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Presents



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Joshua Jenson, CPA aka “JJ THE CPA”

Joshua has over 31 years of public accounting experience in the area of tax, specializing in LLC, partnership, S corporation, and related individual tax matters. He still practices in the trenches of the tax world in the CPA firm he founded 26 years ago.

JJ has traveled to over 60 cities, presenting tax courses to thousands of fellow CPAs covering the latest tax laws and strategies as well as presenting virtual tax seminars to CPAs, Enrolled Agents and tax professionals all over the U.S.

The U.S. Chamber of Commerce named him top 10 Small Business Expert to follow on social media. He has appeared on local as well as national news programs for the last 20 years, becoming a regular tax season guest on several local and national radio programs.

JJ the CPA has over 91,000 SUBSCRIBERS and over 7.5 million views on his YouTube channel “JJ THE CPA,” and has authored 2 books available on Amazon.

Joshua Jenson is a licensed CPA in Oklahoma and Texas, and a member of the American Institute of CPAs, Oklahoma Society of CPAs as well as the Oklahoma City Chapter of the OSCPA. JJ serves on the Tax Committee for the Oklahoma Society of CPAs and has served as the past Chairperson of the OSCPA Educational Foundation and was named CPA of the year by his CPA peers. Joshua is a 1993 graduate of Abilene Christian University where he earned his accounting degree.

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Overview

This will cover the latest developments of the ERTC, provide a guide to how to determine when an employer qualifies, what wages are included in the credit, step-by-step how to calculate the ERTC, how to go back to claim the ERTC, contingency fees, overview of the the 3 IRS Tax Notices & IRS Rev. Proc. released this year on the ERTC, aggregation rules, maximizing 100% PPP Loan Forgiveness with ERTC, related tax forms, overview of how to prepare Form 941-X properly reporting ERTC for tax purposes, as well as the timing of reporting.

Learning Objectives

- Learn how to identify an employer that qualifies for ERTC.
- Learn how to calculate ERTC.
- Learn how to report ERTC.
- Learn how to get the economic benefit of ERTC.
- Learn what tax laws have changed with these topics
- Learn to better understand recent tax law changes of these topics and how they may apply to you or your clients' circumstances
- Learn more about these topics to better serve your clients with expanded and up-to-date information
- Learn of the effective dates of law changes
- Learn about related contingency fees

VIDEO TOPICS (1/2)

VIDEO 1 – SUMMARY OF ERC

VIDEO 2 – HOW LONG DO YOU HAVE TO GET ERC

VIDEO 3 – COMPARING ERC FROM 2020 TO 2021

VIDEO 4 – GOVERNMENTAL ORDERS QUALIFIERS FOR ERC

VIDEO 5 – DECLINE IN GROSS RECEIPTS QUALIFIERS FOR ERC

VIDEO 6 – WHAT WAGES QUALIFY AND WHEN DO WAGES QUALIFY

VIDEO 7 – EMPLOYER SIZE BASED ON EMPLOYEES IN 2019

VIDEO 8 – THE INCOME TAX AFFECT OF ERC & ANTICIPATED PENALTIES

VIDEO 9 – OWNERS WHO OWN MULTIPLE BUSINESSES

VIDEO 10 – EMPLOYER PAID HEALTH INSURANCE AS QUALIFIED ERC WAGES

VIDEO 11 – ERC FOR OWNERS, SPOUSES & FAMILY

VIDEO 12 – CONTINGENCY FEES RELATED TO ERC

VIDEO 13 – ERC SPECIFIC TO 2020 WITH CALCULATION EXAMPLES

VIDEO 14 - ERC SPECIFIC TO 2021 WITH CALCULATION EXAMPLES

VIDEO TOPICS (2/2)

VIDEO 15 – BIG & COMMON QUESTIONS AND RELATED

VIDEO 16 – TIMELINE OF ERC, AS IT PROGRESSED

VIDEO 17 – MAJOR OVERVIEW OF IRS NOTICES

VIDEO 18 – WHAT “PROMOTERS” ARE STATING, THAT IS NOT TRUE ABOUT ERC

VIDEO 19 – HOW TO PREPARE FORM 941-X TO GET THE ERC FROM THE IRS

VIDEO 20 – ERC MIXED WITH PPP

VIDEO 21 – FINAL THOUGHTS

MAJOR TOPICS: PowerPoint Contents in Order of Presentation (1/7)

VIDEO 1 – SUMMARY OF ERC

- Executive Summary of the ERTC
- 7 steps how to properly calculate the ERTC
- Simple overview of ERTC

VIDEO 2 – HOW LONG DO YOU HAVE TO GET ERC

- Form 941-X due dates

VIDEO 3 – COMPARING ERC FROM 2020 TO 2021

- Compare ERTC rules from 2020 to 2021
- Mapping out the ERTC rules for 2020, and 2021

VIDEO 4 – GOVERNMENTAL ORDERS QUALIFIERS FOR ERC

- Defining Governmental Orders and Partial/Full Shutdown
 - Suppliers qualifying businesses for ERC, and related scam awareness
 - IRS Memo 2023-005

MAJOR TOPICS: PowerPoint Contents in Order of Presentation (2/7)

VIDEO 5 – DECLINING IN GROSS RECEIPTS QUALIFIERS FOR ERC

- Gross receipts test examples for 2020 and 2021

VIDEO 6 – WHAT WAGES QUALIFY AND WHEN DO WAGES QUALIFY

- Time-frame when wages qualify & defining what wages qualify

VIDEO 7 – EMPLOYER SIZE BASED ON EMPLOYEES IN 2019

- Employer size calculation for 2020 and 2021
- What if started my business in 2019 or in 2020?

VIDEO 8 – THE INCOME TAX AFFECT OF ERC & ANTICIPATED PENALTIES

- When, where and how to report ERTC for income tax purposes
- Possible approach to the abatement of income tax penalties
- QBI mixed with ERTC (Qualified Business Income Deduction)

VIDEO 9 – OWNERS WHO OWN MULTIPLE BUSINESSES

- ERTC aggregation rules

MAJOR TOPICS: PowerPoint Contents in Order of Presentation (3/7)

VIDEO 10 – EMPLOYER PAID HEALTH INSURANCE AS QUALIFIED ERC WAGES

- How ERTC qualified wages includes employer paid health insurance
- Calculation examples of qualified wages plus employer paid health insurance

VIDEO 11 – ERC FOR OWNERS, SPOUSES & FAMILY

- When do wages for business owners, spouses and family qualify for ERTC

VIDEO 12 – FEES RELATED TO ERC

- Fees related to ERTC with a look at this per the AICPA and U.S. Treasury

VIDEO 13 – ERC SPECIFIC TO 2020 WITH CALCULATION EXAMPLES

- 2020 ERTC: Specifics to government closures, gross receipts test, employer size, example ERTC calculation

