



TAX PROVISIONS

The Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Families First Coronavirus Response Act (FFCRA) contain a number of tax provisions and amendments that are designed to help employers access cash and retain employees during the COVID-19 pandemic. We encourage you to consult with your tax professional as to the applicability of these changes to your business.

Employer Payroll Taxes:

- Employers are permitted to delay payment of Social Security taxes which would normally be due between the enactment of the CARES Act and January 1, 2021. Fifty percent of the deferred employment taxes would be due December 31, 2021, and the remaining 50% would be due December 31, 2022. In addition, any penalties for underpayment of self-employment taxes would only be applied to 50% of the taxes owed during the period that would normally be included in the penalty calculation.
- All employers, included self-employed individuals who are required to pay self-employment taxes are eligible. Exception: businesses that receive loans under the CARES Act Paycheck Protection Program are ineligible.

Payroll Tax Credits for Paid Sick Leave and FMLA Leave:

- The FFCRA allows employers to receive advance refunds of payroll tax credits awarded for paid sick leave and paid FMLA leave.

Employee Retention Credit:

- Under the CARES Act, businesses are eligible for a tax credit (for each calendar quarter) if they were operating prior to the pandemic and (1) had to fully or partially close under a government order limiting commerce, travel or group meetings, or (2) saw gross receipts decline 50 percent from the gross receipts received during the same quarter of the prior year, due to the coronavirus pandemic.
- Qualified wages for employers with more than 100 employees are only the wages paid to employees who are not able to work due to the pandemic. For employers with 100 or fewer employees, all wages paid during the period where gross receipts declined 50 percent to 80 percent from the prior year are considered qualified wages, regardless of whether the business was operating or not.
- Up to 50% of wages paid to employees are refundable via a tax credit, and the credit is allowed against employment taxes paid for up to \$10,000 in wages for each employee. The credit is only applicable to wages paid from March 13, 2020 through December 31, 2020.
- Businesses that receive loans under the CARES Act Paycheck Protection Program are not eligible



Net Operating Losses:

- The CARES Act allows businesses to offset taxable income by the entire amount of net operating losses, and a net operating loss occurring in 2018, 2019, or 2020 can now be carried back to offset taxable income from the prior five years. REITs and regulated investment trusts also benefit from similar provisions.
- Requires the filing of amended returns, which, depending on the year, must be filed within 120 days of the enactment of the CARES Act.

Alternative Minimum Tax (AMT) Credits:

- The CARES Act revives AMT credits for tax years beginning with 2018.

Limitation on Business Interest:

- For tax years beginning in 2019 and 2020, businesses can deduct business interest incurred in an amount equal to 50% of its adjusted taxable income. This is a 20% temporary increase in the amount that may be deducted.

Sources and Additional Information:

<https://www.taylorenglish.com/blogs-coronavirus-impact-updates-tax-provisions-in-the-cares-act>

<https://www.foley.com/en/insights/publications/2020/03/cares-act-summary-of-tax-provision>