

(3) regulations or other guidance providing for waiver of penalties for failure to deposit amounts in anticipation of the allowance of the credit allowed under this section,

(4) regulations or other guidance for recapturing the benefit of credits determined under this section in cases where there is a subsequent adjustment to the credit determined under subsection (a),

(5) regulations or other guidance to ensure that the wages taken into account under this section conform with the paid leave required to be provided under the Emergency Family and Medical Leave Expansion Act (including the amendments made by such Act),

(6) regulations or other guidance to permit the advancement of the credit determined under subsection (a), and

(7) regulations or other guidance with respect to the allocation, reporting, and substantiation of collectively bargained defined benefit pension plan contributions and collectively bargained apprenticeship program contributions.

(h) Application of section

This section shall apply only to wages paid with respect to the period beginning on April 1, 2021, and ending on September 30, 2021.

(i) Treatment of deposits

The Secretary shall waive any penalty under section 6656 for any failure to make a deposit of applicable employment taxes if the Secretary determines that such failure was due to the anticipation of the credit allowed under this section.

(j) Non-discrimination requirement

No credit shall be allowed under this section to any employer for any calendar quarter if such employer, with respect to the availability of the provision of qualified family leave wages to which this section otherwise applies for such calendar quarter, discriminates in favor of highly compensated employees (within the meaning of section 414(q)), full-time employees, or employees on the basis of employment tenure with such employer.

(Added Pub. L. 117-2, title IX, §9641(a), Mar. 11, 2021, 135 Stat. 166.)

Editorial Notes

REFERENCES IN TEXT

The Emergency Family and Medical Leave Expansion Act and such Act, referred to in subsecs. (c)(1), (2)(B) and (g)(5), is div. C of Pub. L. 116-127, Mar. 18, 2020, 134 Stat. 189. For complete classification of this Act to the Code, see Short Title of 2020 Amendment note set out under section 2601 of Title 29, Labor, and Tables.

The Family and Medical Leave Act of 1993 and such Act, referred to in subsec. (c)(2), is Pub. L. 103-3, Feb. 5, 1993, 107 Stat. 6, which enacted chapter 28 (§2601 et seq.) of Title 29, Labor, sections 60m and 60n of Title 2, The Congress, and sections 6381 to 6387 of Title 5, Government Organization and Employees, amended section 2105 of Title 5, and enacted provisions set out as notes under section 2601 of Title 29. Sections 102, 105, and 110 of the Act are classified to sections 2612, 2615, and 2620, respectively, of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

Section 5102(a) of the Families First Coronavirus Response Act, referred to in subsec. (c)(2)(A)(i), is section

5102(a) of Pub. L. 116-127, which is set out in a note under section 2601 of Title 29, Labor.

Section 2301 of the CARES Act, referred to in subsec. (f)(3), is section 2301 of title II of div. A of Pub. L. 116-136, which is set out as a note under section 3111 of this title.

Section 7 of the Small Business Act, referred to in subsec. (f)(7)(A)(i), (B), is classified to section 636 of Title 15, Commerce and Trade.

Section 7A of the Small Business Act, referred to in subsec. (f)(7)(A)(i), (B), is classified to section 636m of Title 15, Commerce and Trade.

Section 324 of the Economic Aid to Hard-Hit Small Businesses, Non-Profits, and Venues Act, referred to in subsec. (f)(7)(A)(ii), is classified to section 9009a of Title 15, Commerce and Trade.

Section 5003 of the American Rescue Plan Act of 2021, referred to in subsec. (f)(7)(A)(iii), is classified to section 9009c of Title 15, Commerce and Trade.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to amounts paid with respect to calendar quarters beginning after Mar. 31, 2021, see section 9641(d) of Pub. L. 117-2, set out as a note under section 3131 of this title.

§ 3133. Special rule related to tax on employers

(a) In general

The credit allowed by section 3131 and the credit allowed by section 3132 shall each be increased by the amount of the taxes imposed by subsections (a) and (b) of section 3111 and section 3221(a) on qualified sick leave wages, or qualified family leave wages, for which credit is allowed under such section 3131 or 3132 (respectively).

(b) Denial of double benefit

For denial of double benefit with respect to the credit increase under subsection (a), see sections 3131(f)(3) and 3132(f)(3).

(Added Pub. L. 117-2, title IX, §9641(a), Mar. 11, 2021, 135 Stat. 171.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable to amounts paid with respect to calendar quarters beginning after Mar. 31, 2021, see section 9641(d) of Pub. L. 117-2, set out as a note under section 3131 of this title.

§ 3134. Employee retention credit for employers subject to closure due to COVID-19

(a) In general

In the case of an eligible employer, there shall be allowed as a credit against applicable employment taxes for each calendar quarter an amount equal to 70 percent of the qualified wages with respect to each employee of such employer for such calendar quarter.

(b) Limitations and refundability

(1) In general

(A) Wages taken into account

The amount of qualified wages with respect to any employee which may be taken into account under subsection (a) by the eligible employer for any calendar quarter shall not exceed \$10,000.