# Employee Retention Credit
## IRS FAQs

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# ERC / ERTC FINANCIAL SERIES

CLAIM UP TO A $26,000 REFUND PER EMPLOYEE

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# EMPLOYEE RETENTION CREDIT IRS FAQS

The Internal Revenue Service (IRS) has released 95 frequently asked questions (FAQs) about the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act's Employee Retention Credit (ERC). The FAQs address almost every aspect of the ERC, particularly credit qualification as well as which wages or health-plan contributions are eligible.

The CARES Act's Employee Retention Credit incentivizes employers and recovery startup businesses to retain their employees on the payroll. A refundable income refund of up to $10,000 is offered for wages earned by an authorized employer whose business was affected by COVID-19.

## Employee Retention Credit IRS FAQs

Some FAQs have been updated as a result of the Taxpayer Surety as well as Disaster Tax Relief Act of 2020 (Relief Act), enacted Dec. 27, 2020, and the American Rescue Plan Act of 2021 (ARP) Act, implemented March 11, 2021, and the Infrastructure Investment and Jobs Act (IIJA), enacted November 15, 2021.

The Relief Act updated and extended the CARES Act's section 2301 Employee Retention Credit for the first and third calendar quarters of 2021 for suspension of operations. The ARP Act amended and lengthened the Employee Retention Credit for the fourth quarter of 2021.

The Infrastructure Investment and Jobs Act abolished the Employee Retention Credit for wages paid in the 4th quarter of 2021 for firms that are not recovered from establishing operations as per the aggregation rule.

Employers who retain specified workers during the COVID-19 pandemic may be entitled to a fully refundable credit of up to $5,000 against their Social Security taxes under the ERC. Many of the unresolved questions that taxpayers had while assessing whether or not they may benefit from the ERC due to Economic hardship are addressed in the FAQs, but there are still some that remain.

The ERC provides a huge potential for businesses to decrease their payroll tax burden and get refunds, but it might clash with other pandemic-related incentives.

Businesses should carefully assess whether they are qualified for the credit and whether earnings qualify, especially in light of the aggregation criteria.

For such an eligible business with more than 100 full-time personnel, only the amount paid for full-timers who are not supplying services during the time frame the employer qualifies for the deduction can be taken into consideration.

Those with 100 or fewer full-time workers, on the other hand, can take into consideration all salaries earned throughout the period in which they are eligible for the credit. Wages in both circumstances include correctly allocated health plan charges according to hours of service. Check out more about Employee Retention Credit 2021 IRS Guidance.

## What is the Employee Retention Credit?

The Employee Retention Credit (ERC) is a payroll tax credit designed in reaction to the COVID-19 pandemic and economic shutdown that provides a refundable tax credit to enterprises and small businesses that keep their payroll running in 2020 and 2021.

For Qualifying Employers, the Employee Retention Credit is a full tax subsidy equal to 50% of all qualifying salaries given to their employees.

This Employee Retention Credit is good for salary received from March 12, 2020, through January 1, 2021. The max amount of qualified wages factored for any employee for all calendar quarters is $10,000, culminating in a total credit of $5,000 for a Qualifying Employer for qualified wages supplied to any worker. Check out [How Does Employee Retention Credit Work](How Does Employee Retention Credit Work).

## Who is an Eligible Employer?

Due to COVID-19, completely or partially halt operations throughout any calendar quarter in 2020; or experience a significant drop in gross revenue during the calendar quarter for service per week.

Governmental companies are not considered Eligible Employers for the Employee Retention Credit. Tribal governments or tribal entities, on the other hand, may be Qualified Employers. Self-employed people cannot claim this credit with their own income, but they'd be able to qualify to claim it for salaries given to their workers.

**The time event in question determines whether you are a "qualifying employer."**

> Due to COVID-19 directives from a relevant governmental body, it was partially or completely suspended.
>
> A large drop in gross receipts occurred, defined as less than 50% of gross profits for the same fiscal quarter in 2019.

