

EMPLOYEE RETENTION CREDIT: HAVE YOU CHECKED YOUR ELIGIBILITY LATELY?



The Employee Retention Credit (ERC) under the March 2020 [CARES Act](#) encourages businesses to keep employees on their payroll. With this credit now extended through the end of 2021, the tax credit is 70% of up to \$10,000 in wages paid in each quarter by an eligible employer whose business has been financially impacted by COVID-19.

This can be a valuable credit for businesses. But with changes occurring, employers should be checking each quarter to determine whether they qualify.

An employer may qualify for the credit if:

- Business operations have been fully or partially suspended due to a governmental order; or
- The business has a significant decline in gross receipts compared to the same quarter in 2019 (or a modified period for new businesses).

Below is a brief overview of the key qualifications and benefits for each period. There are special elections, exceptions for new businesses and requirements for

each period depending on the size and specific impact of COVID.

| | 2020 | Q1-Q2 2021 | Q3-Q4 2021 |
|---|---|---|---|
| Qualification: Gross receipts or a partial or full operation shutdown | Less than 50% gross receipts compared to the same quarter in 2019 or shutdown | Less than 80% gross receipts compared to the same quarter in 2019 or shutdown | Less than 80% gross receipts compared to the same quarter in 2019 or shutdown |
| Amount of credit for qualified wages and health insurance | 50% up to \$10,000 per employee per year | 70% up to \$10,000 per employee per quarter | 70% up to \$10,000 per employee per quarter |
| Large employer size | Average of 100 employees in 2019 | Average of 500 employees in 2019 | Average of 500 employees in 2019 |
| Other items | - | - | Recovery start-up businesses may qualify |

We anticipate the IRS will audit these credits in the coming years. The American Rescue Plan Act of 2021 extended the statute of limitations for assessments relating to the ERC to five years after the date that the return claiming the credit is filed. Below is a list of documentation that will be needed to support the ERC.

- Documentation to show how the employer determined it was an eligible employer, including:
 - any governmental order to suspend the employer's business operations;
 - any records the employer relied upon to determine whether more than a nominal portion of its operations were suspended due to a governmental order or whether a governmental order had more than a

- nominal effect on its business operations;
- any records the employer used to determine it had experienced a significant decline in gross receipts;
- any records of which employees received qualified wages and the amounts; and
- in the case of a large eligible employer, work records and documentation showing that wages were paid for time an employee was not providing services.
- Documentation to show how the employer determined the amount of allocable qualified health plan expenses.
- Documentation related to the determination of whether the employer is a member of an aggregated group treated as a single employer for purposes of the employee retention credit and, if so, how the aggregation affects the determination and allocation of the credit.
- If the employer received funding through the Paycheck Protection Program or other COVID-related credits, documentation should include support for the wages used for each program to confirm that the wages were not used more than once.
- Copies of the business' completed federal employment tax returns, amended employment tax returns and copies of any Form 7200s that were submitted to the IRS

Your [BMF Advisor](#) can help you determine credit applicability based on your unique situation. You can also visit our website to read our previous [ERC articles](#) for more information.