*Did you have to close or have reduced operations or revenue because of Coronavirus?*

Virginia Early Childhood Foundation®

Learn more about

# The Employee Retention Tax Credit



## What is the Employee Retention Tax Credit?

The Employee Retention Tax Credit (ERTC) is a refundable tax credit for businesses that kept W-2 employees employed throughout the pandemic. A refundable tax credit is one that can come back to you as cash, and in many ways, the ERTC is like the Paycheck Protection Program, but with less paperwork.

Most small businesses, including nonprofits, were eligible for the program. Government agencies and public school districts are not eligible.

The ERTC covers the period from March 13, 2020 to September 30, 2021. While the ERTC program ended on September 30, 2021, you can apply for the credit for 2020 and 2021 retroactively through a simple update to your quarterly Form 941 that is submitted for all employees to the IRS. Businesses have throough 2024 to amend their past taxes to apply for this credit.

The ERTC has slightly different rules for 2020 and 2021. It is important to note that in August 2021, a new criteria and process was set up for certain businesses that qualify as "recovery startups." These businesses are able to apply for the credit in both Quarters 3 and 4 of 2021.

### Do you have W-2 employees and have you experienced any of the following since March 13, 2020?

- A closure due to local or state government order;
- A decrease in the number of children you can serve; or
- A decrease in revenue from 2019 to 2020 or from 2019 to 2021?

**If any of the above apply, you may be eligible for the Employee Retention Tax Credit.**

## ERTC 2020

### Is my business eligible for the ERTC 2020?

To be eligible for the Employee Retention Tax Credit you must have either:

- **Completely or partially suspended business operations** during any calendar quarter in 2020 due to orders from a government authority. The one exception — if your employees are working from home instead of an office, this is not considered to be a partial suspension of your business operations.

  **Examples of Partially Suspended Business Operations**
  A child care provider who must have fewer children per classroom due to government social distancing orders could qualify for the ERTC.

**— OR —**

- **Experienced a "significant decline in gross receipts"** during a calendar quarter in 2020 equal to less than 50% of gross receipts in the same quarter in 2019. If you qualify based on a decline of gross receipts, you can use this qualification until one quarter of your gross receipts is greater than 80% of the same quarter in 2019.

  **Example of a Significant Decline in Gross Receipts**
  Let's say in Quarter 2 your gross receipts were 35% of 2019 levels. Then, in Quarter 3 you jumped up to 95% of gross receipts from 2019. You still qualify in Quarter 3 because of the reduced Quarter 2 levels. In Quarter 4, you will no longer qualify if your gross receipts are still more than 50% of 2019 levels.

### How does the ERTC 2020 work?

The Employee Retention Tax Credit is equal to 50% of up to $10,000 in qualified wages (including amounts paid toward health insurance) **per employee** for all calendar quarters **beginning March 13, 2020 and ending September 30, 2021**. If you are claiming the credit specifically for a closure, you can only use payroll during that period. The maximum credit per employee between March 13, 2020 and December 31, 2020 is $5,000.

**HERE'S AN EXAMPLE:**

Let's say you have an employee who has gross wages of $60,000 per year. That means each quarter they have gross wages of $15,000. In Quarter 1 you could request half of the gross wages up to $5,000. In this case, half of the gross wages of $15,000 would be $7,500, so you could request the full amount for the year of $5,000.

If you had less than 100 employees on average in 2019, you can claim credit for every qualified employee whether they are working or not (but of course they need to be on your payroll and not unemployment). If you had more than 100 employees on average in 2019, you can only use payroll for those employees who are actively working.

**SOME OTHER IMPORTANT NOTES:**

You cannot claim self-employment income. So, if you are a sole proprietor you can use the income from an employee, but not yourself.

If you have wages covered by the Families First Coronavirus Response Act, Paid Family and Medical Leave, or through a Work Opportunity Tax Credit, they will not count for the program.