## When is the Operation of a Trade or Business Partially Suspended for the Purposes of the Employee Retention Credit?

Due to COVID-19, a relevant government authority puts limits on the employer's operations by restricting trade, traveling, as well as group gatherings (for economic, recreational, religious, as well as other reasons) so that the employer can continue some, but not all, of its regular operations.

Many firms have more than one location. The employer as a whole is regarded as partially shut down when one or more locations are totally or partially closed while others are open. The aggregated group is viewed as a single employer, and if one member is fully or partially suspended, it affects the entire group.

Many instances of when a firm is or is not regarded fully or partially suspended are provided in Notice 2021-20. When more than a minor aspect of a business is directly or indirectly damaged by a government shutdown order, the employer may be eligible for the ERC for the duration of the closure.

Remember that every scenario is different; facts and circumstances determine whether a company is fully or partially suspended by legal authority

## What is a "Significant Decline in Gross Receipts"?

Revenues must have declined by even more than 50% in the preceding quarter to qualify for the 2020 Employee Retention Credit. The very first financial quarter in 2020 wherein a firm's overall sales are less than half of what it is they are the preceding calendar period.

The severe drop in gross revenues ceases in the first calendar quarter after the first quarter, in which the company's quarterly total revenues in 2020 exceed 80% of those in the comparable calendar period in 2019 or in the first fiscal quarter of 2021. Check out Gross Receipts for Employee Retention Credit.

## How is the Maximum Amount of the Employee Retention Credit Available to Eligible Employers Determined?

For all calendar quarters, the maximum amount of qualifying earnings taken into consideration for any employee is $10,000, resulting in a maximum return for eligible wages provided to each employee of $5,000 which is 50%.

Based on the year, the complete amount of workers you employed in 2019 decides which employees you may claim for such benefits.

If you had more than 100 full-time workers on average in 2020, you could only claim earnings for those who are not working. If you have less than 100 workers, then you can claim earnings for all of them, whether or not they're employed.

The Employee Retention Credit is indeed a tax subsidy equivalent to half of the qualified salary paid by employers by an eligible employer from March 12, 2020, until December 1, 2021.

Additionally, if the employer's employment tax payments are insufficient to meet the credit, the IRS may make an advance payment to the employer. Wages (including some health-plan fees) up to $10,000 per employee can be used to assess the quantity of the 50% credit.

## IRS FAQs Employee Retention Credit

In 2020 and 2021, the Employee Retention Credit ("ERC") continued to offer a range of firms substantial refundable payroll tax credits for eligible salaries given to employees. Since the credit was launched two years ago, they have assisted hundreds of employers in receiving the ERC. The IRS has not slowed the approval of their applications.

Despite the fact that firms may only assess their Eligible Employee status from February 13, 2020, to September 30, 2021, we are witnessing an unprecedented number of our clients authorized for the ERC.

## What are "Qualified Wages"?

Qualified wages are salaries and compensation as specified in Section 3121 of the Internal Revenue Code paid by a Qualified Company for some or all workers after March 12, 2020, and then before January 1, 2021.

The Eligible Employer's qualified healthcare plan expenditures that are correctly allocable to the wages are included in qualifying earnings.

For all eligible fiscal quarters starting March 13, 2020, and concluding December 31, 2020, the credit is equivalent to 50% of up to $10,000 in qualified earnings (including the amount of money paid towards health insurance) per filled employee. For the term, this equates to a total credit of $5,000 per worker.

The credit is entirely refundable and is applied to your part of the employee's Social Security taxes. This implies that the benefit will be treated as an overpayment, with your portion of the taxes deducted and repaid to you.

## What are "Qualified Health Plan Expenses"?

Qualified health plan expenditures are payments made or incurred by a Qualified Employer to create and maintain a group healthcare program that is correctly allocable to workers' qualified wages, and only to the degree that these sums are deducted from the staff's total salary.

