

CARES Act: Calculating Qualified Health Plan Expenses for Purposes of the Employee Retention Credit

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Under the CARES Act, employers are eligible to claim an employee retention credit if certain conditions are met (see our prior blog post on the employee retention credit, as well as other employee benefits and executive compensation changes made by the CARES Act, [here](#)). The tax credit is equal to 50% of “qualified wages” paid to employees of up to \$10,000. Qualified wages include (i) wages actually paid to covered employees (other than qualified paid sick and family leave wages for which a credit is allowed under the Families First Coronavirus Response Act) and (ii) the “qualified health plan expenses” allocable to such employees. On May 11, 2020, the IRS published new FAQs clarifying how qualified health plan expenses should be calculated for purposes of the employee retention credit. Notably, the FAQs provide guidance on how to calculate such expenses when an employer sponsors more than one health plan (e.g., a group health plan and a health FSA), a plan is fully-insured, and a plan is self-funded. In addition, the FAQs state that qualified health plan expenses (i) may include contributions to an HRA or a health FSA but (ii) do not include contributions to a QSEHRA or employer contributions to HSAs or Archer MSAs. The FAQs are available [here](#).