

# FREQUENTLY ASKED QUESTIONS

*about the* Employee Retention Tax Credit



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# WHAT IS THE **EMPLOYEE RETENTION TAX CREDIT?**

IS YOUR BUSINESS UNDER A FULL OR PARTIALLY REDUCED CAPACITY ORDER OF ANY KIND?

## WHAT IS IT?

The credit is equal to **70% of your employee's wages that you pay out from January 1 through December 30th, 2021**. Qualified wages are limited to \$10,000 per employee per calendar quarter. The maximum ERC amount available is **\$7,000 per employee** per quarter for a total of **\$28,000 in refundable tax credits for 2021** and potentially up to \$5,000 per employee for 2020.

## WHO QUALIFIES?

The credit is claimed **against your payroll tax filing deposits (941s)** or by reducing your employment tax deposits. Any credit that exceeds your employment tax deposit can be refunded to you by a check from the IRS, or you can amend previous 941 returns and request a refund. Your payroll partner will be able to help you claim and track this credit.

The Employee Retention Credit (ERTC) is a newly expanded **refundable tax credit** given to employers who are keeping their employees on payroll despite COVID-19 related challenges and losses. New legislation was passed in late December 2020 that made many businesses eligible for the credit for all quarters of 2021, who were not previously eligible in 2020.

## HOW MUCH IS THE CREDIT?

### EMPLOYERS WHO:

1. Were under a **full or partial suspension** of the operation of their trade or business during this period because of governmental orders limiting commerce, travel or group meetings due to COVID-19.
2. Have **fewer than 500 employees**
3. Had a **decline in gross receipts** in a calendar quarter in 2021, where the gross receipts of that calendar quarter are less than 80% of the gross receipts in the same calendar quarter in 2019 (to be eligible based on a decline in gross receipts in 2020, the gross receipts were required to be less than 50%).

## HOW DO I CLAIM IT?

# 1

## CAN I GET THE ERTC EVEN THOUGH I RECEIVED PPP MONEY?

Congress will let businesses have PPP and ERC for 2020, but not on the same dollars of payroll costs. Payroll costs – W-2 wages or health care costs – for which a taxpayer claims an ERC are NOT eligible to be forgiven as part of the PPP process.



# 2

## DO I QUALIFY FOR THE ERTC IN 2021?

To qualify, you must meet ONE, not both, of the guidelines below for 2021:

1. The full or partial suspension of the operation of their trade or business during any calendar quarter because of governmental orders limiting commerce, travel or group meetings due to COVID-19
2. A significant decline in gross receipts.

# 3

## WHAT IS A PARTIAL SUSPENSION OF THE OPERATION OF MY TRADE OR BUSINESS?

A federal, state, county or health mandate that prohibits your ability to operate business as usual likely meets the requirement for the Employee Retention Credits in 2021, even if you don't meet the eligibility requirements in 2020. The easiest way to find out is to schedule a 15 minute call with our team to discuss your specific situation.



# 4

## MY REVENUE WENT UP, NOT DOWN. DO I STILL QUALIFY?

**YES!** The recent changes say that if you have operations that were fully or partially suspended during any calendar quarter in 2021 due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19, you DO qualify for ERC.



# 5

## I AM A TAX FREE NON-PROFIT ORGANIZATION. DO I QUALIFY?

**YES!** If you meet the eligibility requirements for 2021 and you have employees. This tax credit is against your payroll tax liability. For purposes of the credit, a tax-exempt organization described in section 501(c) of the Code that is exempt from tax under section 501(a) of the Code is deemed to be engaged in a "trade or business" with respect to all operations of the organization.

# 6

## MY ORDERS TO REDUCE CAPACITY EXPIRED. DO I STILL QUALIFY?

**According to IRS FAQs, a business that can open (but only with restrictions) would still be "partially" shut down due to a governmental order.** For example, if a restaurant dining room normally has 100 tables, but due to "social distancing" orders, the restaurant is only permitted to have 50 tables, the employer is still subject to a partial shutdown order and would be eligible for the ERC. However, if there is no order (just a "recommendation") then the employer's eligibility for the ERC would expire at the end of the calendar quarter when the "order" is lifted (unless the employer satisfies the gross receipts test for the next quarter), such that "qualified wages" paid after the order is lifted would not count towards the ERC.

# 7

## WHAT DID THE AMERICAN RESCUE PLAN ACT CHANGE ABOUT THE ERTC?

THE ARP EXTENDS THE EMPLOYEE RETENTION CREDIT, ORIGINALLY SET TO EXPIRE JUNE 30TH, THROUGH THE END OF 2021, THEREBY PERMITTING THE CREDIT FOR THE LAST 2 QUARTERS OF 2021 AS WELL AS THE FIRST. THAT MEANS YOUR BUSINESS COULD BE ELIGIBLE FOR THE CREDITS FOR THE ENTIRE CALENDAR YEAR OF 2021.

### RECOVERY START-UP BUSINESSES

The ARP expands the Employee Retention Credit to "recovery start-up businesses," businesses that began carrying on a trade or business after February 15, 2020 and that have annual gross receipts of \$1 million or less, subject to rules similar to other employers. The maximum Credit that can be claimed by such a recovery start-up business may not exceed \$50,000 during any calendar quarter.

### SEVERELY FINANCIALLY DISTRESSED EMPLOYER

Another change to the Employee Retention Credit also includes changes for qualified employers who are considered "severely financially distressed employers," which is defined as employers that have a gross receipts reduction of more than **90 percent** as compared to the same calendar quarter in 2019. If an employer satisfies this test, all wages paid to employees are qualified wages, regardless of the size of the employer and number of employees.



# RESOURCES!



## RESTAURANT ROCKSTARS

Ready to learn everything about ERTC? Join our founder and president, Matt Patrick, on Restaurant Rockstars with host Roger Beaudoin. Watch or listen [here!](#)

## ONE STEP BETTER

Join Matt & Mike on the Whirks podcast for a lesson in the Employee Retention Tax Credit and PPE loans. Jeff Zapatos, owner of The Arcade Restaurant, joins. Listen [here.](#)



## FOR MORE INFORMATION:

[TAX CREDIT EXTENSION](#)

[THE EMPLOYEE RETENTION TAX CREDIT](#)

[PAYCHECK PROTECTION PROGRAM](#)

## CONTACT

INTERESTED IN LEARNING MORE? Reach out! Give us a call [schedule an appointment](#) to learn more about why we whirk.

Let us handle your **who**, **what**, and **when** - so you can focus on your **why**.

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