

# EMPLOYEE RETENTION CREDIT

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What is the Employee Retention Tax Credit?

Who is eligible to take the tax credit?

2020 Tax Credit – Eligibility & Limitations

2021 Tax Credit – Eligibility & Limitations

Claiming the Credit

Other Considerations

Questions

# EMPLOYEE RETENTION TAX CREDIT

# WHAT IS THE EMPLOYER RETENTION TAX CREDIT

The Employee Retention Credit is a refundable tax credit against certain employment taxes equal to a percentage of the qualified wages an eligible employer pays to employees after March 12, 2020, and before December 31, 2021.

Eligible employers can get immediate access to the credit by reducing employment tax deposits they are otherwise required to make.

If the employer's employment tax deposits are not sufficient to cover the credit, the employer may get an advance payment from the IRS.

Presentation includes information from the CARES Act of 2020, the Taxpayer Certainty & Disaster Act of 2020 and the American Rescue Plan of 2021.

Disclaimer – Additional guidance is expected from the IRS and is still developing.

# WHO IS ELIGIBLE TO TAKE THE TAX CREDIT

Employers that carry on a trade or business (including tax-exempt organizations) and either:

- Have a significant decline in gross receipts (2020 & 2021 eligibility requirements are different)  
OR
- Have a partial suspension of operations because of a government shutdown order

## ADDITIONAL ELIGIBILITY REQUIREMENTS:

- If more than 100 employees, there may be limitations
- Tax Exempt if partially suspended
- Tribal Businesses
- Generally Government employers are NOT eligible

*SEE Notice 2021-20 New 2020 ERC Guidance on the IRS website*

SIGNIFICANT  
DECLINE IN  
GROSS RECEIPTS  
VS  
FULL OR  
PARTIAL  
SUSPENSION OF  
OPERATIONS

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A significant decline in gross receipts:

2020 - Gross receipts were required to be less than 50% when compared with 2019

2021 - Gross receipts of that calendar quarter are less than 80% of the gross receipts in the same calendar quarter in 2019

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A full or partial suspension of the operation of their trade or business during this period because of governmental orders limiting commerce, travel or group meetings due to COVID-19.

(examples next slide)

# SIGNIFICANT DECLINE IN GROSS RECEIPTS

2020 Decline in Gross Receipts				
	2020	2019	Difference	Eligible?
Gross Receipts	\$ 49,500	\$ 100,000	-50.50%	YES
	2020	2019	Difference	
Gross Receipts	\$ 60,000	\$ 100,000	-40.00%	NO

2021 Decline in Gross Receipts				
	1st Qtr 2021	1st Qtr 2019	Difference	Eligible?
Gross Receipts	\$ 20,000	\$ 30,000	-33.33%	YES
	2nd Qtr 2021	2nd Qtr 2019	Difference	
Gross Receipts	\$ 26,000	\$ 30,000	-13.33%	NO
*No longer eligible for the credit				

# PARTIAL SUSPENSION OF OPERATIONS - EXAMPLES

**Question 11:** If a governmental order requires non-essential businesses to suspend operations but allows essential businesses to continue operations, is an essential business considered to have a full or partial suspension of operations due to a governmental order?

**Answer 11:** Maybe

**Question 12:** If a governmental order causes the suppliers to a business to suspend their operations, is the business considered to have a suspension of operations due to a governmental order?

**Answer 12:** Maybe

**Question 13:** If a governmental order causes the customers of a business to stay at home, or otherwise causes a reduction in demand for its products or services, and the business responds to the lack of demand by suspending some or all of its operations, is the business considered to have a suspension of operations due to a governmental order?

**Answer 13:** No.

**Question 15:** If a governmental order requires an employer to close its workplace, but the employer is able to continue operations comparable to its operations prior to the closure by requiring employees to telework, is the employer considered to have a suspension of operations?

