

Paycheck Security Act Summary

The Paycheck Security Act would help keep workers attached to their jobs by leveraging the Employee Retention Tax Credit (ERTC) as the delivery mechanism to secure the paychecks and benefits of workers throughout the country and provide small businesses with the financial assistance they need to cover fixed operating costs over the next six months. The bill provides businesses experiencing significant financial hardship as a result of the virus with a refundable tax credit big enough to rehire and pay laid off and furloughed workers up to \$90,000 per year, including health care benefits. It will also provide small and mid-sized businesses with the funds they need to pay for rent, mortgages, utilities and other operating costs until they can reopen safely and sales begin to recover.

Paycheck Security Credit

The Employee Retention Tax Credit (ERTC) will be substantially expanded to cover the wages, salaries and health care benefits of laid off or furloughed workers for employers who have experienced at least a 15 percent drop in gross receipts compared to the same quarter in 2019. This credit will be advanceable, refundable, and credited against payroll tax obligations.

- The credit will cover wages, salaries, and health benefits up to \$90,000 annualized per furloughed or laid off employee.
 - Employers with a 20 percent or more drop in gross receipts will be eligible for 100 percent of the credit.
 - Employers with a 15-20 percent drop in gross receipts will be eligible for a portion of the credit, phased in to 100 percent.
- Businesses, nonprofits, states, and municipalities of all sizes are eligible for this credit.
- Employers with fewer than 100 employees may also claim the existing 50 percent ERTC for active employees.
- The following employers are ineligible for this credit:
 - Businesses in Chapter 7 bankruptcy;
 - Businesses owned by the President, Members of Congress, Cabinet secretaries, or their family members;
 - Businesses with more than \$1 billion in gross receipts AND more than 18 months of payroll on hand in cash or cash equivalents.

Interaction with Pandemic Unemployment Insurance

When workers are rehired and paid through this credit, they will be eligible to receive the greater of:

- \$600 per week, or
- the wages they would have been paid previously.

Employer Notification

Employers taking this credit must notify their employees by posting a notice on their website or in their workplaces.

Credit for Employer Operating Expenses

Employers with less than \$41.5 million in gross receipts in 2019 are also eligible for a refundable credit to cover fixed operating costs such as rent, mortgages, utilities, maintenance, inventory, and debt service.

- Employers may claim a credit of five percent of 2019 gross receipts, up to \$500,000 per quarter.
- This credit will be phased in as with the Paycheck Security Credit, with employers experiencing more than a 15 percent drop in gross receipts eligible for a portion of the credit and employers experiencing a 20 percent or more drop in gross receipts eligible for 100 percent of the credit.
- The credit for operating expenses is fully taxable.

Small Business Rebate

Sole proprietors with no payroll tax obligations and certain small firms are eligible for a small business rebate, credited against income tax obligations.

- Qualified C corporations, nonprofits, or individuals with less than \$1 million in gross profits in 2019 are eligible for an advanced 2020 income tax credit equal to 30 percent of 2019 gross profits, up to \$75,000.
- This credit will be an automatic rebate based on previously-filed tax information, requiring no additional tax filing for the majority of eligible businesses.
- This credit will be phased out for individuals with incomes above \$100,000 (\$200,000 for households filing jointly).

Restrictions

The credits will be subject to recapture by the IRS if an eligible employer takes any of the following actions in the year following taking the credit:

- Public corporations repurchasing their own stock or otherwise distributing capital, including through a dividend;
- Abrogating a collective bargaining agreement or not remaining neutral in a union organizing effort;
- Paying executives or officers more than 50 times the median employee salary.

Administration

The Internal Revenue Service (IRS) will administer this program, in consultation with the Secretary of Treasury and the Secretary of Labor.

- \$1 billion will be appropriated to administer the program, with such sums necessary to carry it out.
- The Treasury Inspector General for Tax Administration (TIGTA) will oversee this program and will be required to make a report to Congress within 60 days of enactment.
 - The names of businesses receiving funds through this credit will be made public.
- The IRS will prioritize applications from employers with fewer than 100 employees.
- All businesses with more than \$1 billion in gross receipts who take the credits in this program will receive priority audits.

- After five months, the Government Accountability Office will provide a report of effectiveness of the program and recommendations regarding how to either extend the program or help transition workers after the expiration of this program.

Duration

This program will expire after December 31st, 2020. Employers will be eligible for no more than two consecutive quarters of these credits.