VIDEO 14 - ERC SPECIFIC TO 2021 WITH CALCULATION EXAMPLES

- 2021 ERTC: Specifics to government closures, gross receipts test, employer size, example ERTC calculation

MAJOR TOPICS: PowerPoint Contents in Order of Presentation (4/7)

VIDEO 15 – BIG & COMMON QUESTIONS AND RELATED

- Biggest questions related to ERTC
- Most common questions once in the numbers related to ERTC
- Major items not to forget with ERTC
- Actual language in CARES Act where ERC is initial applied to Covid-19 era
- Actual language of the Appropriations Consolidation Act where ERC was modified and extended

VIDEO 16 – TIMELINE OF ERC, AS IT PROGRESSED

- IRS' historical list of ERTC from CARES Act, to Appropriations Act to American Rescue Act to Infrastructure Act

MAJOR TOPICS: PowerPoint Contents in Order of Presentation (5/7)

VIDEO 17 – MAJOR OVERVIEW OF IRS NOTICES

- Major overview of IRS Notice 2021-20
- Major overview of IRS Notice 2021-23
- Major overview of IRS Revenue Procedure 2021-33
- Major overview of IRS Notice 2021-49
 - Includes among other issues, defining “Recovery Start-up Business”
- Major overview of IRS Notice 2021-65

VIDEO 18 – WHAT “PROMOTERS” ARE STATING, THAT IS NOT TRUE ABOUT ERC

- 18 Myth’s about the ERTC

MAJOR TOPICS: PowerPoint Contents in Order of Presentation (6/7)

VIDEO 19 – HOW TO PREPARE FORM 941-X TO GET THE ERC FROM THE IRS

- Overview of current payroll tax forms related to ERTC (Forms 7200, 941 & 941-X)
- Overview of Form 941-X instructions
 - NOTE: On ERTC materials page you will find 941-X instructions highlighted for the areas that apply to ERTC
- General, overall information for Form 941-X
- Review actual Worksheets 2 & 4, related to Form 941-X
- Review actual Form 941-X, with highlights of what gets completed on the form
- Step by step how to complete Worksheets 2 & 4 for Form 941-X
- Step by step how to complete Form 941-X for ERTC purposes

MAJOR TOPICS: PowerPoint Contents in Order of Presentation (7/7)

VIDEO 20 – ERC MIXED WITH PPP

- Terminology comparing ERTC to PPP related to major common payroll items
- Biggest misconceptions when calculating ERTC with PPP loan forgiveness
- Strategy of properly maximizing ERTC and PPP loan forgiveness
- IRS and SBA interactions common to ERTC in conjunction with PPP loan forgiveness
- Best practice to achieve maximum ERTC and PPP loan forgiveness
- How to approach ERTC if you already received PPP loan forgiveness
- The mechanics of ERTC and PPP
- Example calculations of maximizing ERTC and PPP

VIDEO 21 – IRS PROCEDURES TO WITHDRAW ERC CLAIM

- If you have filed an ERC claim (filed Form 941-X), and now believe you don't qualify for ERC for that quarter, the IRS has released specific procedures to withdraw a previously filed ERC claim (Form 941-X).

BE SURE TO SEE THE VIDEO ON PREPARING AN EXAMPLE FORM 941-X

VIDEO 1

Executive Summary

EMPLOYEE RETENTION CREDIT (ERC)

EXECUTIVE SUMMARY

Retroactive back to 3/13/2020

- Can take if received PPP
- Wages used for ERC cannot be used for PPP forgiveness
- Wages used already for PPP forgiveness can't be used for ERC purposes

Credit **50%** of qualified \$10,000 wages for 2020

Credit **70%** of qualified \$10,000 wages for 2021 extended to 9/30/2021

\$10,000 max wages per calendar year 2020

- **Max \$5,000** payroll tax credit per employee for **all 2020**

\$10,000 MAX WAGES PER QUARTER FOR 1st, 2nd & 3rd QUARTERS 2021

- Max **\$7,000** payroll tax credit per employee per quarter
 - **Max \$21,000 per employee for 2021**
- Available 4th quarter 2021 for recovery start ups

Includes health insurance paid by the employer for applicable payroll

- Health insurance is NOT in addition to the \$10,000 limitation

Employer size dependent on average number of employees

- Both 2020 and 2021, the average number of employees **based on 2019**
- The threshold for **2020 is 100** employees
- The threshold for **2021 is 500** employees
- The threshold and below, all wages qualify if employer qualifies for ERC (exceptions exist)
- Above the threshold, only wages paid to employees that didn't provide services qualify for an employer who qualifies for ERC (exceptions do exist)

Not limited to employer social security taxes & refundable

NOT AVAILABLE FOR MORE THAN 50% OWNERS OR SPOUSES, RELATED INDIVIDUALS IN MOST EVERY CIRCUMSTANCE **OR SELF-EMPLOYED on SELF-EMPLOYED INCOME**

Two ways to qualify (either/or) both not required

- Government partial or full suspension of operations limiting commerce, travel, or group meetings **Or**
- A specific decline in gross receipts for the quarter

If by reduction in gross receipts

50% decrease in gross receipts for 2020

- 2020 quarter compared to corresponding quarter in 2019

20% decrease in gross receipts for 2021

- 2021 quarter compared to corresponding quarter in **2019**
- Alternative Method: Immediate preceding quarter qualifies quarter

Claiming & receiving the ERC

- **Report & file form 941-x**
 - Either claiming a credit carryover or refund
- **Deadline to File Form 941-X to Obtain ERC**
 - 2020: April 15, 2024
 - 2021: April 15, 2025

SIMPLE, RIGHT?

THE EMPLOYEE RETENTION TAX CREDIT IS

- **QUALIFIED WAGES**
 - INCLUDES EMPLOYER PAID HEALTH INSURANCE
 - 2020: UP TO \$10,000 PER EMPLOYEE FOR ALL 2020
 - 2021: UP TO \$10,000 PER EMPLOYEE PER QUARTER
- **DURING QUALIFIED PERIOD**
 - PARTIAL OR FULL GOVERNMENTAL SHUTDOWN
 - **OR**
 - REDUCTION IN GROSS RECEIPTS
 - **50% OF QUARTERS IN 2020 COMPARED TO SAME 2019 QUARTER**
 - **20% OF QUARTERS IN 2021 COMPARED TO SAME 2019 QUARTER**
 - ALTERNATIVE METHOD: PRIOR QUARTER TO 2021 QUARTER COMPATED TO SAME 2019 QUARTER
 - QUARTERS 1, 2 AND 3
 - QUARTER 4 IF A RECOVERY START UP BUSINESS
- **MULTIPLIED BY APPLICABLE PERCENTAGE**
 - 70% in 2021
 - 50% in 2020
- **FILE FORM 941-X FOR THE APPLICABLE QUARTER TO GET MONEY FROM IRS**





