



## Helping businesses capture refundable COVID-19 employee retention tax credits

On March 27, 2020 the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), created a refundable employee retention credit (ERC) of up to \$5,000 per employee against the employer share of the Social Security Tax on wages or the equivalent amount of Tier 1 of the Railroad Retirement Tax Act.

On December 27, 2020, the President signed the Consolidated Appropriations Act, 2021 (CAA), which extended the ERC through June 30, 2021, while also modifying the credit both prospectively and retroactively.

Although this refundable credit will help businesses retain employees and reduce economic loss, the underlying rules will require thorough analysis to capture the full benefit due while considering the provisions from the CARES Act and CAA.

### **Key steps employers need to take include the following:**







- (1) Identify all federal, state and local government orders leading to full or partial suspension of business operations from March 2020 through June 2021
- (2) Calculate year-over-year change in gross receipts by calendar quarter based on complex aggregation rules and modifications outlined within the CAA
- (3) Determine qualifying wages paid or incurred during the qualifying period (increased by qualified health plan expenses)
- (4) Complete overlap analysis with other federal wage-based credits, request the refundable credit on quarterly Form 941/941-X and make Section 280C(a) adjustments

The primary provisions of the CARES Act and CAA are summarized below for reference.

	CARES Act key provisions	Changes under the Consolidated Appropriations Act, 2021
Eligible employer definition	<p>Employers that carried on a trade or business during 2020 and:</p> <p>(1) Suspended operations fully or partially as a result of a COVID-19-related governmental order</p> <p>Or</p> <p>(2) Experienced at least a 50% year-over-year decline in calendar quarter gross receipts</p> <p>Tax-exempt organizations (excluding governmental employers) are eligible.</p> <p>An employer receiving a loan under the Paycheck Protection Program (PPP) is not eligible for the ERC.</p>	<p>Employers that received PPP loans may claim the ERC as long as ERC wages are not paid with forgiven PPP loans.</p> <p>Eligible employers applying the gross receipts test only have to experience a 20% decline (reduced from 50%) in calendar quarter gross receipts starting January 1, 2021.</p> <p>Public colleges, universities and government entities providing medical or hospital care are now eligible for the ERC beginning January 1, 2021.</p>
Qualified wages	<p>For eligible employers that had an average number of full-time employees (within the meaning of Section 4980H) in 2019 greater than 100, wages paid to employees with respect to which an employee is not providing services due to reasons (1) or (2) above and not in excess of what the employee would have been paid for an equivalent amount of work in the 30 days immediately preceding the credit period.</p> <p>For eligible employers that had an average number of full-time employees in 2019 of 100 or less, wages paid to employees regardless of whether employee provides services.</p> <p>Wages do not include wages taken into account under Sections 7001 and 7003 of the Families First Coronavirus Response Act (COVID-19 paid leave credits).</p>	<p>Eligible employers that had an average number of full-time employees in 2019 of 500 or less (increased from 100) can consider wages paid to employees regardless of whether an employee was providing services as qualified wages beginning on January 1, 2021.</p> <p>Qualified wages for the ERC are no longer limited to the amount of wages paid in the prior 30 days beginning on January 1, 2021.</p> <p>The 30-day limitation on qualified wages was eliminated.</p>
Refundable credit definition	<p>An eligible employer is entitled to a refundable credit equal to 50% of qualified wages paid from March 13, 2020 through December 31, 2020, plus qualified health plan expenses (up to \$10,000 per employee).</p>	<p>Beginning on January 1, 2021, an eligible employer is entitled to an increased credit percentage of 70% of qualified wages and increased qualified wage limitation to \$10,000 per employee per quarter. The credit now expires on June 30, 2021.</p>
Credit overlap and Section 280C(a) analysis	<p>The credit is not allowed for any employee for any period in which the Work Opportunity Tax Credit (WOTC) is claimed on such employee; wages used for the credit may not be used for the Section 45S credit. The deduction for wages and salaries must be reduced by the amount of the credit.</p>	<p>The credit is not allowed for any employee for any period in which the wages are also claimed on the WOTC, Section 41 (credit for increasing research activities), the Indian Employment Credit (IEC), 45P (active duty credit), Section 45S (paid family medical leave credit) or the Federal Empowerment Zone credit.</p>

## How Ernst & Young LLP (EY US) can help

During 2020, EY assisted hundreds of employers in virtually all sectors capture the ERC. We have developed a process and technology to assist employers with the requirements and opportunities of the ERC in an efficient and accurate manner. Our services include the following:

-  **1. ERC feasibility:** we have developed a streamlined feasibility study that will help businesses determine their eligibility and ascertain the potential benefit from the ERC in 2020 and 2021, utilizing our national database of governmental orders.
-  **2. Assistance with eligibility determination and capturing qualified wages:** securing ERC value requires a two-step analysis. To determine eligibility, employers should review government orders from March 2020 through June 2021 and consider eligibility under the modified gross receipts test, then verify that all qualified wages are identified and captured. EY has extensive experience determining eligibility, analyzing payroll and identifying additional qualified wages that were not tracked in payroll or timekeeping systems.
-  **3. Secure data collection:** data security is paramount, especially when dealing with payroll data. EY has deep experience securely receiving and tracking sensitive employee data.
-  **4. Credit computation and overlap analysis:** EY can assist with computing the refundable credits for each qualified employee, including completing overlap analysis for the WOTC, Section 45S, Section 41, IEC, Section 45P and the Federal Empowerment Zone Credit.
-  **5. Forms 941 and 941-X (or Forms 941-X) support:** the refundable credit is claimed on the quarterly IRS Form 941/941-X or Form 7200. Any excess credit can be refundable as a cash refund or can be applied against future liability. Employers have three years to file amended Forms 941-X and claim the ERC. EY can assist the business by preparing the necessary forms to claim the refundable credit. Conversely, with client authorization, EY can work directly with an external payroll provider to support claiming the credit, which would include confirming that all necessary forms are prepared and filed properly.
-  **6. Conduct and continue Workforce Economics scenario planning:** considering the benefits of the ERC, it is important to put it in context of broader business and workforce considerations. EY has developed a holistic **Workforce Economics modeling tool** that enables organizations to compare short-term and longer-term employee plan and program actions, as well as workforce actions, linked with ERC planning. Our approach allows senior leaders to align on and prioritize actions based on business needs and considering workforce-related savings options.\*

\*Certain services may have scope restrictions for EY attest clients.



## Why EY

As one of the world's largest tax advisory and compliance organizations, EY has significant employee retention credit experience dating back to Hurricane Katrina retention credits in 2005. EY has the technical know-how, subject-matter resources and digital platforms to quickly assist businesses to qualify, compute and claim the COVID-19 employee retention credit. EY brings the multi-functional tax technical capabilities and experience of our Employment Tax, Tax Credits and Compensation & Benefits practices to assist our clients during this time of crisis.

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