**Answer 15:** No.

# 2020 TAX CREDIT — ELIGIBILITY & LIMITATIONS

- Eligible wages are those paid from March 12, 2020 through December 31, 2020 up to \$10,000 per employee (including qualified health plan expenses).
- Wages paid using a PPP Loan are not eligible for the credit.
- The credit is equal to 50% of Eligible wages (or \$5,000 max. credit per employee).
- 2020 - Gross receipts were required to be less than 50% when compared with 2019 OR a full or partial suspension of operations.
- Corporate Officer (greater than 50% Owner) & Family Members – Wages not eligible

2020 Potential Credit Allowed	
Hourly Rate	\$15.00
Wages/Qtr	\$7,200.00
50% Credit/Qtr	\$3,600.00
Max Credit	\$5,000.00
3 Employees	\$15,000.00
10 Employees	\$50,000.00



# 2021 TAX CREDIT — ELIGIBILITY & LIMITATIONS

- Eligible wages are those paid from January 1, 2021 to December 31, 2021 up to \$10,000 per employee (including qualified health plan expenses) **per calendar quarter**.
- Wages paid using a PPP Loan are not eligible for the credit.
- The credit is equal to **70%** of Eligible wages (or **\$7,000** max. credit per employee per quarter).
- 2020 - Gross receipts were required to be less than **80%** when compared with 2019 OR a full or partial suspension of operations.
- Corporate Officer (greater than 50% Owner) & Family Members – Wages not eligible
- Once Gross Receipts exceed 80%, no longer eligible

2021 Potential Credit Allowed PER QUARTER		
Hourly Rate	\$15.00	\$20.00
Wages/Qtr	\$7,200.00	\$9,600.00
70% Credit/Qtr	\$5,040.00	\$6,720.00
Max Credit/Qtr	\$7,000.00	\$7,000.00
3 Employees	\$15,120.00	\$20,160.00
10 Employees	\$50,400.00	\$67,200.00

# CLAIMING THE CREDIT

CALCULATE THE CREDIT

REDUCE EFTPS PAYMENTS

Reduce EFTPS Payroll Tax Deposits by the amount of the credit

Include the calculated information on the Form 941

Payroll systems may not be setup to report properly to the Form 941

CLAIM A REFUND USING FORM 7200

Complete Form

Fax Completed form to 855-248-0552

Deadline for submission of Form 7200

**Form 7200** Advance Payment of Employer Credits Due to COVID-19  
(Rev. January 2021) Department of the Treasury Internal Revenue Service OMB No. 1545-0029

▶ Go to [www.irs.gov/Form7200](http://www.irs.gov/Form7200) for instructions and the latest information.

Name (not your trade name) \_\_\_\_\_ Employer identification number (EIN) \_\_\_\_\_

Trade name (if any) \_\_\_\_\_ Applicable calendar quarter in 2021 (check only one box) **Caution:** See instructions before completing to determine if the credits and advance are available for the applicable quarter in 2021.

Number, street, and apt. or suite no. If a P.O. box, see instructions. \_\_\_\_\_

City or town, state, and ZIP code. If a foreign address, also complete spaces below. (See instructions.) \_\_\_\_\_ (1)  January, February, March  
(2)  April, May, June  
(3)  July, August, September  
(4)  October, November, December

Foreign country name \_\_\_\_\_ Foreign province/county \_\_\_\_\_ Foreign postal code \_\_\_\_\_

Name on employment tax return (third-party payer) that will report the wages and credits related to the advance you're requesting in Part II (leave blank if return is filed under your name and EIN). See instructions. \_\_\_\_\_ EIN on employment tax return (if other than your own) \_\_\_\_\_

**Tip:** File Form 7200 if you can't reduce your employment tax deposits to fully account for these credits that you expect to claim on your employment tax return for the applicable quarter, or year if you file an annual return. Don't reduce your employment tax deposits and request advanced credits for the same expected credits. You will need to reconcile your advanced credits and reduced deposits on your employment tax return. You can't request an advance payment of the credit for sick and family leave for self-employed individuals.

**Part I Tell Us About Your Employment Tax Return**

**A** Check the box to indicate which employment tax return form you file (or will file for 2021). Check only one box.  
(1)  941, 941-PR, or 941-SS (2)  943 or 943-PR (3)  944 or 944(SP) (4)  CT-1

**B** Is this a business that started on or after January 1, 2020? You must check one box.  Yes  No

**C** Amount reported on line 2 of your most recently filed Form 941 (or wages reported on Schedule R (Form 941), column (d), by your third-party payer (see instructions)). If you file a different employment tax return or have never filed one, see instructions. \_\_\_\_\_

**D** Tax period of most recently filed Form 941 (for example, "Q4 2020") or annual employment tax return (for example, "2020") \_\_\_\_\_

**E** If you're requesting an advance payment of the employee retention credit (Part II, line 1), enter the average number of full-time employees you had in 2019 (or 2020 if your business wasn't in existence in 2019). Aggregation rules apply. See instructions. \_\_\_\_\_