THE Mechanics
of the ERTC

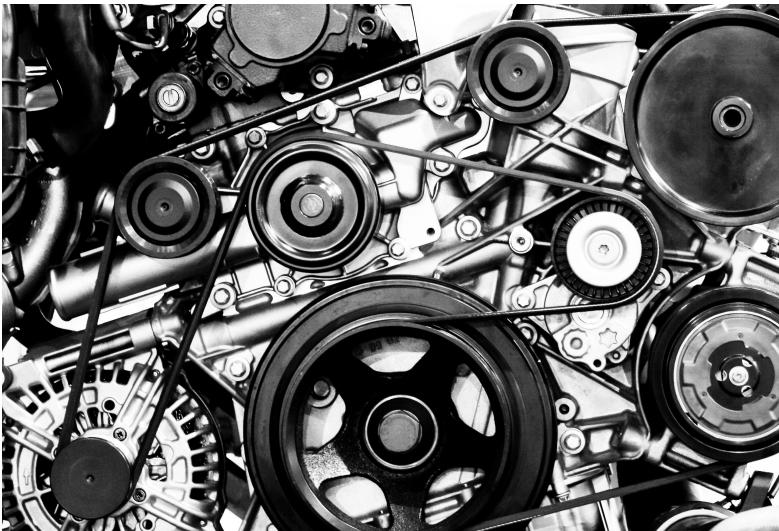
7 STEPS

THE MECHANICS OF ERTC

STEP 1

DO YOU QUALIFY?

WHAT TIME PERIOD QUALIFIES?



- **DETERMINE IF EMPLOYER QUALIFIES AS A BUSINESS**
 - IF YOU HAVE W-2 PAID EMPLOYEES THERE WERE PAID DURING THE QUALIFYING PERIODS, YOU ARE AN EMPLOYER THAT INITIALLY QUALIFIES.
- **DETERMINE IF EMPLOYER HAS/HAD FULL OR PARTIAL SUSPENSION OF OPERATIONS**
 - DETERMINE THE DATES THIS APPLIES TO WHICH IS ONLY DURING THE GOVERNMENTAL INTERRUPTION
- **OR**
- **DETERMINE IF EMPLOYER HAS/HAD DECLINE IN GROSS RECEIPTS**
 - DETERMINE THE QUARTER(S) THIS APPLIES TO, WHICH IS FOR THE FULL QUARTER OF THE GROSS RECEIPTS REDUCTION
 - 50% REDUCTION IN GROSS RECEIPTS REQUIRED IN 2020
 - 20% REDUCTION IN GROSS RECEIPTS REQUIRED IN 2021
 - REDUCTION OF REDUCTION IN GROSS RECEIPTS IS ALWAYS COMPARED TO THE SAME QUARTER IN 2019

THE MECHANICS OF ERTC

STEP 2

WHAT EMPLOYEES ARE INCLUDED BASED ON YEAR?



- DETERMINE WHICH YEAR:
 - 2020 **OR** 2021
- NUMBER OF EMPLOYEES ALWAYS BASED ON “FULL-TIME EMPLOYEE” HEAD COUNT IN **2019** ONLY. ACTUAL EMPLOYEE HEAD COUNT IN 2020 & 2021 IS IRRELEVANT.
 - 2020 -100 or LESS EMPLOYEES IN 2019?
 - 2021 – 500 or LESS EMPLOYEES IN 2019?
 - ALL EMPLOYEES INCLUDED WHETHER THEY WORKED OR NOT
 - EMPLOYEES EMPLOYED IN 2019 DO NOT NEED TO STILL BE STILL EMPLOYED IN 2020 OR 2021
 - EMPLOYEES INCLUDE ALL CLASSIFICATIONS OF EMPLOYEES, INCLUDING PART-TIME & FULL-TIME
 - 2020 - OVER 100 EMPLOYEES IN 2019?
 - 2021 – OVER 500 EMPLOYEES IN 2019?
 - ONLY EMPLOYEES THAT DID NOT WORK BUT GOT PAID ARE INCLUDED
 - EMPLOYEES EMPLOYED IN 2019 DO NOT NEED TO STILL BE STILL EMPLOYED IN 2020 OR 2021
 - EMPLOYEES INCLUDE ALL CLASSIFICATIONS OF EMPLOYEES, INCLUDING PART-TIME & FULL-TIME

THE MECHANICS OF ERTC

STEP 3

WHAT WAGES ARE INCLUDED, BASED ON YEAR?

