Capture new family leave credit

The Tax Cuts and Jobs Act (TCJA) provides a new tax break to businesses that give workers time off for family matters.

Strategy: Set up a written family and medical leave program. As long as certain requirements are met, your business can claim a tax credit for up to 25% of the wages paid to employees while out on leave for up to 12 weeks.

The IRS has spelled out the key rules in new Tax Tip 2018-69 at www.irs.gov/newsroom/how-the-employer-credit-for-family-and-medical-leave-benefits-employers.

Here's the whole story: Generally, employers with 50 or more employees are required to provide unpaid leave to workers for family or medical leaves. But there's no requirement to pay workers while they are away from the job. Under the TCJA, the new credit is available to employers of all sizes who pay workers while on family or medical leave.

For purposes of the credit, a "family and medical leave" occurs for one or more of the following reasons:

- Birth of an employee's child and to care for the newborn.
- Placement of a child with the employee for adoption or foster care.
- To care for the employee's spouse, child or parent who has a serious health condition.
- A serious health condition that makes the employee unable to perform the functions of his or her position.
- Any qualifying event due to an employee's spouse, child, or parent being on covered active duty—or being called to duty—in the armed forces.
- To care for a service member who is the employee's spouse, child, parent or next of kin.

To qualify for the credit, your business must provide a leave of at least two weeks of paid leave at a rate of at least 50% of regular earnings. The credit percentage ranges from 12.5% to 25%, depending on the level of pay.

Example: An employee is normally paid $25 an hour and works 40 hours a week for a weekly total of $1,000. If you pay her the minimum 50% of wages while she is out on a 10-week leave, the credit equals 12.5% of $5,000 of paid leave, or $625. If the worker is paid 60% of her regular wages, the credit is 15% of $6,000, or $900. And, if you pay the worker's full regular salary, your business is entitled to the maximum credit equal to 25% of $10,000, or $2,500.

However, there's a kicker. The credit is available only for wages paid to workers employed at the company for at least a year who are paid no more than $72,000 annually. This limit will be adjusted for inflation in future years.

Family and medical leaves must be offered to both full-time and part-time workers who have been with the employer for more than one year. Otherwise, you can't claim any credit. Also, you must establish a formal written policy regarding such leaves.

Furthermore, "double dipping" isn't allowed. In other words, if you claim the credit, you can't deduct the amount of wages equal to the credit.

7600 Leesburg Pike, Suite 300, Falls Church, VA 22043-2004 (800) 543-2002

Finally, be aware that the new family and medical credit has a short shelf life. Under the TCJA, it’s scheduled to expire after 2019.

Tip: If it proves to be popular, Congress might extend the credit.

7600 Leesburg Pike, Suite 300, Falls Church, VA 22043-2004 (800) 543-2002