Mandatory Sick Leave Tax Credits and Retention Credits

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This webinar is based on information available at the time of this presentation. Information may be updated by the IRS so check the IRS at www.irs.gov or ask your accountant for the latest info.

Resources related to Virginia Occupational Safety and Health (VOSH) standards for Emergency Infectious Disease Prevention Standards for Businesses
https://www.virginiасsbdc.org/emergencystandards/
Things to Know

- Please be sure your microphone is on MUTE
- If you have called in, be sure you have muted your phone
- If you have questions, please add to the Chat box at the bottom of your screen
- This presentation will be recorded, and link sent out after class
- A copy of this presentation will be sent out after the class

Tax credits covered today

- Families First Coronavirus Response Act
  - Employee Paid Leave Rights
    - Qualified Sick Leave
    - Qualified Family Leave
  - Employee Retention Credits
Families First Coronavirus Response Act

- Requires most employers to provide sick leave to their employees.
- Provides tax credits to cover costs of providing employees with required paid sick leave taken during April 1 to December 31, 2020.
- Also covers expanded family and medical leave wages
What is included in Qualified Sick Leave Wages

- Is subject to a Federal, State or local quarantine or isolation order related to COVID19
- Has been advised by health care provider to self quarantine due to concerns related to COVID19
- Is experiencing symptoms of COVID19 and seeking medical diagnosis
- Is caring for an individual who is subject to quarantine or isolation order and has been advised to self quarantine
- Is caring for a child of employee if the school or place of care is closed or unavailable due to COVID19

Qualified Sick Leave Wages

- Wages paid to an employee who is unable to work or telework because of the employee’s personal health status.
  - Quarantine, or self-quarantine or have symptoms and seeking medical diagnosis.
  - Employee needs to care for others with COVID19, or child whose school or place of care is closed or unavailable due to COVID19
How much is the credit - Employee Sick Pay

• Up to 100% of up to 10 days (80 hours for FT) for qualified sick leave wages paid during a quarter.
  • Employees regular pay (and health care expenses)
  • Maximum amount of $511 a day ($5,100 max)

How much is the credit - Caring for Others

• Up to 100% of up to 10 days (80 hours for FT) for wages to care for others.
  • 2/3 of employee's regular pay (and health care expenses)
  • Maximum amount of $200 a day ($2000 maximum)
  • If you pay more than 2/3 of employee’s pay you will not be credited for that amount, or more than the $200 a day.
Qualified Family Leave Wages

- Wages paid to an employee who is unable to work or telework because of the employee is caring for a child whose school or place of care is unavailable due to COVID19 related reasons.
- Must be employed for at least 30 days, or laid off at least 30 of the last 60 days.

How much is the credit- Qualified Family Leave

- First 10 days not covered, covered under the employee sick leave.
- Covered for up to 10 weeks, after the 10-day non-covered period
How much is the credit- Qualified Family Leave

- 100% refundable
- Limited to 2/3 of employee’s wages (and health care expenses)
- Limited to $200 day ($10,000 maximum)
- If you pay more than 2/3 of employee’s pay you will not be credited for that amount, or more than the $200 a day.

Taxes on employee wages

- Employee is subject to:
  - Income tax
  - Social Security tax
  - Medicare tax
- Employer is subject to:
  - Medicare tax (but is reimbursable as part of credit)
  - Not subject to Social Security tax
How to determine employee hours

- Full-time employees up to 80 hours
- Part-time employees is based on number of hours, on average, the employee works in a two-week period.

Qualified Health Plan Expenses

- Health care expenses paid by employer under a group health plan.
- Does not include payments made to a HSA
- Does include payments made to a HRA
How to Claim Credit – Small Businesses other than self employed

- The credit is taken on the IRS form 941 each quarter.
- You can file form 7200 and receive a refund prior to the quarterly filing.
Are Self-Employed Entitled?

- Must be carrying on a trade or business and would be qualified to receive if working for an employer.
- Tax credit is to be taken to offset self-employment tax.

Are Self-Employed Entitled?

- Must not be able to work or telework because
  - Subject to state, federal or local quarantine or isolation order
  - Been advised by health care provider to self quarantine.
  - Is experiencing symptoms of COVID19 and seeking medical diagnosis
  - Caring for others who have been quarantine or been advised to.
  - Is caring for child whose place of care closed
Self-Employed-Qualified Sick Leave (worker)

- Pay is based on number of days the individual cannot perform services.
- Amount equal to 100% of the average daily self-employment net income for the taxable year.
- Maximum amount of $511 a day ($5110 maximum)

Self-Employed-Qualified Sick Leave (others)

- Caring for others who have been quarantine or been advised to.
- Is caring for child whose place of care closed
- Pay is based on number of days the individual cannot perform services.
- Amount equal to 67% of the average daily self-employment income for the taxable year.
- Maximum amount of $200 a day ($2000 max)
**Self-Employed-Qualified Family Leave**

- Is caring for child whose place of care closed
- Pay is based on number of days the individual cannot perform services.
- Amount equal to 67% of the average daily self-employment income for the taxable year.
- Up to 50 days, maximum amount of $200 a day ($10,000 max)

**How to Claim Credit – Self Employed**

- The credit is taken on the 2020 1040 tax return
- Prepayment of credit can be done by lowering your estimated tax payments
Small Business Exemption

Small businesses with fewer than 50 employees may claim an exemption under the following circumstances.