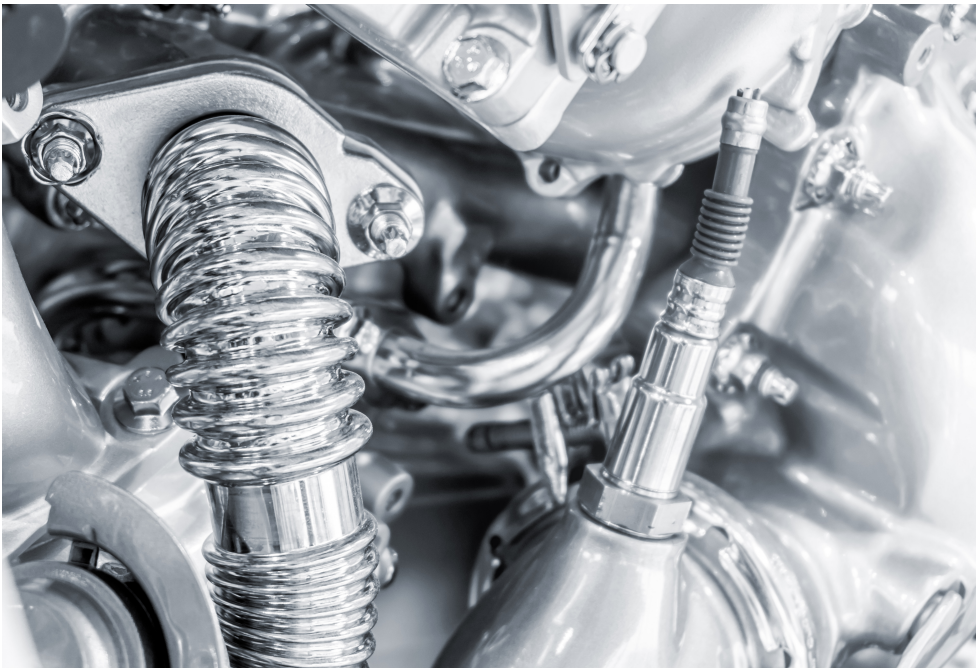


- **WAGES EXCLUDE FOR EITHER 2020 OR 2021:**
 - WAGES USED FOR OTHER TAX CREDITS AND PPP FORGIVENESS
 - WAGES EXEMPT FROM SOCIAL SECURITY & MEDICARE TAXES
 - WAGES TO EMPLOYEES THAT ARE MORE THAN 50% OWNERS AND THEIR RELATIVES (MORE THAN 50% OWNERSHIP IS BASED ON FAMILY ATTRIBUTION RULES APPLY)
- **WAGES INCLUDE ALL CLASSIFICATIONS OF EMPLOYEES REGARDLESS OF EMPLOYEE SIZE CLASSIFICATION**
 - INCLUDES ALL FULL-TIME, PART-TIME, HOURLY, TEMPORARY, NON-EXEMPT SALARIED & EXEMPT SALARIED EMPLOYEES, AS WELL AS PRE-EXISTING VACATION SICK & OTHER LEAVE POLICY PAID WAGES
 - EMPLOYEES ARE NEVER, UNDER ANY CIRCUMSTANCE, BROKEN INTO AN ESSENTIAL OR NON-ESSENTIAL CLASSIFICATIONS. THIS MEANS REGARDLESS IF THE EMPLOYEE IS ESSENTIAL OR NOT, THEY ARE INCLUDED
 - WHETHER THE EMPLOYEE WAS EMPLOYED IN 2019 IS IRRELEVANT
- **NUMBER OF EMPLOYEES**
 - **2020 - 100 or LESS EMPLOYEES IN 2019?**
 - **2021 – 500 or LESS EMPLOYEES IN 2019?**
 - **ALL WAGES & EMPLOYER PAID HEALTH INSURANCE INCLUDED, REGARDLESS IF THE EMPLOYEE WORKED OR NOT**
 - **2020 - OVER 100 EMPLOYEES IN 2019?**
 - **2021 – OVER 500 EMPLOYEES IN 2019?**
 - **ONLY WAGES & EMPLOYER PAID HEALTH INSURANCE PAID TO EMPLOYEES THAT DID NOT WORK ARE INCLUDED**
 - **EXCLUDES RAISES, AS WELL AS PRE-EXISTING VACATION SICK & OTHER LEAVE POLICY**
 - **ONLY INCLUDES WAGES EQUIVALENT TO 30 DAYS PRIOR, EXCEPT IN 2021**

THE MECHANICS OF ERTC

STEP 4

**DETERMINE THE MAXIMUM WAGES INCLUDED,
BASED ON YEAR?**



- **ADDING QUALIFIED WAGES PLUS EMPLOYER PAID HEALTH INSURANCE TO DETERMINE THE \$10,000 MAX PER EMPLOYEE**
 - IT IS **NOT** \$10,000 OF WAGES AND HEALTH INSURANCE ON TOP OF THAT
- **\$10,000 MAX PER EMPLOYEE**
- **2020**
 - \$10,000 MAX FOR THE ENTIRE YEAR OF 2020, PER EMPLOYEE
- **2021**
 - \$10,000 MAX FOR EACH QUARTER IN 2021, PER EMPLOYEE
 - \$10,000 FOR QUARTER 1
 - \$10,000 FOR QUARTER 2
 - \$10,000 FOR QUARTER 3
 - IF A RECOVERY START UP BUSINESS
 - \$10,000 FOR QUARTER 4

THE MECHANICS OF ERTC

STEP 5

DETERMINE THE APPLICABLE CREDIT PERCENTAGE OF QUALIFIED WAGES, BASED ON YEAR?



***FOR ERTC PURPOSES, THE IRS DEFINES QUALIFIED WAGES AS WAGES PLUS EMPLOYER PAID HEALTH INSURANCE**

2020

- 50% OF THE QUALIFIED WAGES*
- \$10,000 MAX WAGES* PER EMPLOYEE
 - FOR ENTIRE YEAR OF 2020
- EQUATES TO \$5,000 MAX CREDIT PER EMPLOYEE FOR ALL 2020

2021

- 70% OF THE QUALIFIED WAGES*
- \$10,000 MAX WAGES* PER EMPLOYEE
 - FOR EACH QUARTER IN 2021
 - 4TH QUARTER ONLY FOR RECOVER START UP BUSINESS
- EQUATES TO \$7,000 MAX CREDIT PER EMPLOYEE PER QUARTER
 - RECOVERY START UP BUSINESS ONLY QUALIFIES IN 3RD & 4TH QUARTER
 - RECOVERY START UP BUSINESS OVERALL MAXIMUM PER QUARTER IS \$50,000 CREDIT

THE MECHANICS OF ERTC

- **QUALIFIED WAGES**
 - WHICH INCLUDES THE EMPLOYER PAID HEALTH INSURANCE
 - WITH \$10,000 MAXIMUM PER EMPLOYEE
- **DURING QUALIFIED PERIOD**
 - IF DUE TO GOVERNMENTAL SHUTDOWN
 - THE EXACT DAYS OF THE SHUTDOWN
 - IF DUE TO GROSS RECEIPT REDUCTION
 - ENTIRE QUARTER
- **MULTIPLIED BY**
 - 70% in 2021
 - 50% in 2020
- **EQUALS THE ERTC AMOUNT**

