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The legislation allows an additional payroll research tax credit of up to \$250,000 against the legislation allows an additional payroll research tax credit of up to \$250,000 against Medicare Hospital Insurance tax ...

Aug. 18, 2022



**By Christopher Wood, CPP.**

The IRS may need to revise certain employment tax reporting forms, and the forms

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Hikes Act” (PATH Act, [P.L. 114-113](#), Division Q) was signed into law.

The PATH Act also allowed qualified small businesses to apply the research tax credits against the employer's share Social Security tax owed for each employee. Both employers and employees pay a 6.2% Social Security tax up to the annual taxable wage base (\$147,000 in 2022).

## Qualifying for the credit.

A qualified small business (QSB) is defined as a corporation (including an S corporation) or partnership with: (1) gross receipts of less than \$5 million for the tax year and o(2) no gross receipts for any tax year before the five-tax-year period ending with the tax year. Any other individual may be considered a QSB if the individual meets both of these requirements, taking into account the aggregate gross receipts received in all the trades or businesses.

## Claiming and reporting the credit.

The election and determination of the credit amount that is to be used against the employer share of Social Security tax are made on [Form 6765](#) (Credit for Increasing Research Activities). The amount from Form 6765, line 44, must then be reported on [Form 8974](#) (Qualified Small Business Payroll Tax Credit for Increasing Research Activities).

Form 8974 is used to determine the amount of the credit that can be used in the current quarter. The amount from Form 8974, line 12, is reported on [Form 941](#) (Employer's Quarterly Federal Tax Return), line 11a. If an employer is claiming the research payroll tax credit on Form 941, it must attach Form 8974 to that Form 941.

If an employer files [Form 944](#) (Employer's Annual Federal Tax Return), it reports the

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can carry forward any unused amount to the next quarter. If, in the next quarter, the amount carried over from the first quarter cannot be fully used, then the employer can carry forward any unused amount to subsequent quarters.

## Increasing the credit.

On August 16, 2022, President Biden signed the \$730 billion Inflation Reduction Act into law. Section 13902 of the legislation allows an additional payroll research tax credit of up to \$250,000 against Medicare Hospital Insurance tax for taxable years beginning after December 31, 2022. The credit may not exceed the tax imposed for any calendar quarter, with unused amounts of the credit carried forward.

The reasoning for the increase in the credit is explained in the [August 10, 2022 version](#) of the Congressional Research Service (CRS) report of the tax provisions of H.R. 5376, which notes that some small businesses may not have a large enough income tax liability to take advantage of the research credit.

## IRS form revisions expected.

During the height of the coronavirus (COVID-19) pandemic, federal legislation provided for a number of tax credits to help employers and employees during the health emergency. The IRS needed to revise a number of common payroll forms so employers could report these credits, including Form 941.

Following the signing of H.R. 5376 into law, the IRS may once again need to revise Form 941, 943 and 944 and their instructions. The Service may also need to revise Form 6755, 8974, and their instructions.

Since the PATH Act was signed into law, QSBs apply the credit against their share of Social Security tax. The Inflation Reduction Act's increase in the credit allows QSBs

to apply the credit against their share of Medicare tax. There may need to be a way to

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claiming and reporting the new increase.

## Comments from the Commissioner.

On August 16, 2022, the IRS posted a statement from Commissioner Chuck Rettig on the signing of the Inflation Reduction Act, where he noted how funds from the bill will help provide the Service with more resources. Some \$45.6 billion in funds from the bill are to be used for stricter enforcement of tax compliance by the IRS.

Rettig noted that, “The Act also includes a wide range of tax law changes that we will have to implement very quickly.” The Commissioner’s statement did not specifically say if that involves any of the forms used in claiming and reporting the payroll research tax credit. In response to a specific request for comment on any payroll research tax credit form revisions, a spokesperson for the IRS pointed *Thomson Reuters Checkpoint* to the parts of the Commissioner’s statement dealing with implementation.

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[Christopher Wood, CPP](#) is an author/editor at Thomson Reuters Checkpoint for payroll related content since June 2006. He writes articles for the daily Checkpoint Payroll Updates and maintains/updates content in the Checkpoint Payroll Library, which covers a number of publications, including the Checkpoint Payroll Guide.

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