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THE GUIDE TO CLAIMING YOUR EMPLOYEE RETENTION TAX CREDIT (ERTC)



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ERC OVERVIEW: UNDERSTANDING THE EMPLOYEE RETENTION CREDIT

The Employee Retention Credit (ERTC) was established under the CARES Act by the government to offer financial relief to businesses that have struggled as a result of the COVID-19 pandemic. Due to changes under the Consolidated Appropriations Act, 2021, and the recently enacted American Rescue Plan Act, the ERTC has now been extended to allow businesses to claim the credit through December 31, 2021.

The expansion and extension of the ERTC program allow for more businesses to be eligible to claim the credit. However, as with many government expanded programs, the new changes and guidelines can be complex and difficult to comprehend. To help you better understand the ERTC, who is eligible, and how to claim it, we've put together a simple guide.



WHAT IS THE EMPLOYEE RETENTION TAX CREDIT?

The Employee Retention Tax Credit was created to help businesses that were financially impacted by COVID-19 keep employees on their payroll. It is a refundable tax credit that eligible businesses can claim on qualified wages paid to employees, including some health insurance costs. Thanks to new legislation, employers can now retroactively obtain both a PPP Loan and claim the ERTC.

How Much ERTC Stimulus Can You Claim?

Eligible employers of the ERTC may:

- **For the 2020 Tax Year:** Retroactively claim an employee retention credit of up to 50% of qualified wages up to \$10,000 per employee or a \$5,000 tax credit per employee for wages paid between March 13th and December 31, 2020.
- **For the 2021 Tax year:** Claim up to 70% of wages up to \$10,000 per employee for the first two quarters. A maximum of up to \$7,000 per employee for all four quarters of 2021, totaling \$28,000.
 - **Under the American Rescue Plan Act, 2021:** New businesses that started after February 15, 2020, and were forced to shut down due to government order may be allowed a credit of up to \$50,000 per quarter.



WHAT EMPLOYERS ARE ELIGIBLE FOR THE EMPLOYEE RETENTION TAX CREDIT?

The eligibility of an employer is predominantly determined by one of the following two factors – one of which must apply in the calendar quarter the employer wants to claim the credit:

1. Full or Partial Closure Due to a Government Order

Businesses are eligible if they were forced to fully or partially suspend operations or had to reduce business hours due to a COVID-19 government order. However, the credit may not be claimed for the entire quarter – it applies only to the portion of the quarter that the business is suspended.

According to the IRS, certain businesses do not meet these criteria, and thus do not qualify. This includes:

- Businesses that are considered essential – unless their supply of critical materials and goods is disrupted in a manner that affects their ability to continue to operate.
- Businesses that shuttered but are able to continue with their operations largely intact through telework.

If these businesses do not qualify based on the criteria above, they may still be eligible for the ERTC if the second factor applies.

2. A Significant Decline in Gross Receipts

- **For the 2020 Tax Year:** An employer must have seen a 50% drop in gross receipts compared to the previous corresponding 2019 calendar quarter.
- **For the 2021 Tax Year:** With new changes enacted in 2021, businesses must have seen more than a 20% drop in gross receipts compared to the corresponding calendar quarter in 2019.
 - New businesses that did not exist in 2019 can use gross receipts for the quarter in which they started as a reference to measure the decline in their gross receipts.

What if I Received a PPP Loan?

Due to new legislation, businesses that received a loan under the Paycheck Protection Program (PPP) may qualify for the ERTC as well. However, the ERTC only applies to wages that are not forgiven or expected to be forgiven under PPP.

What Are Qualified Wages?

Qualified wages are considered to be wages and compensation subject to FICA taxes that are paid by an employer to full-time employees. The wages must have been paid after March 12, 2020, and will continue to qualify if paid through December 31, 2021. Certain health expenses may qualify as well – they generally include employer and employee pretax portions, not the after-tax amounts.

Determining which qualified wages are eligible is based on the number of employees a business has:

- **For the 2020 Tax Year:** Employers that have **100** or fewer full-time employees can use all employee wages. This includes those actively working, as well as any time paid while not working with the exception of paid leave provided under the Families First Coronavirus Response Act.

Employers that have more than **100** full-time employees can only use the qualified wages of those employees who were not working due to suspended operations or a decline in gross receipts. Wages paid for vacation, sick leave, or other days off do not count as qualified wages for these larger employers.



New legislation increased the number of employees a business could have to 500 for the 2021 tax year. The same factors apply aside from the employee limit increase.

- **For the 2021 Tax Year:** Employers that have **500** or fewer full-time employees can use all employee wages. This includes those actively working, as well as any time paid while not working with the exception of paid leave provided under the Families First Coronavirus Response Act.
 - Employers that have more than **500** full-time employees can only use the qualified wages of those employees who were not working due to suspended operations or a decline in gross receipts. Wages paid for vacation, sick leave, or other days off do not count as qualified wages for these larger employers.
 - **The American Rescue Plan Act - 2021:** This new legislation allows for some businesses that suffered more significant losses to claim the credit for all qualified employee wages and not just those who are still being paid but aren't working. Employers that have been hit harder are defined as those whose gross receipts are less than 10% of what they were in a corresponding 2019 or 2020 quarter.
- * **For the purpose of the ERTC, a full-time employee is defined as someone who worked at least 30 hours per week or 130 hours a month.**



HOW DO I CLAIM THE EMPLOYEE RETENTION TAX CREDIT?

According to a new [notice](#) issued by the IRS on March 1, 2021, eligible businesses can claim the new ERTC by reporting their total qualified wages and health insurance costs on their federal employment tax returns. For most employers, this is [Form 941, Employer's Quarterly Federal Tax Return](#). This applies to qualified wages that were paid from March 12, 2020, through December 31, 2020.

Smaller businesses with 500 employees or fewer (full-time employees in 2019) may be able to request advance payment of the credit using [Form 7200, Advance of Employer Credits Due to Covid-19](#).

How to Claim the ERTC Retroactively

If you received a PPP loan you can now retroactively claim the employee retention tax credit. To do so, employers need to report qualified wages for the applicable quarters on [Form 941-X, Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund](#). But remember, the ERTC only applies to wages that were not forgiven or expected to be forgiven under the PPP.

The amount of wages eligible in this case depends on how the wages were reported on the PPP loan forgiveness application. If more expenses than necessary were used to justify the loan forgiveness, some of the qualified wages reported in the payroll costs on the forgiveness application may be eligible.

However, keep in mind that eligible expenses that were not initially included in the loan forgiveness application cannot be included after the fact. To maximize the qualified wages for the ERTC it is important to ensure all eligible expenses, such as utilities, rent, operation expenses, and other non-payroll costs, are included on the PPP loan forgiveness application.

HOW ASAP PAYROLL CAN HELP

If your business is eligible for the ERTC we can assist by reviewing qualified wages, calculate credit amounts, and file amended returns. Contact us today or give us a call at (317) 887-2727 to discuss.

Contact Us

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