STEP 6

THE EMPLOYEE RETENTION TAX CREDIT CALCULATION



THE MECHANICS OF ERTC

STEP 7



GET THE CREDIT, i.e. THE MONEY

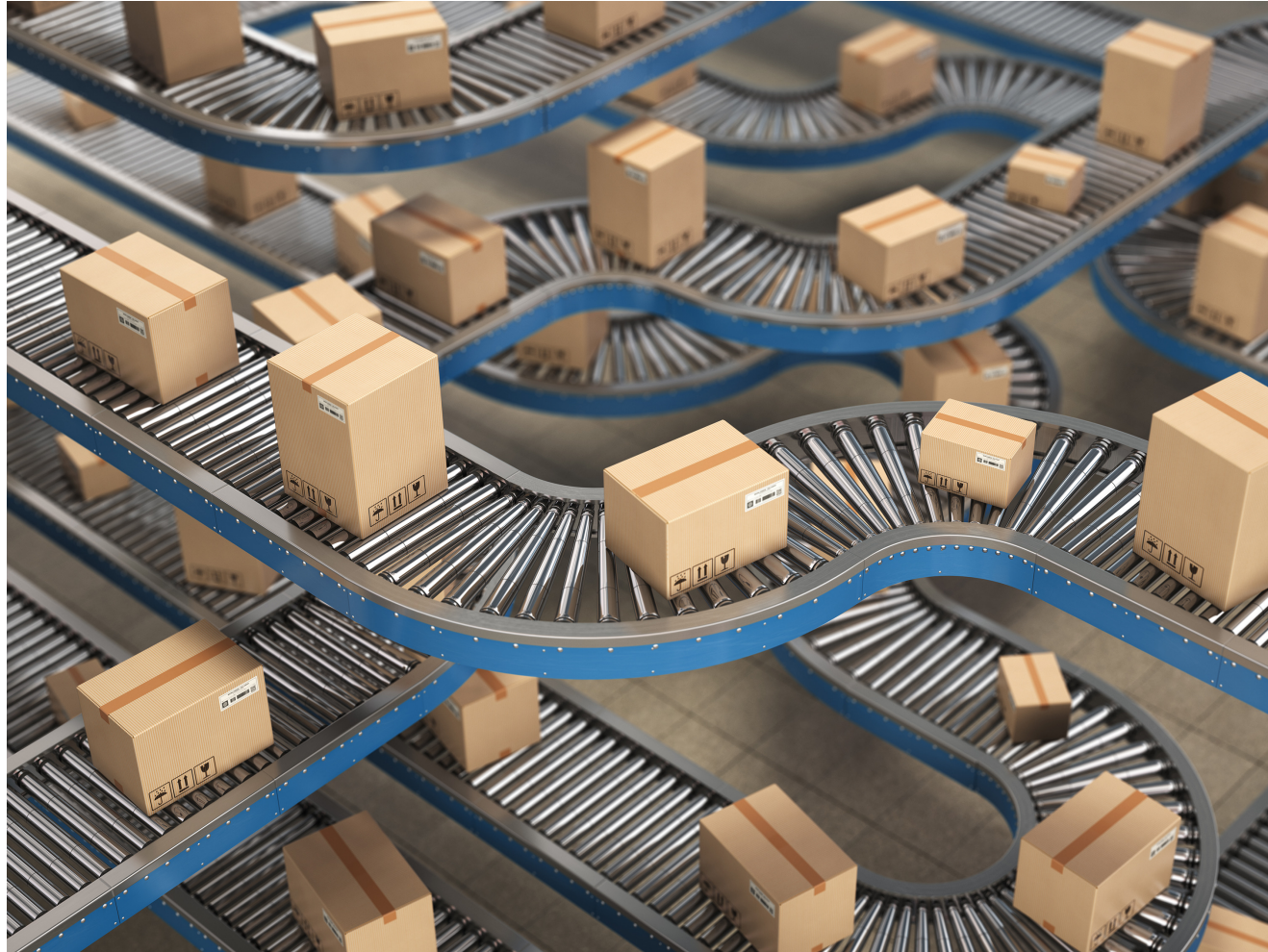
FILE FOR 941-X

- REQUEST “CLAIM” FOR REFUND

OR

- CREDIT APPLIED TO NEXT RETURN (IF DID NOT DO ANY OF THE ABOVE)

NOTE: IF FOR SOME REASON YOU NEVER FILED THE ORIGINAL FORM 941, YOU WOULD THEN REPORT THIS CREDIT ON FORM 941 BECAUSE YOU HAVE NEVER FILED FOR ERTC BEFORE, FOR THAT QUARTER.



LET'S MAKE
THE COMPLICATED,
SIMPLE.

THE EMPLOYEE RETENTION TAX CREDIT IS

QUALIFIED WAGES

- PLUS EMPLOYER PAID HEALTH INSURANCE
- \$10,000 MAX PER EMPLOYEE WHEN ADDING BOTH TOGETHER

DURING QUALIFIED PERIOD

- DURING GOVERNMENTAL ORDER
 - **OR**
- ENTIRE QUARTER, WHEN GROSS RECEIPTS DOWN COMPARED TO **2019**
 - **20% IN 2021**
 - **50% IN 2020**

MULTIPLIED BY

- 70% in EACH QUARTER in 2021 (**NOW ONLY QUARTERS 1, 2 & 3**) 4TH FOR “RECOVERY START UP” BUSINESS
- 50% for ENTIRE YEAR in 2020

GET MONEY FROM IRS

- File Form 941x for refund or applied credit

VIDEO 2



**HOW LONG
DO WE HAVE
TO GET THIS?**

**BASED ON HOW
LONG YOU
HAVE TO FILE
FORM 941-X**

DUE DATES

FILING DEADLINE FOR ERTC WITH FORM 941-X 3 YEARS FROM ORIGINAL FILING DUE DATE

The IRS states the original due date is considered April 15th of the succeeding year in which the Form 941 relates to. Read Form 941-X instructions for additional information.

Any quarter in **2020**: ORIGINAL DUE DATE 4/15/21

941-X DUE DATE 4/15/24

Any quarter in **2021**: ORIGINAL DUE DATE 4/15/22

941-X DUE DATE 4/15/25

IRS TEMPORARILY PAUSES PROCESSING ERC CLAIMS, TO RESUME 1/1/24

The IRS announced September 15, 2023 it will stop processing new ERC claims (Form 941-X) received between 9/15/23 and 12/31/23. They will continue to process ERC claims already received at the time of the announcement. The IRS will resume processing ERC claims in 2024 that were previously set aside. **The IRS pause in processing does NOT extend the above due dates.** **NOTE: This bottom section was added after the video was recorded. It is discussed at the beginning of Video 21.**

How Long Does It Take for the ERC Refund to Arrive?

The IRS was previously expecting to provide refunds between six weeks to six months after the revised payroll reports were filed.

You can expect a **9 to 12** turnaround time for a refund to arrive.

As of August 2023, there are approximately 577,000 ERC claims backlogged, according to IRS.

Can I e-file the Form 941-X to get ERC?

Unfortunately, there is no way to e-file this, and you must mail Form 941-X to the applicable address per IRS instructions to Form 941-X.

Can I check on the status of Form 941-X with the IRS?

Unfortunately, there is no way to check on the actual “status” of the filing with the IRS online. You can call the IRS to inquire if they have received your Form 941-X. Based on experience, the IRS system will only know when the Form 941-X has been processed and a check is on the way. That time-frame is approximately 9 to 12 months, so don't be too concerned if you call the IRS has no record (yet) of your Form 941-X if you are calling too soon.

Call IRS (800) 829-4933. Press 3 for Employment Tax.

VIDEO 3



OVERALL COMPARISON OF THE ERTC

2020

vs.

