

Tax Alerts

California Small Business Hiring Credit is Re-enacted and Expanded for 2021

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July 20, 2021

On July 16, 2021, Governor Newsom signed Assembly Bill 150 into law, which contained a number of tax relief provisions. This Alert is focused on the re-enactment and expansion of the California Small Business Hiring Credit.

Credit Overview

The California Small Business Hiring Credit provides qualified small business owners a \$1,000 tax credit for each net increase in its number of qualified employees, not to exceed a maximum \$150,000 total credit for any employer. If claimed against California corporate or personal income tax, the credit may only be claimed on a timely-filed original return. Any unused credits against the corporate or personal income tax have a five-year carryforward period. The qualified small business may make an irrevocable election to claim the credit against sales tax liability.

The newly enacted and expanded credit is effective for corporate and personal income tax (for tax years beginning on or after January 1, 2021, and before January 1, 2022) or sales and use taxes (for periods beginning Q1 2022 through April 30, 2027). The program total for this tax credit (i.e., available funds) is \$70 million, plus any unallocated and available amounts remaining from the prior year's credit allocation. In its re-enactment and expansion, the Assembly made the Small Business Hiring Credit available to a larger group of employers by increasing the number of qualified employees a qualified small business employer can have from 100 to 500, and by lowering the gross receipts reduction requirement for the small business employer from 50 percent to 20 percent. A comparison chart between the prior version of the credit and the newly re-enacted credit is below:

Qualified Small Business Requirements	2020 Credit (Prior Law)	2021 Credit (Current Law)
Number of qualified employees	100 or fewer	500 or fewer
Gross receipts reduction	50% reduction in quarterly gross receipts for Q2 2020 compared to Q2 2019	20% reduction in annual gross receipts for 2020 as compared to 2019
Maximum credit permitted	\$100,000	\$150,000
Program funds allotted	\$100 million	\$70 million, plus any unallocated amounts from the 2020 credit

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Qualified Small Business Employer

For the 2021 credit, a “qualified small business employer” means a taxpayer that:

- ▶ Employed 500 or fewer qualified employees as of December 31, 2020;
- ▶ Experienced a qualifying 20 percent decrease in annual gross receipts for 2020 as compared to 2019, with fiscal year filers making a similar fiscal year comparison; and
- ▶ Is not required to be included in a combined report under Cal. Rev. & Tax. Code §25101 or §25110 or is authorized to be included in a combined report under Cal. Rev. & Tax Code §25101.15
- ▶ All employees or trades or businesses that are treated as related under Section 267, 318, or 707 of the Internal Revenue Code are treated as being employed by a single qualified small business employer

Net Increase in Qualified Employees

The net increase in qualified employees of a small business employer is determined by the net increase in the average monthly full-time equivalent qualified employees using the lesser of either:

- ▶ The average monthly full-time equivalent qualified employees employed during the 12-month period from July 1, 2020 through June 30, 2021, or
- ▶ The average monthly full-time equivalent qualified employees employed during the 3-month period from April 1, 2021 through June 30, 2021

Whichever of the above periods yields the lesser number is compared to the average monthly equivalent qualified employees employed during the 3-month period from April 1, 2020 through June 30, 2020. Both full-time and part-time salaried and hourly employees may be included in the computation of qualified full-time equivalent employees. For purposes of this credit, a “qualified employee” cannot include an employee whose wages are included in calculating any other credit provided under the California personal income tax code (Part 10, of Division 2, of the California Revenue and Taxation Code).

Credit Application Process

For the 2021 credit, qualified small business employers are required to submit an application to the California Department of Tax and Fee administration (CDTFA) between November 1, 2021 and November 30, 2021, or an earlier ending date determined by CDTFA when the maximum cumulative total allocation is reached. The CDTFA will allocate a tentative credit reservation amount on a first-come, first-served basis. The CDTFA will notify the applicant of the tentative credit reservation amount within 30 days after the application is received. The qualified small business employer cannot claim the credit against income tax or through the election to claim against sales tax liability without receiving the tentative credit reservation.

Next Steps

While the requirements for this state credit are different from the federal Employee Retention payroll tax credit, there is some overlap in terms of the employer size requirements and reduction in gross receipts requirements. Businesses that have taken advantage of the federal credit should determine if they've added employees during 2021 to see if they are eligible for the California Small Business Hiring Credit.

If you think this credit might be applicable to your business, please contact one of the HCVT State & Local Tax professionals listed below:

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