
Employee Retention Credit Overview

The CARES Act created a new [Employee Retention Credit \(ERC\)](#) for employers who closed, partially closed, or experienced significant revenue losses as a result of COVID-19. The credit aims to encourage businesses to keep employees on their payroll. The ERC:

- Does not limit eligibility based on business size
- Is applied against the employer portion of payroll taxes and is fully refundable
- Applies to wages paid after March 12, 2020 and before July 1, 2021

The relief bill passed at the end of 2020 made several key changes. For 2020, employers can use both the ERC and the Paycheck Protection Program, but not for the same payroll (no double dipping). For 2021, eligibility criteria has been eased and the amount of the credit increases.

Who is an eligible employer?

Eligible employers are private employers, as well as non-profits, that either:

- Fully or partially suspend operations during any calendar quarter in 2020 due to orders from a governmental authority due to COVID-19; OR
- Experienced a significant decline in gross receipts (for 2020, gross receipts were less than 50 percent of receipts in the same calendar quarter in 2019; for 2021, gross receipts were less than 80 percent of same quarter in 2019)

How does the ERC work for 2020?

The ERC is a 50 percent payroll tax credit for the first \$10,000 of compensation an employer pays eligible employees. For businesses with less than 100 full-time employees (FTEs), all wages are eligible for the credit. For those with more than 100 FTEs, only wages paid to an employee to not provide services are eligible (i.e. employer paid employee not to work because business shut down or gross receipts dropped significantly). Once a business reaches the 50 percent drop in gross receipts threshold, the quarters that follow are also eligible, until the business' gross receipts recovers and reaches at least 80 percent of its receipts from 2019.

How does the ERC change for 2021?

While the changes for 2020 affect eligibility, the 2021 changes apply to the calculation of the credit. These include an extension through June 30, 2021 as well as:

- Eligibility Qualification Eased – Gross receipts test now must show receipts were less than 80 percent of same quarter in 2019, instead of 50 percent
- Credit Amount Increase – Employers receive 70 percent credit (instead of 50 percent) for first \$10,000 of compensation per quarter
- \$10,000 per Employee Per Quarter – Instead of annually, \$10,000/employee per quarter
- Change to “Small Employer” – Number of employees rises to 500 (from 100) which affects how much an employer can claim per employee

How much is the tax credit?

It depends on whether it is being used for 2020 or 2021. For 2020, the ERC is a 50 percent credit for the first \$10,000 of compensation, including the employer portion of health benefits, per

employee. The maximum annual credit per employee is \$5,000. For 2021, the ERC is a 70 percent credit for the first \$10,000 of compensation, including the employer portion of health benefits. The maximum credit per employee is \$14,000 (\$7,000 per quarter)

Which employees count toward eligibility?

In 2020, the following criteria apply:

- For employers with more than 100 employees, full-time employees who are (i) being paid but (ii) not providing service due to either a full or partial shutdown or a reduction in gross receipts count toward eligibility
- For employers with 100 or fewer full-time employees, all employees, regardless of whether those employees are providing service, count toward eligibility

In 2021, “small employer” is now 500 or fewer employees, meaning these larger employers can count employees being paid and still working.

A summary of some of the key differences between the 2020 and 2021 ERC is below:

	2020 ERC	2021 ERC
Eligibility	Business fully/partially suspended during at least one quarter in 2020 OR gross receipts were less than 50% of receipts in same quarter in 2019	Business fully or partially suspended during at least one quarter in 2020 OR gross receipts were less than 80% of same quarter in 2019
Qualified Wages	For employers with more than 100 employees, only wages paid to those not providing services	For employers with up to 500 employees, all wages regardless of if employees provided services
Calculation	Credit of 50% of qualified wages capped at \$10,000 for ALL quarters (\$5,000 per employee)	Credit of 70% of qualified wages capped at \$10,000 per quarter (\$14,000 per employee)

Can an employer use the ERC for wages that were paid between April 1 - May 30, 2020 and then use the Paycheck Protection Program for wages that are paid in June and July of 2020?

As long as eligibility criteria is met, an employer may now be able to use both the ERC and PPP.

How is the credit paid?

The refundable credit is applied against the employer portion of payroll taxes. Employers report their total qualified wages and the related credits for each quarter on their federal employment tax returns, usually IRS Form 941.

Can I access the Employee Retention Credit now?

Eligible employers can claim an advance credit by filling out [IRS Form 7200](#). This is intended to be used to generate cash flow more quickly.

More information from the IRS on the Employer Retention Credit can be found [here](#).

Example:

To illustrate the credit changes in practice, ABC company has 24 employees and gross receipts of \$90,000 for Quarter 2 of 2020. For that same quarter in 2019, gross receipts were \$205,000. Each of its 24 employees was paid \$12,000 for that quarter. How much of a credit can be claimed?

Step 1: Does the company meet the gross receipts requirement? Yes, since gross receipts dropped by more than 50 percent, the second quarter of 2020 is eligible.

Step 2: The maximum wages per employee is \$10,000, so even though they each earned \$12,000, the formula uses the cap of \$10,000. The credit is 50 percent, so the maximum credit is \$5,000 per employee.

24 employees x \$5,000 (50% credit of \$10,000 annual total) = \$120,000 refundable credit

Assuming the same information, take a look at how the credit changes for that same company apply for the credit for two quarters in 2021. Now the credit is available for up to 70 percent of wages, and the \$10,000 wages are per quarter, with two potentially eligible quarters (assuming receipts are still down by 20 percent). The calculation would change to:

24 employees x \$7,000 (70% credit of \$10,000 per quarter) x 2 (quarters) = \$336,000