2021

ERTC MAJOR DIFFERENCES FROM 2020 TO 2021

2020

- WAGES INCURRED AFTER 3/12/2020
- \$10,000 MAX PER EMPLOYEE FOR ALL YEAR
- 50% CREDIT
- 100 OR LESS EMPLOYEES: ALL EMPLOYEES INCLUDED
- OVER 100 EMPLOYEES: ONLY INCLUDES EMPLOYEES WHO DID NOT PROVIDE SERVICES
- GROSS RECEIPTS DOWN AT LEAST 50%
 - IF QUALIFY ON GROSS RECEIPTS BEING DOWN
 - THE QUARTER IMMEDIATELY AFTER THE QUARTER IN WHICH GROSS RECEIPTS WERE DOWN... ALSO QUALIFIES AUTOMATICALLY
 - THIS ENDS ON THE FIRST DAY OF THE FIRST CALENDAR QUARTER FOLLOWING THE CALENDAR QUARTER IN WHICH GROSS RECEIPTS ARE MORE THAN OF 80% OF ITS GROSS RECEIPTS FOR THE SAME CALENDAR QUARTER IN 2019
- NO ALTERNATIVE METHOD

2021

- WAGES INCURRED 1ST, 2ND & 3RD QUARTERS
 - 4TH QUARTER FOR RECOVERY START UP BUSINESS ONLY
- \$10,000 MAX PER EMPLOYEE PER QUARTER
- 70% CREDIT
- 500 OR LESS EMPLOYEES: ALL EMPLOYEES INCLUDED
- OVER 500 EMPLOYEES: ONLY INCLUDES EMPLOYEES WHO DID NOT PROVIDE SERVICES (See exception in IRS Notice 2021-49)
- GROSS RECEIPTS DOWN AT LEAST 20%
 - IF QUALIFY ON GROSS RECEIPTS BEING DOWN
 - EACH QUARTER IS A STAND ALONE COMPARISON
 - ALTERNATIVE METHOD APPLIES: THE IMMEDIATELY PRECEDING QUARTER CAN BE COMPARED THE CORRELATED QUARTER OF THE IMMEDIATELY PRECEDING QUARTER
- ALTERNATIVE METHOD: PRIOR QUARTER CAN QUALIFY THE CURRENT QUARTER

ERTC

SAME FOR 2020 & 2021

2020

- ON WAGES & EMPLOYER PAID HEALTH INSURANCE
- \$10,000 MAX PER EMPLOYEE FOR QUALIFYING PERIOD
- MUST REPORT ON FORM 941
- WAGES INCLUDED ARE BASED ON WHEN INCURRED
- DEFINITION OF GROSS RECEIPTS
- GROSS RECEIPTS ARE COMPARED TO 2019
- NUMBER OF EMPLOYEES BASED ON AVERAGE NUMBER OF EMPLOYEES IN 2019

2021

- ON WAGES & EMPLOYER PAID HEALTH INSURANCE
- \$10,000 MAX PER EMPLOYEE FOR QUALIFYING PERIOD
- MUST REPORT ON FORM 941
- WAGES INCLUDED ARE BASED ON WHEN INCURRED
- DEFINITION OF GROSS RECEIPTS
- GROSS RECEIPTS ARE COMPARED TO 2019
- NUMBER OF EMPLOYEES BASED ON AVERAGE NUMBER OF EMPLOYEES IN 2019

LET'S TAKE A MOMENT

AND

REMOVE THE

MAZE OF

THINKING

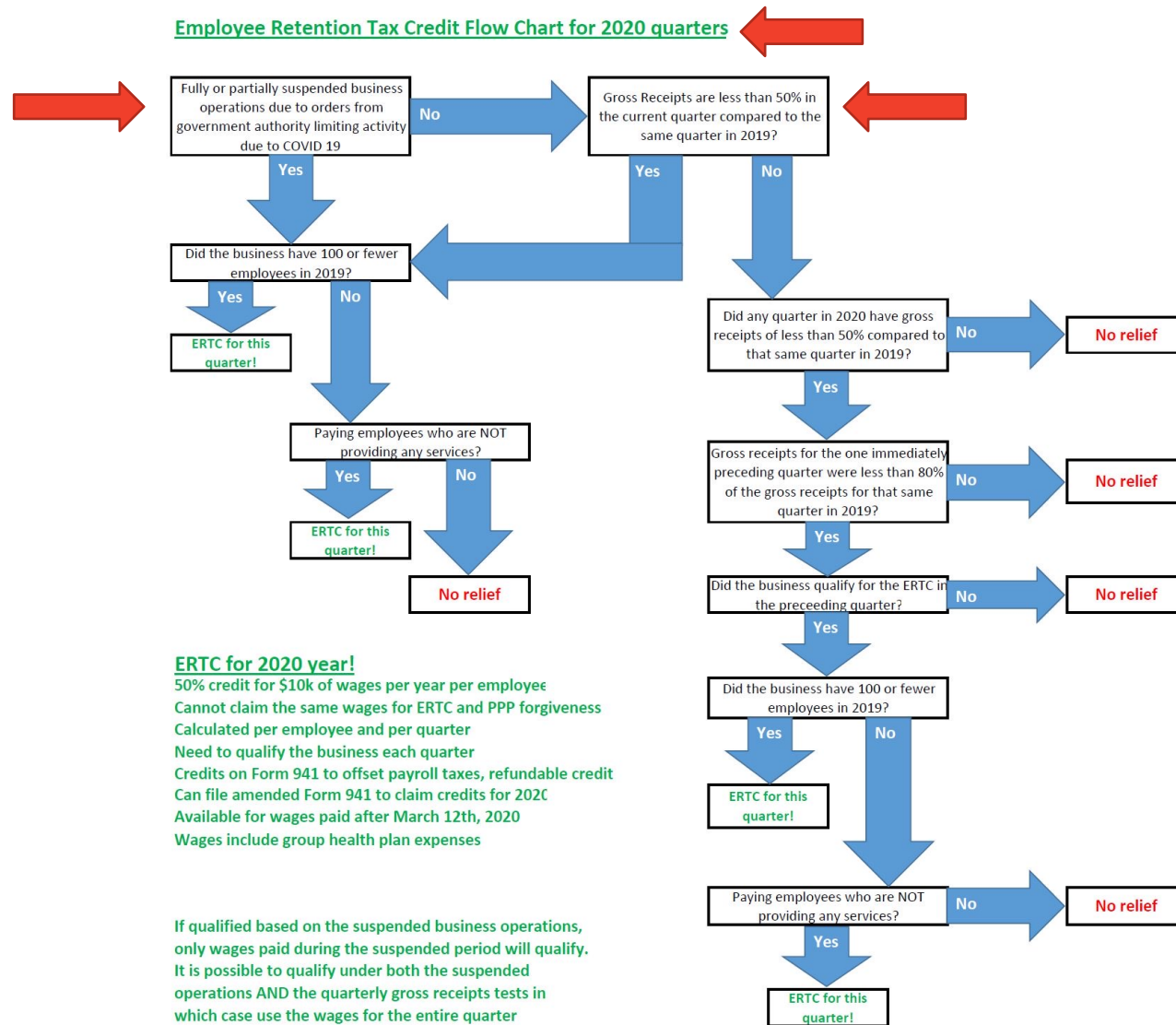


[2020 ERTC FLOWCHART TO OPTIONS](#)

[2021 ERTC FLOWCHART TO OPTIONS](#)

2020

Employee Retention Tax Credit Flow Chart for 2020 quarters



ERTC for 2020 year!
 50% credit for \$10k of wages per year per employee
 Cannot claim the same wages for ERTC and PPP forgiveness
 Calculated per employee and per quarter
 Need to qualify the business each quarter
 Credits on Form 941 to offset payroll taxes, refundable credit
 Can file amended Form 941 to claim credits for 2020
 Available for wages paid after March 12th, 2020
 Wages include group health plan expenses

