

# EMPLOYEE RETENTION CREDIT: BE CAUTIOUS OF FRAUDULENT SCHEMES



The [Employee Retention Credit](#) (ERC) is still a hot topic at networking events, trade organizations and other gatherings for business owners and executives. The ERC is a tax credit, which was part of the COVID relief packages, focused on helping businesses to continue paying their employees when business declined or shut down. Unfortunately, some service providers are taking improper positions and putting many businesses at risk for fraudulent tax filings.

On October 19<sup>th</sup> the IRS issued a warning ([IR-2022-183](#)) advising employers to be wary of third-parties advising them to claim the ERC when they may not qualify for the credit. Some third parties are taking improper positions, charging large or contingent fees based on the anticipated refund and may not be advising taxpayers that the respective wage tax deduction is required to be reduced by the credit on the corresponding business tax returns.

The IRS news release warns that "Businesses are encouraged to be cautious of advertised schemes and direct solicitations promising tax savings that are too good to be true. Taxpayers are always responsible for the information reported on their tax returns. Improperly claiming the ERC could result in taxpayers being

required to repay the credit along with penalties and interest."

*Accounting Today* has been publishing [articles](#) reporting that the IRS is currently training agents and redeploying them from other areas of examination to focus on auditing ERC claims. The IRS has identified more than 11,000 suspicious returns, as of their August 31, 2022, report by the Treasury Inspector General for Tax Administration.

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 of the company.

Qualification	2020	2021 Q1-Q2	2021 Q3
Gross receipts or a partial or full operation shutdown	Less than 50% gross receipts compared to the same quarter in 2019 or full or partial shutdown	Less than 80% gross receipts compared to the same quarter in 2019 or full or partial shutdown	Less than 80% gross receipts compared to the same quarter in 2019 or full or partial 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 in the 3 <sup>rd</sup> and 4 <sup>th</sup> quarter 2021

The IRS has [published](#) the warning signs of an ERC scam on their website. Contact your [BMF Advisor](#) to revisit your eligibility or discuss the credit qualifications further.