



Hello everyone, I hope you are doing well.

Last year when the CARES Act was passed one of the provisions to help employers was the Employee Retention Credit (ERC). Although this was a good program, most business owners didn't take advantage of it because you could not receive these credits if you received PPP funds. The Payroll Protection Program (PPP) was a better choice for most small business owners, so the ERC was kind of pushed to the side.

Well, that all changed when the Consolidated Appropriations Act of 2021 was signed into law. The law now allows you to take full advantage of the ERC even if you received PPP funds. What is even better is that they made the law retroactive to 2020 and expanded it to June 30th, 2021.

Let's take a look at the details of the ERC to see if you qualify.

What is the ERC?

The ERC provides a refundable payroll tax credit for 50% of wages paid by eligible employers to certain employees between 3/12/20 and 12/31/20 and a credit of 70% of wages between 1/01/21 and 6/30/21.

For 2020 the maximum credit is \$5,000 per employee. For 2021 the maximum credit is \$14,000 per employee.

Who is eligible for the ERC?

The credit is available to employers whose operations have **been fully or partially suspended as a result of a government order limiting commerce, travel, or group meetings**. To me this is a very ambiguous statement that is left open to interpretation.

The IRS has put out some FAQ's to try and assist with determining if you qualify under this provision. You can find those links below.

[Determining What Types of Governmental Orders May be Taken into Account for Purposes of the Employee Retention Credit FAQ's](#)

[Determining When an Employer's Trade or Business Operations are Considered to be Fully or Partially Suspended Due to a Governmental Order FAQs](#)

If you don't meet the fully or partially suspended definition you can still

qualify. To do so, you must have experienced a greater than 50% reduction in quarterly gross receipts measured on a year-over-year basis for 2020.

For 2021 you would need a 20% reduction in gross quarterly receipts vs the same quarter in 2019 to qualify.

If you were not in business in 2019, you can use 2020 as the comparison year.

If I qualify how do I get the credit?

For current quarters in 2021, you will claim the credit on your Form 941. The credit will offset any taxes owed and if not fully absorbed will be refunded to you.

For prior quarters in 2020, a 941-X will need to be prepared to request a refund for those quarters.

How does PPP effect the ERC?

If you received PPP funds, you cannot receive a credit for those wages that were funded by the PPP. For example, if you received your PPP on April 1st, 2020 and you paid an employee \$10,000 for that quarter and used PPP funds to pay them, then you would not be able to receive the ERC for that quarter. This is the more complex area concerning the ERC calculation. You must be careful to not double dip.

Do all employees qualify for the ERC?

No, you cannot receive the ERC for wages in which you received a tax credit for sick leave or family leave. You also cannot receive the ERC for certain related individuals or were granted a WOTC credit.

I really think the ERC could be a huge help to a lot of struggling small businesses. If you read this and feel like you might qualify let us know and we can discuss the next steps. Please remember that this legislation is still relatively new, and we are still waiting on guidance from the IRS on several issues surrounding this credit.

Below is a link to the full FAQs for the Credit. **Be careful reading as they have not been fully updated to reflect the new legislation.**

[FAQs: Employee Retention Credit under the Cares Act.](#)

Thank you!

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