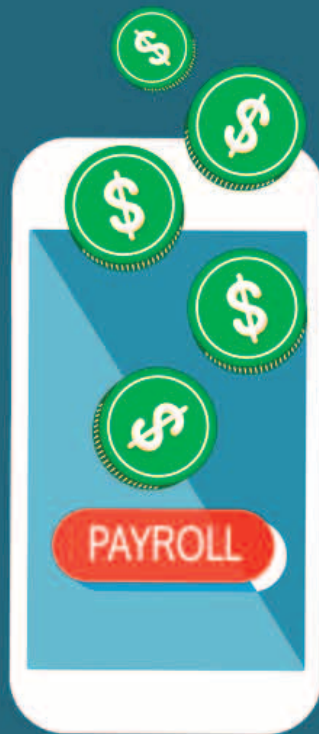


# A GUIDE TO EMPLOYEE RETENTION CREDIT (ERC)





# Background Information on the Employee Retention Credit (ERC)

## Background Information on the Employee Retention Credit (ERC)

In response to the COVID-19 pandemic, four payroll tax relief programs for employers were introduced via the **Coronavirus Aid, Relief, and Economic Security Act (CARES Act)** and the **Families First Coronavirus Response Act (FFCRA)** in the spring of 2020 and later expanded in the **Consolidated Appropriations Act, 2021 (CAA)** passed in late December 2020. These programs provide a tax deferral or tax credit against employer payroll costs (i.e. the employer portion of certain payroll taxes) attributable to certain wages paid to employees. Eligible employers may qualify for one or more of the following four programs: (1) payroll tax deferral, (2) employee retention credit (ERC), (3) paid sick leave credit or (4) paid family leave credit. The tax deferral and credits are reportable on an employer's Form 941, Employer's Quarterly Federal Tax Return, starting with the second calendar quarter of 2020.

The ERC under the CARES Act gives employers a payroll tax credit for certain wages and health plan expenses paid while an employer is experiencing an economic hardship due to COVID-19. Eligibility for the employee retention credit was originally not available for PPP borrowers, but the CAA retroactively changed that so that wages not used for PPP loan forgiveness may still be used for the ERC. The CAA basically creates two separate versions of the ERC, one for 2020 and one for 2021. In 2020, it entitled employers to a credit worth 50% of the qualified wages of employees. But in 2021, this amount has been increased to 70%. The American Rescue Plan Act of 2021 extended and expanded the Employee Retention Credit (ERC) through December 31, 2021.

**If your business needs more cash flow, an Employee Retention Credit (ERC) may be a good resource!**



### Answer these questions to see if you may qualify for the ERC:

- » Was your business fully or partially shut down due to an order from a governmental authority as a result of COVID-19?
- » Did your business have a reduction in gross receipts of at least 50% (2020) or 20% (2021) when comparing quarter to quarter of prior year?
  - » For 2021, you can use immediate preceding quarter; Q4 2020 vs. Q4 2019

***Employer size doesn't matter for eligibility, but does matter for calculation (100 FTE threshold in 2020, 500 FTE threshold in 2021)***



# Key Provisions of the ERC

Below is a summary of key provisions of the credit, comparing the original and the new law. This credit used to be not available if a company took a PPP loan, but that is no longer the case. In other words, you can claim both the ERC and receive a PPP loan as long as you do not use the same wages to qualify for both benefits. The Consolidated Appropriations Act, 2021 also changes the maximum amount of qualified wages per employee to \$10,000 per quarter, which previously was \$10,000 per employee per calendar year. In our opinion, with both the 2020 and 2021 changes to this credit, it will become a bigger piece of the liquidity solutions for businesses.

## CARES ACT

## CONSOLIDATED APPROPRIATIONS ACT, 2021

### Time Period Credit is Available

Qualified wages paid after March 12, 2020 to December 31, 2020

Qualified wages paid January 1, 2021 to December 31, 2021 (credit computed for each quarter)

### Eligibility Requirements

Businesses with operations that were either fully or partially suspended by a COVID-19 governmental order and only during the period the order is in force; or

Gross receipts were less than 50% of gross receipts for the same quarter in 2019 until such quarter as gross receipts are 80% of same quarter in 2019.

Businesses that were not in existence in 2019 could use a comparison to 2020 for purposes of the credit.

Beginning January 1, 2021, the credit will be available to businesses with operations that are either fully or partially suspended by a COVID-19 governmental order and only during the period the order is in force; or

Gross receipts are less than 80% of gross receipts for the same quarter in 2019.

Lookback Provisions for Gross Receipts: Look back to the preceding quarter to meet qualification criteria

### Percentage of Wages

Wages paid after March 12, 2020, and before January 1, 2021

The credit is 50% of the qualified wages paid to an employee, plus the cost to continue providing health benefits to the employee.

Beginning January 1, 2021 and through December 31, 2021, the credit is 70% of qualified wages, plus the cost to continue providing health benefits to the employee.

# Key Provisions of the ERC (Cont'd.)

## CARES ACT

### Maximum Credit Amount per Employee

Annual cap of \$5,000 aggregate (\$10,000 in qualified wages x 50%).