## Is an Employer Required to Pay Qualified Wages to its Employees Under the CARES Act?

Companies are not required to pay qualifying wages under the CARES Act. Eligible employers can also choose not to seek the Employee Retention Credit.

## Can Eligible Employers Claim the Employee Retention Credit for Qualified Wages Paid in March 2020?

Companies who pay qualifying salaries after March 12, 2020, and before January 1, 2021, are able to apply for the Employee Retention Credit. As a result, a Qualified Employer might take the credit for eligible wages paid as soon as March 13, 2020.

## May an Eligible Employer Receive the Employee Retention Credit for Wages Paid After December 31, 2020?

No, the Employee Retention Credit only applies to the salary received between March 12, 2020, and January 1, 2021.

## Against What Employment Taxes Does the Employee Retention Credit Apply?

The loan can be used to offset the company's share of social security payments paid under segment 3111(a) of the Internal Revenue Code (the "Code"), as well as the portion of railroad employer taxes paid under segment 3221(a) of the Railroad Retirement Tax Act (the "RRTA") that equates to the social security taxes paid under segment 3111(a) of a Script.

## IRS Employee Retention Credit FAQs

The Employee Retention Credit, like most economic development firm tax incentives, has several complexities that might prevent you from getting an exact, optimal, and audit-ready amount. In anticipation of a prospective IRS audit of the claim, which may happen years later, it's critical to completely document processes and procedures, manage your data, and eliminate any danger areas.

Controlled Group criteria, documentation of qualifying procedures, cooperation with PPP loans, assigning healthcare expenditures to suitable time periods, and other challenges plague the ERC. Your payroll business may not have all of this information, and your CPA may lack the competence to inquire.

ERC experts can assist you in avoiding tragedy and/or leaving money "on the table." The initial assessment of your eligibility and credit worthiness is entirely free. So below are some of the IRS.gov Employee Retention Credit FAQs, which the IRS professionals have answered accordingly.

## What Makes the Employee Retention Credit "Fully Refundable"?

Since the credit is entirely refundable, the Qualified Employer may receive a refund if the credit amount exceeds specific federal hiring taxes owed by the Eligible Employer.

That is, if the quantity of the credit this same Eligible Company is entitled to any calendar quarter surpasses the employer's share of the payroll tax on all salaries paid to all staff, the surplus is handled as an extra payment and refunded to the company under Internal Revenue Code sections 6402(a) and 6413(a).

The surplus will be utilized to balance any remaining tax burden on the employment tax form, and the amount of any residual excess will be reported as an excess on the return, keeping with its status as an excess. The overpayment, like all prepayments of federal taxes, will be offset pursuant to section 6402(a) of a Code before being paid to the employer.

## Are Eligible Employers Required to Withhold Federal Employment Taxes on Qualified Wages Paid to Employees?

Absolutely. Qualified earnings are those that are subject to federal withholding taxes as well as individual employee contributions to social security and Medicare. Qualified salaries are also recognized wages for other employer-provided perks like 401(k) investments.

## May an Eligible Employer Receive Both the Tax Credit for Qualified Leave Wages Under the FFCRA and the Employee Retention Credit Under the CARES Act?

Yes, but not at the same pay scale. The number of qualifying earnings whereby a Qualified Employer can claim the Employee Retention Credit excludes the amount of qualifying sick or family leave pay whereby the business is subject to tax credits underneath the FFCRA.

### May an Eligible Employer Receive Both the Employee Retention Credit and a Paycheck Protection Program (PPP) Loan That is Authorized Under the CARES Act?

No, a Qualified Employer would not be entitled to the Employee Retention Credit if the Eligible Employer takes out a PPP loan underneath the CARES Act. Employee Retention Credit should not be claimed by an Eligible Employer who obtains a PPP loan.