**F** If you're requesting an advance payment for qualified sick and/or family leave wages (Part II, lines 2 and/or 3), enter the number of employees you had when qualified leave was taken during the quarter for the advance requested. See instructions. \_\_\_\_\_

**Part II Enter Your Credits and Advance Requested**

1	Total employee retention credit for the quarter. Don't enter more than the amount eligible to be advanced for the quarter. See instructions	1	_____
2	Total qualified sick leave wages eligible for the credit and paid this quarter. See instructions	2	_____
3	Total qualified family leave wages eligible for the credit and paid this quarter. See instructions	3	_____
4	Add lines 1, 2, and 3	4	_____
5	Total amount by which you have already reduced your federal employment tax deposits for these credits for this quarter. Enter as a positive number	5	_____
6	Total advanced credits requested on previous filings of this form for this quarter	6	_____
7	Add lines 5 and 6	7	_____
8	<b>Advance requested.</b> Subtract line 7 from line 4. If zero or less, don't file this form	8	_____

**Third-Party Designee** Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? See the instructions for details.  Yes. Complete below.  No

Designee's name ▶ \_\_\_\_\_ and phone number ▶ \_\_\_\_\_

Select a 5-digit personal identification number (PIN) to use when talking to the IRS ▶ [ ][ ][ ][ ][ ]

**Sign Here** Your signature \_\_\_\_\_ Date \_\_\_\_\_ Printed title \_\_\_\_\_

Printed name \_\_\_\_\_ Best daytime phone \_\_\_\_\_

**Paid Preparer Use Only** Print/Type preparer's name \_\_\_\_\_ Preparer's signature \_\_\_\_\_ Date \_\_\_\_\_ PTIN \_\_\_\_\_ Check  if self-employed

Firm's name ▶ \_\_\_\_\_ Firm's EIN ▶ \_\_\_\_\_

Firm's address ▶ \_\_\_\_\_ Phone no. \_\_\_\_\_

**How To File** Fax your completed form to 855-248-0552.

For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions. Cat. No. 56392D Form 7200 (Rev. 1-2021)

# OTHER CONSIDERATIONS

- > Potential Amended Form 941 for 4<sup>th</sup> Qtr 2020
- > Full or partial suspension of operations
- > Refund outside of the Form 7200
- > Proactive revenue planning & billing practices
- > Proactively planning of invoicing

# OTHER CONSIDERATIONS — PPP & ERC

Type of Tax-Payer matters for planning!!

- Accrual – when transaction occurs
- Cash – when cash received or paid

No overlap of same funding.

Can use PPP and ERC in same period of time if careful on monitoring lines of accounting.

- Pro-actively plan for 2021
- More flexibility if haven't filed forgiveness for PPP round 1
- If already submitted round 1 PPP forgiveness will need to work around what you are claiming. Easiest to submit for Q4 if available and can max credit in that quarter.

Examples:

# PPP & ERC — EXAMPLES

2021 - Q1	Q2	Q3	Q4
Example 1:	PPP Loan Proceeds Received	PPP Period Ends	All funds eligible
Example 2:	PPP Loan Proceeds received. <ul style="list-style-type: none"><li>• Use PPP proceeds on compensation above \$10,000 a quarter.</li><li>• Use PPP on owner compensation up to maximum allowable</li><li>• Try to max PPP up to 40% of non-payroll if it makes sense for your business</li></ul>	PPP Period Ends <ul style="list-style-type: none"><li>• Use PPP proceeds on compensation above \$10,000 a quarter.</li><li>• Use PPP on owner compensation up to maximum allowable</li></ul>	All funds eligible

# LINE OF CREDIT TO FINANCE ERC

- Undetermined amount of time right now for tax credit return to company.
- If you have certainty with eligibility, and guidance continues to stay positive, review investment into labor to grow company/increase revenue.
- Finance investment into labor and uncertainty of refund time with a line of credit. Must weigh return on investment from credit vs. cost of financing. Always make sure the labor costs can stand on its own!

# TWO NEW ADDITIONS TO ERC

- **Recovery startup business:** is a business that started operations after February 15, 2020, and had annual gross receipts of less than \$1M. The maximum ERC for a recovery startup business for any calendar quarter shall not exceed \$50,000.
- **Severely financially distressed:** employer is a business that experienced a gross receipts reduction of more than 90% compared to the same calendar quarter in 2019. These businesses will be able to treat all wages up to the \$10,000 limitation as qualified wages, even if the business is a large employer.

# QUESTIONS & CONTACT INFO



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