



TaxNewsFlash

United States



No. 2020-292
May 5, 2020

Employer retention credit can be claimed if Paycheck Protection Program (PPP) loan repaid by May 7 (COVID-19)

The IRS has updated a list of “frequently asked questions” (FAQs) concerning the employee retention credit. According to an updated FAQ, employers that received a loan under the Paycheck Protection Program (PPP) but opt to repay the loan by the Small Business Administration’s May 7, 2020 deadline may claim the employee retention credit after repaying the PPP loan.

Read the IRS [FAQ 80](#) (updated May 4, 2020). Text of FAQ 80 is provided below.

The PPP is one of two programs to provide approximately \$900 billion to support lending to both small and large businesses under measures enacted by the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) (Pub. L. No. 116-136).

The employee retention credit, also part of the CARES Act, is a refundable payroll credit equal to 50% of qualified wages paid by eligible employers whose business has been affected by COVID-19. Qualified wages are limited to \$10,000 of compensation, including health benefits, paid to each employee. Thus, the maximum credit is \$5,000 (50% x \$10,000) per employee.

An employer cannot claim the employee retention credit if the employer receives a PPP loan.

Text of FAQ 80

80. Is an employer that repays its Paycheck Protection Program (PPP) loan by May 7, 2020, eligible for the Employee Retention Credit? (updated May 4, 2020)

Yes. An employer that applied for a PPP loan, received payment, and repays the loan by May 7, 2020 (in accordance with the Limited Safe Harbor With Respect to Certification Concerning Need for PPP Loan Request in the Interim Final Rules issued by the Small Business Administration effective on April 28, 2020) will be treated as though the employer had not received a covered loan under the PPP for purposes of the Employee Retention Credit. Therefore, the employer will be eligible for the credit if the employer is otherwise an Eligible Employer. For more information, see <https://home.treasury.gov/system/files/136/Interim-Final-Rule-on-Requirements-for-Promissory-Notes-Authorizations-Affiliation-and-Eligibility.pdf>.

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