

PLAN STARTUP CREDIT

The SECURE Act was passed into law in late 2019 and substantially enhanced the tax credits available to help with plan start-up costs beginning in 2020. SECURE 2.0, passed in December 2022, further increases the tax credit available for small employers, effective in 2023.

Originally, any employer with 100 or fewer employees could claim a credit of up to 50% of the plan's start-up costs or expenses, limited to \$5,000, for three years. This still applies for employers with over 50 employees, but now, employers with 50 or fewer employees can claim a credit of up to 100% of these expenses. The credit is limited to the lesser of \$5,000, or the greater of \$250 per non-highly compensated employee or \$500, for each of the first three years.

Plan expenses can include any cost associated with the establishment or administration of the plan in these first few years, including costs for employee education. An owner-only plan is not able to claim the tax credit, as at least one non-highly compensated employee must be eligible for the plan.

Number of non-highly compensated employees	Start-up and plan administration fees year 1*	Available credit year 1 (credit determined yearly for 3 years)
1	\$1,200	\$500
10	\$1,800	\$1,800
36	\$6,000	\$5,000
50	\$2,200	\$2,200
72	\$2,500	\$1,250
85	\$10,500	\$5,000
100	\$3,600	\$1,800

*Fee amounts shown are for example purposes only and do not represent actual fees or fee patterns.

EMPLOYER CONTRIBUTION CREDIT

Thanks to SECURE 2.0, small businesses can receive additional tax credits on startup retirement plans based on the contributions they make to employees.

To be eligible to receive an employer contribution tax credit, businesses must:

- Have fewer than 100 employees
- Have a new defined contribution plan and no other plan covering substantially the same employees in the prior three years
- Provide an employer contribution in a defined contribution plan (includes 401(k), SEP, and SIMPLE plans)





The amount of the credit is equal to the amount of all employer contributions made to employees who made no more than \$100,000 in the prior year. A credit is available for the first five years after establishment of the plan but decreases by percentage over time. The credit is equal to 100% of contributions in the first two years, 75% in the third, 50% in the fourth, and 25% in the fifth.

In any year, the most the credit can be is \$1,000 for any employee, or the available percentage of the contribution, whichever is less. For example, if an employee receives a \$2,000 contribution in year three, the credit for that employee's contribution is \$1,000, as that is less than 75% of the contribution. If the employee's contribution is \$800 in year three, the credit is \$600 (75% of the contribution).

For businesses with 51-100 employees, the amount of the credit is phased-out as the number of employees increases. The percentage for the applicable year is reduced by 2% for each employee in excess of 50.

The tax credit is nonrefundable. Therefore, it cannot be claimed by a tax-exempt organization.

AUTOMATIC ENROLLMENT CREDIT

Implemented by the original SECURE Act, employers with no more than 100 employees earning \$5,000 or more annually are eligible for a \$500 tax credit each of the first three years a plan offers an Eligible Automatic Contribution Arrangement (EACA). This credit is available regardless of the plan's expenses.

MILITARY SPOUSE CREDIT

Also implemented by the SECURE Act, employers with 100 or fewer employees earning \$5,000 or more annually can receive a tax credit of \$200 for each military spouse they include in the plan. Additionally, employers can earn a credit of up to \$300 based on employer contributions made to each military spouse. These credits are available for the first three years in which the military spouse participates in the plan. The employee must be married to someone who is serving on active duty in the uniformed services and must become eligible to participate in the plan within the first two months of their hire date. Employer contributions to military spouses are 100% vested.

SUMMARY

Between the SECURE Act and SECURE 2.0, small business owners are eligible for significant tax credits over the course of the first few years of their retirement plan! Tax credits are claimed by filing IRS Form 8881 with your business income tax return. Please consult with your tax accountant.