

February 25, 2021

Employee Retention Credit (ERC) Key Facts

The Employee Retention Credit (ERC) for 2021 has enhancements from the 2020, therefore, refer to the guidance specific to each year.

2020

- Amount of credit available
 - 50% of qualified wages (including health benefits). Max wages are limited to \$10,000 for the year
- Maximum Credit
 - \$5,000 per employee for the entire year
- Eligibility Requirements
 - Business operations were either fully or partially suspended by a COVID-19 lockdown order – OR –
 - Gross receipts were 50% less than the gross receipts for the **same quarter of 2019**
- Credit Eligibility and Working Employees
 - If 100 employees or more, no credit is available for wages paid to an employee who continued to provide services to the employer (i.e. working remotely)
 - If less than 100 employees, Eligible for **ALL** employees, no matter the working condition.

2021 – Credit Enhancements

- Amount of Credit Available
 - 70% of qualified wages (including health benefits). Max wages per quarter are limited to \$10,000
- Maximum Credit
 - \$7,000 per employee for each of the first two quarters.
- Eligibility Requirements
 - Business operations were either fully or partially suspended by a COVID-19 lockdown order – OR –
 - Gross receipts were 20% less than the gross receipts for the **same quarter of 2019** (important to note it is still based of 2019 receipts)
- Credit Eligibility and Working Employees
 - If less than 500 employees, eligible for **ALL** employees, no matter the working condition.
- Claiming the credit
 - Amend form 941 for each applicable and eligible quarter
 - Our approach to this could change, just not enough guidance as of now.

Employee Retention Credit Summary of Provisions

- Eligible Period
 - If qualifying under the Business Operations Impacted by Government orders, only those wages paid during the Government Impacted Period. It is important to track of the Government Order and dates
 - If qualifying under the Gross Receipts' reduction, all wages and benefits paid during the quarter
 - You **CAN** alternate between these requirements quarter after quarter (i.e. An order suspended business in Q1. Q2 you were able to operate, but gross receipts were still less than Q2 of 2019)
- Qualified Wages
 - Gross wages subject to Social Security taxes and allocable group health care benefits
 - Includes HRAs and FSAs
 - Does not include HSAs
 - Does not include FFCRA and FMLA wages or any wages eligible for another credit
- Wage/Benefit Deductibility
 - Wages and benefits are not tax deductible if an Employee Retention Credit was claimed
- Payroll Protection Program (PPP) integration
 - PPP recipients are now able to claim the ERC in 2020, however, the same wages cannot be utilized under both programs. It is anticipated that those who have already had their PPP loans forgiven, will be able to calculate the wages needed for the PPP and excess wages will be available for the ERC, however, specific guidance is needed from Treasury and SBA
- Aggregated Group
 - Section 52(a) – Generally based on greater than 50% ownership
 - All members of aggregated group are eligible employers if one member of the group has operations fully or partially suspended due to government orders; Gross Receipts are the total of all Aggregated Entities.
- Gross Receipts
 - Total Sales (less returns and allowances)
 - Plus: Investment income
 - Interest, dividends, rents, royalties and annuities
 - Less:
 - Adjusted basis in assets sold
- Credit Eligibility and Working Employees

Employee count is based on the number of full-time employees who averaged at least 30 hours of service per week or 130 hours of service in a month. Total the number of full-time employees by month and divide by 12

Note: Some large employers may have continued to pay health care benefit for employees not working and there may be deductible costs
- Determining When an Employer's Business Operations are considered to be Fully or Partially Suspended
 - [See IRS FAQ's for Examples](#)
 - Orders for the public to stay at home is not an order directed to the business
 - When employees can do their work from home this does not qualify as impacted
- Claiming the credit
 - Amend form 941 for each applicable and eligible quarter

	2020	2021
Amount of Credit Available	50% of qualified wages (including health benefits; Maximum wages \$10,000 for the year	70% of qualified wages (including health benefits; Maximum wages <u>per quarter</u> \$10,000
Maximum Credit	\$5,000 per employee for the entire year	\$7,000 per employee for each of the first two quarters
Eligibility Requirements	<p>A) Business operations were either fully or partially suspended by a COVID-19 lockdown order</p> <p>-OR -</p> <p>B) Gross receipts were 50% less than the gross receipts for the same quarter of <u>2019</u></p>	<p>A) Business operations were either fully or partially suspended by a COVID-19 lockdown order</p> <p>-OR -</p> <p>B) gross receipts 20% less than the gross receipts for the same quarter of <u>2019</u></p> <p><u>Note:</u> Election to use prior quarter gross receipts to determine eligibility (ie Q4 2020 vs. Q4 2019 to determine eligibility for Q1 2021)</p>
Eligible Period	<p><u>Business Operations Suspended:</u></p> <p>Wages paid during the government order</p> <p><u>Gross Receipts Reduction:</u></p> <p>Wages paid until the first day of the quarter <u>After</u> the quarter gross receipts exceed 80% of same quarter in 2019, not later than Jan 1, 2021</p>	<p><u>Business Operations Suspended:</u></p> <p>Wages paid during the government order</p> <p><u>Gross Receipts Reduction:</u></p> <p>Wages paid in the quarter</p>
Credit Eligibility and Working Employees	<p><u>Greater than 100 employees:</u></p> <p>No credit available for wages paid to an employee who continued to provide services to the employer</p> <p><u>Less than 100 employees:</u></p> <p>Eligible for the credit regardless of the employees' working condition</p>	<p><u>Less than 500 employees:</u></p> <p><u>Eligible for the credit regardless of the employees' working condition</u></p>