness. At the moment, there seems to be little appetite for the latter examination-audit function, but "times change."

ⁱ Employers, including tax-exempt organizations, are eligible for the credit if they operate a trade or business during calendar year 2020 and experience either:

- the full or partial suspension of the operation of their trade or business during any calendar quarter because of governmental orders limiting commerce, travel, or group meetings due to COVID-19, or
- a significant decline in gross receipts.

A significant decline in gross receipts begins:

- on the first day of the first calendar quarter of 2020
- for which an employer's gross receipts are less than 50% of its gross receipts
- for the same calendar quarter in 2019.

The significant decline in gross receipts ends:

- on the first day of the first calendar quarter following the calendar quarter
- in which gross receipts are more than of 80% of its gross receipts
- for the same calendar quarter in 2019.