

Has your business been adversely impacted by COVID-19?

If yes, worry not - relief is here for small and large businesses in the form of a refundable payroll tax credit, commonly referred to as **Employee Retention Tax Credit** (ERTC or ERC). It is the US government's way of rewarding employers and businesses for keeping the workforce employed during the pandemic.

Origin of ERC

ERC, which was in the works since the early days of COVID-19, got a shot in the arm on the 27th of December 2020 under the CARES Act of America when it was made available to Paycheck Protection Plan (PPP) recipients retroactively for the Q1 2020. It was further amended on March 1, 2021 until end of 2021.

What's in it for my business?

A maximum credit of \$5000 per qualified W2 employee with minimum of 30 hours per week / 130 hours per month for 2020, and a maximum credit of \$28,000 per qualified employee for 2021. Together this can add up to \$33,000 per qualified employee.

How can my business qualify?

- a) Your organization should be engaged in business activities in 2020 and/or 2021.
- b) Your organization should have been adversely impacted either by a government-ordered shutdown (complete or partial) **OR** experienced at least a 50% revenue decline in the eligible quarters of 2020. The comparison is on a quarter-by-quarter basis with the relevant quarter of 2019 (pre-COVID).

How about in 2021:

This is where the rubber meets the road. For 2021, still in comparison with 2019, your business only needs to be down by 20% in qualifying quarters for you to be eligible for ERC.

Some common myths surrounding the ERC:

** I got my PPP (Paycheck Protection Plan loan), so I am not eligible for the ERC. This is no longer true - the amendments made on December 27, 2020 made employers eligible to receive both. However, if you have received Paycheck Protection Plan funding, keep a good record of the date you received the loan and the dollar amount. That dollar amount must be excluded from the eligible earnings of that particular quarter(s). In essence, you cannot use the PPP funds in the calculations for ERC credit.*

* My business is either too big or too small (100 employees or less in 2020 & 500 employees or less in 2021) to qualify. *Nothing is farther from the truth! All employers qualify to receive ERC as long as they have W2 employees on their payroll and meet IRS guidelines*

* It's too complicated and too cumbersome to qualify. *Not at all. If you have verifiable quarterly revenue figures for 2019, 2020 and 2021, as well as quarterly 941 forms (payroll reports), all other requirements are manageable.*

* My company may qualify for one or two quarters only, so applying for ERC is not worth it. *Keep in mind that in 2020, per-employee ERC cap is \$5000 **per year**. There is no need to qualify in all the quarters. In 2021, this cap is raised to \$7000 per employee **per quarter**, so even a one-quarter qualification will bring your organization \$7000 per qualified employee for each eligible quarter.*

How can I claim ERC? There are three ways to claim ERC:

- If you have a third-party payroll processing provider, do call them and inform them that you are eligible for ERC credit, and would like them to file an amended 941 (called 941X). However, based on the quarter you qualify, ensure that you meet the gross revenue decline qualifications as explained earlier. Since they may not have revenue decline figures and PPP funding details, you may need to provide these.
- If you have an accounting firm doing your payroll and filing quarterly payroll tax returns, they should be able to pinpoint qualifying quarters, factor in PPP funding, and file the 941X for you.
- If you process your own paychecks and file quarterly payroll reports, we suggest you seek professional help. The ERC benefit may far outweigh the consultation cost.

What documents should you maintain?

When it comes to the IRS, there are three key things to keep in mind: documents, documents, and documents! Employers should keep proper records and notes of government-mandated shutdowns, assuming that is the basis of your ERC application. If the basis of your ERC application is a decline in gross receipts or revenue, keep a proper record of all three years' quarterly revenue figures, PPP funding details if applicable, all quarterly payroll reports (2019/2020/2021) including Form 941, Department of Labor (DOL) reports, employees' W2 records, etc.

What else should I know?

- Unlike PPP-forgiven loans, ERC will have an impact on your Income Tax Returns. We suggest that any employers reading should consult their tax advisors.

Key Takeaways:

* The combined credit from two years can be as high as \$33,000 per employee.

* The ERC is not a loan, there is no repayment or interest to be paid.

The bottom line?

The Biden/Harris administration has revamped the ERC, making it more accessible and worthwhile. Further, the ERC has no immediate filing deadline. A combined credit of \$33,000 per qualified employee (\$5000 maximum for 2020 and \$7000 maximum for 2021) will go a long way to improve your cash flow and mitigate losses you may have faced during the pandemic.

This is money you do not want to leave on the table!

Disclaimer: *Please note this article is educational and does not constitute legal or financial advice. Each situation is different and unique, so do consult your financial advisors. This article is based on our interpretation of the current IRS guidelines, which are subject to change. For a full text of the guidelines, please refer to the official SBA and IRS websites.*