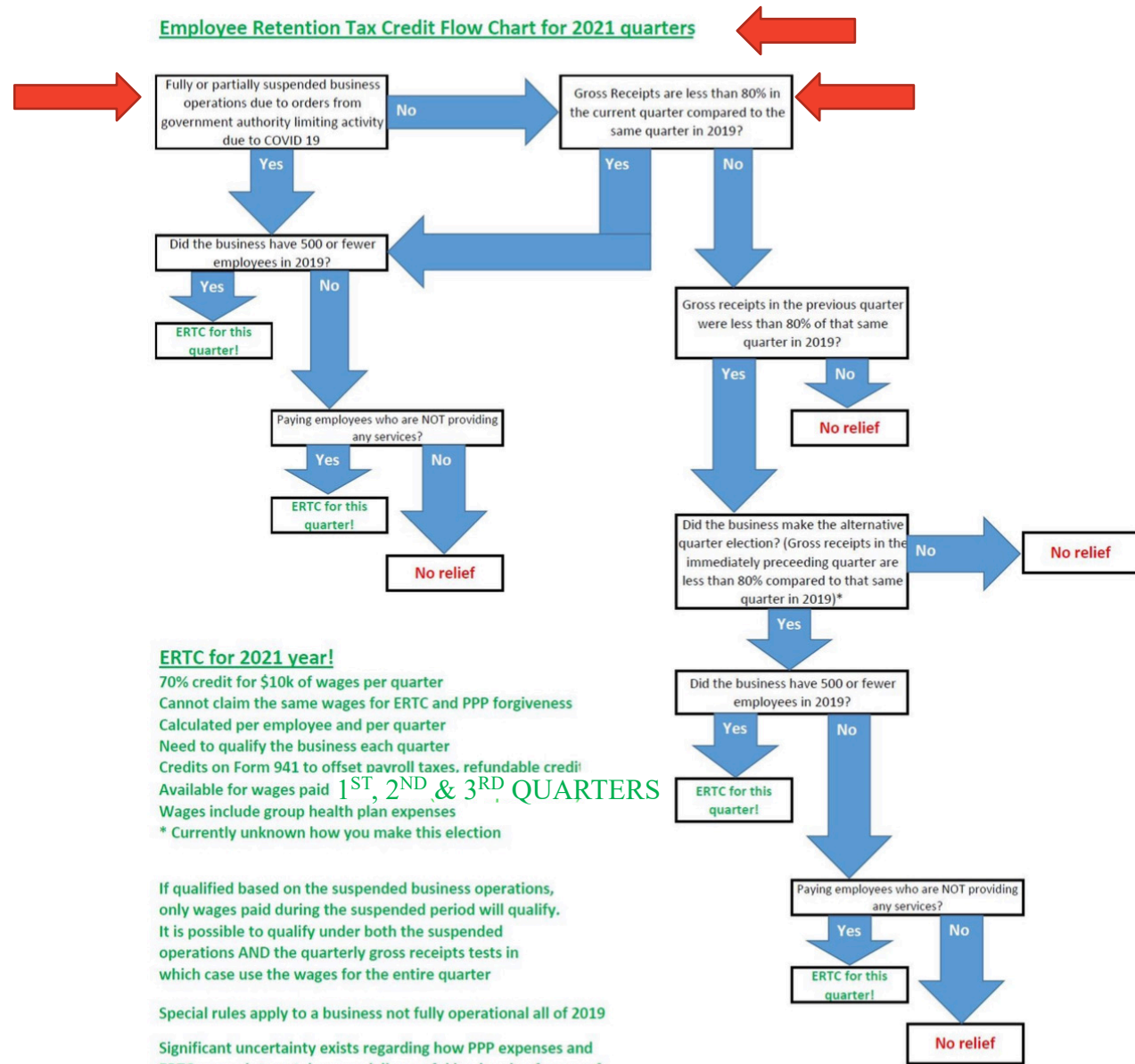
If qualified based on the suspended business operations, only wages paid during the suspended period will qualify. It is possible to qualify under both the suspended operations AND the quarterly gross receipts tests in which case use the wages for the entire quarter

Special rules apply to a business not fully operational all of 2019

Significant uncertainty exists regarding how PPP expenses and ERTC wages interact, especially if PPP forgiveness has already been submitted for PPP loan

2021

Employee Retention Tax Credit Flow Chart for 2021 quarters



ERTC for 2021 year!

- 70% credit for \$10k of wages per quarter
- Cannot claim the same wages for ERTC and PPP forgiveness
- Calculated per employee and per quarter
- Need to qualify the business each quarter
- Credits on Form 941 to offset payroll taxes, refundable credit
- Available for wages paid 1ST, 2ND & 3RD QUARTERS
- Wages include group health plan expenses
- * Currently unknown how you make this election

If qualified based on the suspended business operations, only wages paid during the suspended period will qualify. It is possible to qualify under both the suspended operations AND the quarterly gross receipts tests in which case use the wages for the entire quarter

Special rules apply to a business not fully operational all of 2019

Significant uncertainty exists regarding how PPP expenses and ERTC wages interact, be especially careful in planning for use of 2021 ERTC if a PPP Second Draw is obtained



**BOTH EVENTS DO NOT NEED TO OCCUR.
IT'S ONE OR THE OTHER EVENT.**

**ONE OF THESE TWO
QUALIFYING EVENTS
MUST OCCUR FOR THE
EMPLOYER TO
QUALIFY FOR THE
ERTC**

1. PARTIAL OR FULL
GOVERNMENTAL
SHUTDOWN

or

2. GROSS RECEIPTS
DOWN ACCORDINGLY

IRS NOTICE 2021-20

ELIGIBLE EMPLOYER

IRS NOTICE 2021-20, PAGE 7

- The employee retention credit is available only to employers that are eligible employers.
- Section 2301(c)(2)(A) of the CARES Act defines the term “eligible employer” as any employer carrying on a trade or business during calendar year 2020, and, with respect to any calendar quarter, for which
 - (1) the operation of the trade or business carried on during calendar year 2020 is **fully or partially suspended due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings** (for commercial, social, religious, or other purposes) due to COVID-19,or
 - (2) such calendar quarter is within the period in which the employer had **a significant decline in gross receipts**, as described in section 2301(c)(2)(B) of the CARES Act