### How Does It Work?

The credit was 50% of the qualified wages paid (after 03-12-20) to an employee, plus the cost to continue providing health benefits to the employee

Eligible quarters must be determined

Maximum credit = \$5,000 per employee in 2020

### How to Claim the Credit

Filed through quarterly or annual Form 941/943

Could file through Form 7200

Credit can be retroactively claimed via adjusted Forms 941-X for the applicable 2020 quarter in which qualified wages were paid up to 3 years after the original filing deadline.

### Employer Size

A company with 100 or fewer employees was eligible for the credit, even if the employee was working. Employer size does not matter for eligibility, but does matter for calculation (100 FTE threshold)

## CONSOLIDATED APPROPRIATIONS ACT, 2021

Beginning January 1, 2021, the cap is increased to \$7,000 per employee per quarter

The 2021 credit is available even if the employer received the \$5,000 maximum credit for wages paid to such employee in 2020.

Beginning January 1, 2021, the credit is 70% of qualified wages, plus the cost to continue providing health benefits to the employee

Eligible quarters must be determined

Maximum credit = \$7,000 per employee per quarter in 2021

Filed through quarterly or annual Form 941/943

If the employer's employment tax deposits are not sufficient to cover the credit, a small employer may receive an advance payment from the IRS by submitting Form 7200, Advance Payment of Employer Credits due to COVID-19.

Beginning January 1, 2021, the threshold increases to 500.

An employer with 500 or fewer employees will be eligible for the credit, even if employees are working. Employer size does not matter for eligibility, but does matter for calculation (500 FTE threshold)

# Key Provisions of the ERC (Cont'd.)

## CARES ACT

### PPP Loan Interplay

Prior to December 27, 2020, if a business received a PPP loan, ineligible for ERC.

This has been REPEALED.

## CONSOLIDATED APPROPRIATIONS ACT, 2021

This change is retroactive to the effective date under the original law for wages paid after March 12, 2020.

A company that received or receives a PPP loan is no longer prohibited from claiming the employee retention tax credit.

The credit, however, may not be claimed for wages paid with the proceeds of a PPP loan that have been forgiven.

## What are the next steps considering ERC/PPP Interplay?

- » Determine business eligibility for the credit. Documenting which wages you are applying to each program is critical.
- » If ineligible, proceed with applying for PPP Loan Forgiveness
- » If eligible, calculate amount eligible for ERC
- » Allocate remaining eligible payroll expenses to PPP Forgiveness
- » You'll want to talk with your accountant/CPA to determine your specific calculation.

## What additional guidance are we waiting on?

- » We are still waiting for guidance on if owners, spouses, and family members wages can be included in the ERC.

**NOTE:** This brief summary of the Employee Retention Credit (ERC) is provided for your information. Any major financial decisions or tax-planning activities should be considered with the advice of your tax/CPA professional. Call us at (888) 388-1040 if you have questions regarding your particular situation. Feel free to share this information with those you think may benefit from it.

### Resources:

<https://www.irs.gov/pub/irs-drop/n-21-23.pdf> (*Guidance on the Employee Retention Credit under the CARES Act for the First and Second Calendar Quarters of 2021*)

<https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act> (*Frequently Asked Questions*)

# ERC Examples

## 2020 Example of Qualifying Quarters Using Gross Receipts Test

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
<b>2019</b>	\$120,000	\$125,000	\$130,000	\$125,000
<b>2020</b>	\$115,000	\$55,000	\$95,000	\$115,000
<b>% of 2019 gross receipts</b>	96%	44%	73%	92%
<b>Eligible</b>	NO	YES	YES	YES*

Eligible first quarter <50% until succeeding quarter >80%

\*Qualifies as preceding quarter didn't exceed 80%

Again, the credit for ERC 2021 is 70% of qualified wages, capped at \$10,000 in qualified wages per quarter (so the maximum credit is \$7,000 per employee, per quarter or \$14,000 total). This sample business is for ERC 2021 program.

Employee	Wages Q1	Wages Q2	Total Wages Paid
1	\$3,000	\$6,000	\$9,000
2	\$8,000	\$7,000	\$15,000
3	\$10,000	\$10,000	\$20,000

Again, the credit for ERC 2021 is 70% of qualified wages, capped at \$10,000 in qualified wages per quarter (so the maximum credit is \$7,000 per employee, per quarter or \$14,000 total).

Employee	Total Wages Paid	Credit
1	\$9,000	\$6,300
2	\$15,000	\$10,500
3	\$20,000	\$14,000

Using the chart above, you'll see that the credit in our example is \$30,800. No employees were capped in this example.

**The goal of this guide is to help businesses to be informed about the Employee Retention Credit (ERC) and how they interplay with Paycheck Protection Program (PPP) loan forgiveness. Please visit with your accountant/CPA to determine if your business is eligible for the credit, how they interplay with PPP Loan Forgiveness, and how to receive the ETC.**

## **Questions? We are here to help!**

Give us a call at (888) 388-1040.