> PRO TIP If you have a PPP, you cannot "double count" the money. Make sure that the salary you are counting for the ERTC is not the same as the PPP. For example, if you are claiming PPP forgiveness for all your salary in May 2020, you cannot also claim an ERTC.

## How do I get reimbursed?

You get reimbursed through a "refundable tax credit." That's a technical way of saying the United States Treasury pays you using money from employment taxes. Think of this term as simply a "reimbursement" for the applicable wages.

You get reimbursement by revising your eligible past FORM 941 submittals using an amendment (**FORM 941X** and **instructions**).

## For more information

Visit the **US IRS website**.

If you would like additional support on this topic or other business topics, please view the **coaching registration page** and register to speak with a business coach.

## ERTC 2021

### Is my business eligible for the ERTC 2021?

To be eligible for the Employee Retention Tax Credit you must have either:

- **Completely or partially suspended business operations** during any calendar quarter in 2021 due to orders from a government authority. The one exception — if your employees are working from home instead of an office, this is not considered to be a partial suspension of your business operations.

  **Examples of Partially Suspended Business Operations**
  A child care provider who must have fewer children per classroom due to government social distancing orders could qualify for the ERTC.

**— OR —**

- **Experienced a "significant decline in gross receipts"** during a calendar quarter in 2021 of at least 20% of gross receipts in the same quarter in 2019. If you qualify based on a decline of gross receipts, you can use this qualification until one quarter of your gross receipts is greater than 80% of the same quarter in 2019.

  **Example of a Significant Decline in Gross Receipts**
  Let's say in Quarter 2 your gross receipts were 35% of 2019 levels. Then, in Quarter 3 you jumped up to 95% of gross receipts from 2019. You still qualify in Quarter 3 because of the reduced Quarter 2 levels. In Quarter 4, you will no longer qualify if your gross receipts are still more than 80% of 2019 levels.

### How does The ERTC 2021 work?

The Employee Retention Tax Credit is equal to 70% of up to $10,000 in qualified wages (including amounts paid toward health insurance) **per employee** per quarter. If you are claiming the credit specifically for a closure, you can only use payroll during that period. The maximum credit per employee per quarter, is $7,000.

**HERE'S AN EXAMPLE:**

Let's say you have an employee who has gross wages of $60,000 per year. That means each quarter they have gross wages of $15,000. In Quarter 1 you could request half of the gross wages up to $7,000. In this case, half of the gross wages of $15,000 would be $7,500, so you could request the full amount for the quarter of $7,000.

**SOME OTHER IMPORTANT NOTES:**

You cannot claim self-employment income. So, if you are a sole proprietor you can use the income from an employee, but not yourself.

If you have wages covered by the Families First Coronavirus Response Act, Paid Family and Medical Leave, or through a Work Opportunity Tax Credit, they will not count for the program.

### How do I get reimbursed?

You get reimbursed through a "refundable tax credit." That's a technical way of saying the United States Treasury pays you using money from employment taxes. Think of this term as simply a "reimbursement" for the applicable wages.

You get ERTC 2021 reimbursement by revising your eligible past FORM 941 submittals using an amendment (**FORM 941X** and **instructions**).

### For more information

Visit the **US IRS website**.

## Recovery Startups

For the purposes of qualifying for the ERTC, businesses that began their operations after February 15, 2020 are known as "recovery startups." These businesses are eligible to claim the Employee Retention Tax Credit because of the date on which they became operational.

To qualify as a "recovery startup," the company must also have earned less than $1 million in revenue for the three years preceding the quarter in which the tax credit is claimed. Eligible recovery startup businesses may claim the ERTC for Quarters 3 and 4 of 2021.

Recovery startups can claim 70% of up to $10,000 in wages per employee per quarter, just as other eligible businesses. However, recovery startups are limited to a maximum credit of $50,000 per quarter, or $100,000 total for both quarters in 2021.



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