



## Employee Retention Credit

Key Takeaways of the Tax Relief Act, enacted December 27, 2020, that apply to the Employee Retention Credit (ERC) for January 1 through June 30, 2021.

- The ERC credit rate per employee is increased to 70% of qualified wages (from 50% for 2020) and the per-employee wage limit is increased from \$10,000 for the year (2020) to \$10,000 per quarter for 2021.
- Your eligibility as an employer is based on gross receipts of less than 80% (versus less than 50% for 2020) when compared to the same quarter in 2019.
  - This means, if your gross receipts decline more than 20% in 2021, you are eligible to take the credit.
- You can elect to use the immediately preceding calendar quarter (i.e., Q4 2020 and Q1 2021) instead of Q1 and Q2, 2021, respectively, compared to the same quarter in 2019 to determine eligibility.
- If your company did not exist in 2019, you may compare 2021 quarterly gross receipts to the same 2020 quarters to determine eligibility.
- For 2021, the definition of large employer changes, from more than 100 (2020) to more than 500 employees, which allows you to use a broader definition of qualified wages, if you fall within that threshold.
  - In short, you can count wages paid to both active (working) employees and those not providing services.
- The new law also removes the limit on qualified wages defined as no more than the employee would have received in the 30 days before the qualifying period.
  - Now, for example, you can take the ERC if you pay a bonus to an essential worker.
- If you have fewer than 500 full-time employees, you will be allowed advance ERC payments during the quarter in which the wages were paid to those employees.
  - This includes employers not in existence in 2019.
- The new law, retroactive to March 27, 2020, now allows employers who received Paycheck Protection Program (PPP) loans to claim the ERC for qualified wages, not treated as payroll costs in obtaining forgiveness of the PPP loan.
- If you received a PPP loan, you may still qualify for the ERC, for any wages not paid with proceeds from the forgiven portion of your PPP loan.
- Group healthcare expenses are considered “qualified wages.”

To qualify for ERC for the period Jan. 1, 2021, through June 30, 2021, you must have carried on as a business that:

- Was partially or fully suspended, due to COVID-19 orders from an appropriate governmental authority;  
or
- Experienced a significant decline in gross receipts, defined as less than 80% of gross receipts for the same calendar quarter in 2019.

This information is based on our current understanding of the Tax Relief Act of December 27, 2020. This information is subject to change by the IRS and possibly other governmental agencies. Although we make every effort to assure our information is current and accurate, you should not rely solely on this information for your financial decisions. You should always consult with your lawyer(s), accountant(s), financial advisor(s), and other professionals as you deem appropriate.