1. Such leave would cause the small employer's expenses and financial obligations to exceed available business revenue and cause the small employer to cease operating at a minimal capacity.

2. The absence of the employee or employees requesting such leave would pose a substantial risk to the financial health or operational capacity of the small employer because of their specialized skills, knowledge of the business, or responsibilities.

3. The small employer cannot find enough other workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services the employee or employees requesting leave provide, and these labor or services are needed for the small employer to operate at a minimal capacity.

Only applies to those employees that meet the criteria above.

Small Business Exemption

- Employer must document the facts and circumstances that meet the criteria listed in previous slide

- Not required to send any documents to Department of Labor but must have the documents on file in event of audit or request for documents.

- Posting of FFCRA Notice is still required even if an exemption is being taken.
Documentation - employee

- The employee’s name
- The date or dates for which leave is requested
- A statement for the COVID19 related reason the employee is requesting leave and written support for such reason
- A statement that the employee is unable to work, including telework.
- In the case of a leave request based on a quarantine order or self-quarantine advice, the statement from the employee should include the name of the governmental entity ordering quarantine or the name of health care professional advising quarantine.
- In the case of school or childcare provider closing due to COVID19 reasons, the statement must include the name and age of child, the name of the school or provider closed and a statement from employee that no other person will be providing care during the paid period.

Documentation - business

- Must maintain records for at least four years of the following
  - The documentation listed in previous slide for employee
  - Documentation that shows how the employer determined the amount of qualified sick and family leave wages paid
  - Documentation that shows how the employer determined the amount of qualified health plan expenses
  - Copies of all completed form 7200
  - Copies of all Form 941 for covered period
Other Questions

• Q. Dates of coverage
  • April 1 to December 31, 2020
• Q. Can an employer receive tax credits for qualified leave wages and the employee retention credit.
  • Yes, but not for the same wages
• Q. Can you receive the credit for qualified leave wages and a PPP loan
  • Yes, but not for the same wages
• Q. Can you receive the credit for qualified leave wages and an EIDL Loan
  • Yes, but not for the same wages
• Q. Can I reduce the amount of 941 payments to pay for the payment for requirements under these programs
  • Yes, but no more than the amount of the credit
• Q. Is the qualified sick and family leave wages taxable to employee
  • Yes, income tax, social security and Medicare taxes

Other Questions

• Q. Is the tax credit taxable to the business that receives the credit
  • Yes, the credit must be added in as income, but the expenses that are associated with the credit are deductible.
• Q. If my company uses a third-party payroll service, or a PEO, can I still claim the credit.
  • Yes, if a PEO you need to check with them.
• Q. Can a tax-exempt organization receive the credit
  • Yes, as long as they are paying individuals as employees and filing form 941.
Employee Retention Credits

- Can only be taken if
  - Your business fully or partially suspended operation during any calendar quarter in 2020 due to orders from government authority limiting commerce, travel or group meetings due to COVID19.
  - or Experienced a significant decline in gross receipts during the calendar quarter of more than 50%
Employee Retention Credits

- Not available if:
  - Business has received a PPP loan
  - Is self-employed
  - Voluntarily shut down or reduced hours (could be eligible under the 50% rule)

Employee Retention Credits

- Qualified wages paid between March 12 and January 1, 2020.
- 50% credit of qualified wages
- Maximum amount of wages for entire program per employee is $10,000.
- Maximum credit for entire program per employee is $5,000.
Employee Retention Credits

- Can continue to file for credit as long as business is still closed, or partially closed due to governmental restrictions, or
- Business dropped below 50% has not returned to 80% of gross receipts (compared to 2019) for an entire quarter.

Employee Retention Credits

- Includes qualified health plan expenses
- Not limited to size of business
- Tax exempt organizations are eligible
- Wages paid to employees who are related to owner of 50% or more can not take credit
- Employee and Employer Medicare & Social Security are owed.
- Small businesses less than 100 employees can take the credit whether the employees are working or not.
Employee Retention Credits

• Credit is taken just like the Employee Sick Leave
  • Taken on 941
  • Taken by filing form 7200

• Taxability of credit
  • Not included in Income for business
  • Business cannot take deductions for expenses