Learn more about Can You Get Employee Retention Credit And PPP Loan.

### Internal Revenue Bulletin Employee Retention Credit

The Internal Revenue Bulletin does not include these FAQs; thus, it cannot be used as legal authority. This means the data can't be used to back up a legal claim in court.

### Are Household Employers Eligible for the Employee Retention Credit?

No, because household proprietors are not deemed to be in the business of running a business, they are not eligible for such Employee Retention Credit for their domestic employees.

However, domestic companies who also operate a trade or business and notify payroll taxes attributable to their predetermined internal on the same Form 941, Company's Quarterly Tax Forms, or Form 944, Company's Annual Governmental Tax Form, used to notify payroll taxes attributable to business employees, may be qualified for the Employee Retention Credit, just with respect to the business employees.

### Are Self-Employed Individuals Eligible for the Employee Retention Credit?

When it comes to their own self-employment income, identity people really aren't qualified for the Employee Retention Credit.

Nevertheless, a self-employed person who employs people in their trade or company or otherwise qualifies as an Entitled Employer may be qualified for the Employee Retention Credit on qualifying salaries given to workers.

## Are Employers In U.S. Territories Eligible for the Employee Retention Credit?

Yes. Employers can take advantage of the Employee Retention Credit by paying “qualifying wages.” Wages paid by employers in U.S. territories are taxable to FICA under article 3121(b) of the Code. As a result, Eligible Employers are employers in the United States Territories who provide eligible salaries and otherwise fulfill the credit’s standards.

## Are Tax-Exempt Employers Eligible for the Employee Retention Credit?

Absolutely, institutions exempted from taxation by section 501(c) of the Tax Code (the “Code”) and listed in section 501(a) of the Script could be Qualifying Employers for the Employee Retention Credit if they meet the other conditions.

## What is a “Trade Or Business” for Purposes of the Employee Retention Credit?

Aside from the trade or business of delivering support as an employee, “trade or industry” has the same definition as it does under Internal Revenue Code Section 162.

An act does not constitute a trade or commerce under article 10 of the Code unless it is done with regularity and consistency and has a main objective of profit.

Whether an activity is indeed a trade or a business depends on the facts and conditions of each situation.

## Is the Employee Retention Credit Available to Employers of Any Size?

A tax-exempt organization that benefits from taxes under Section 501 of the Code is presumed to be participating in a commercial transaction for the purposes of keeping Employees Retention Credit.

## Conclusion and Summary on Employee Retention Credit IRS FAQ

IRS has released the FAQs which are on their official website. There they answer the most frequently asked questions about the ERC.

However, you can check out more about the Employee Retention Credits FAQ here.

**Schedule Your Employee Retention Credit Consultation** to see what amount of employee retention tax credit your company qualifies for.

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# EMPLOYEE RETENTION TAX CREDIT (ERC / ERTC) HELP: CLAIM UP TO A $26,000 REFUND PER EMPLOYEE FOR YOUR BUSINESS

Disaster Loan Advisors™ can **assist your business with the complex and confusing** Employee Retention Tax Credit (ERTC) and Employee Retention Credit (ERC) program.

Depending on eligibility, business owners and companies can **receive up to $26,000 per employee** based on the number of W2 employees you had on the payroll in 2020 and 2021.

The ERC / ERTC Program is a **valuable tax credit you can claim**. This is money you have already paid to the IRS in payroll taxes for your W-2 employees.

Done correctly, **these tax credits or cash refunds can be retroactively claimed for up to 3 years**.

It's encouraged that business owners **obtain professional assistance in going through the complex 941-X amended filing process** to help your company **maximize** the full value of the ERC / ERTC program.

**4/15/24 is the Deadline to Amend the 2020 Tax Year.**
**4/15/25 is the Deadline to Amend the 2021 Tax Year.**

**Schedule Your Employee Retention Credit Consultation** to see what amount of employee retention tax credit your company qualifies for.

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