ELIGIBLE EMPLOYER – TAX EXEMPT ORGANIZATIONS

IRS NOTICE 2021-20, PAGE 8

- Section 2301(c)(2)(C)(i) of the CARES Act provides that in the case of an organization described in section 501(c) of the Code and exempt from tax under section 501(a) of the Code (a tax-exempt organization),
 - sections 2301(c)(2)(A)(i) (relating to the requirement of carrying on a trade or business)
 - and 2301(c)(2)(A)(ii)(I) (relating to a **full or partial suspension of the operation** of a trade or business due to a governmental order)
 - **apply to all operations of the organization.**
- Section 2301(c)(2)(C)(ii) of the CARES Act provides that, in the case of a tax-exempt organization, any reference to gross receipts in section 2301 of the CARES Act is treated as a reference to gross receipts within the meaning of section 6033 of the Code. **Therefore, tax-exempt organizations should refer to the definition of gross receipts under section 6033 of the Code to determine whether they experienced a significant decline in gross receipts** under section 2301 of the CARES Act.8

ELIGIBLE EMPLOYER – GOVERNMENTAL AGENCIES

IRS NOTICE 2021-20, PAGE 8

- Section 2301(f) of the CARES Act provides that the employee retention credit **does not apply** to the Government of the United States, the government of any State or political subdivision thereof, or any agency or instrumentality of those governments. **Accordingly, these entities are not eligible employers.**

VIDEO 4



GOVERNMENTAL SHUTDOWN

What “orders from an appropriate governmental authority” may be taken into account by an employer for purposes of determining eligibility for the employee retention credit?

IRS NOTICE 2021-20, PAGES 24 -27

Orders, proclamations, or decrees from the Federal government or any State or local government may be taken into account by an employer as “orders from an appropriate governmental authority” only if they limit “commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to the coronavirus disease 2019 (COVID-19)” and relate to the suspension of an employer’s operation of its trade or business.

Orders that are not from the Federal government must be from a State or local government that has jurisdiction over the employer’s operations. These orders are referred to as “governmental orders.” Whether orders, proclamations or decrees are governmental orders is determined without regard to the level of enforcement of the governmental order.

What “orders from an appropriate governmental authority” may be taken into account by an employer for purposes of determining eligibility for the employee retention credit?

IRS NOTICE 2021-20, PAGES 24 -27

Statements from a governmental official, including comments made during press conferences or in interviews with the media, do not rise to the level of a governmental order for purposes of the employee retention credit.

Additionally, the declaration of a state of emergency by a governmental authority is not sufficient to rise to the level of a governmental order if it does not limit commerce, travel, or group meetings in any manner.

Further, such a declaration that limits commerce, travel, or group meetings, but does so in a manner that does not relate to the suspension of an employer’s operation of its trade or business does not rise to the level of a governmental order for purposes of the employer’s determination of its eligibility for the employee retention credit.

What “orders from an appropriate governmental authority” may be taken into account by an employer for purposes of determining eligibility for the employee retention credit?

IRS NOTICE 2021-20, PAGES 24 -27

Governmental orders include:

- An order from the city’s mayor stating that all non-essential businesses must close for a specified period;
- A State’s emergency proclamation that residents must shelter in place for a specified period, other than residents who are employed by an essential business and who may travel to and work at the workplace location;
- An order from a local official imposing a curfew on residents that impacts the operating hours of a trade or business for a specified period;
- An order from a local health department mandating a workplace closure for cleaning and disinfecting.

What “orders from an appropriate governmental authority” may be taken into account by an employer for purposes of determining eligibility for the employee retention credit?

IRS NOTICE 2021-20, PAGES 24 -27

Whether the operations of a trade or business are considered essential or nonessential will often vary from jurisdiction to jurisdiction. An employer should determine whether it is operating an essential or non-essential business by referring to the governmental order affecting the employer’s operation of its trade or business

NOTE: The IRS provides 3 examples on these pages.

Question 12: If a governmental order causes the suppliers to a business to suspend their operations, is the business considered to have a suspension of operations due to a governmental order?

IRS NOTICE 2021-20, PAGES 28-29

Answer 12: An employer may be considered to have a full or partial suspension of operations due to a governmental order if, under the facts and circumstances, the business's suppliers are unable to make deliveries of critical goods or materials due to a governmental order that causes the supplier to suspend its operations. If the facts and circumstances indicate that the business's operations are fully or partially suspended as a result of the inability to obtain critical goods or materials from its suppliers because they were required to suspend operations, then the business would be considered an eligible employer for calendar quarters during which its operations are fully or partially suspended and may be eligible to receive the employee retention credit.

Question 12: If a governmental order causes the suppliers to a business to suspend their operations, is the business considered to have a suspension of operations due to a governmental order?

IRS NOTICE 2021-20, PAGES 28-29

Example in Question 12:

Employer A operates an auto parts manufacturing business. Employer A's supplier of raw materials is required to fully suspend its operations due to a governmental order. Employer A is unable to procure these raw materials from an alternate supplier. As a consequence of the suspension of Employer A's supplier, **Employer A is not able to perform its operations for a period of time**. Under these facts and circumstances, Employer A would be considered an eligible employer during this period because its operations have been suspended due to the governmental order that suspended operations of its supplier.

Question 22: If an employer is subject to a governmental order to fully or partially suspend its business operations and the order is subsequently lifted in the middle of a calendar quarter, is the employer an eligible employer for the entire calendar quarter?
IRS NOTICE 2021-20, PAGES 43-44

Answer 22: Yes. An employer with business operations that are fully or partially suspended due to a governmental order during a portion of a calendar quarter is an eligible employer for the entire calendar quarter. **However, only wages paid with respect to the period during which the employer is fully or partially suspended due to a governmental order may be considered qualified wages.**

Question 22: If an employer is subject to a governmental order to fully or partially suspend its business operations and the order is subsequently lifted in the middle of a calendar quarter, is the employer an eligible employer for the entire calendar quarter?

IRS NOTICE 2021-20, PAGES 44

Example: State Y issued a governmental order for all non-essential businesses to close from March 10, 2020, through April 30, 2020, and the governmental order was not extended. Pursuant to the order, Employer N, which operates a non-essential business in State Y, closes from March 10 through April 30. Employer N is a large eligible employer in the first quarter and second quarter of 2020, but may claim the credit only for qualified wages paid from March 13, 2020, the effective date of section 2301 of the CARES Act, through April 30, 2020, with respect to employees who were not providing services during this period because of the suspension of operations due to State Y's governmental order.

FULL or PARTIAL GOVERNMENTAL SHUTDOWN

IRS NOTICE 2021-20, PAGES 27-44

IRS provides Q & A on these matters from #11 - #22, and provides a massive number of examples.

GOVERNMENTAL SHUTDOWN & ERC



WHAT ARE MANY FALLING FOR WITH ERC?

They had a supplier that was closed due to governmental order.

For a supplier of a business to qualify that business for ERC, the following must have occurred:

- The supplier was closed partial/full due to governmental order.
- The supplier was the only supplier of the items needed.
- The supplies were critical to the business.
- The business had an active order or documented attempt to order (with denial) with the supplier.
- The supplier in fact could not fulfill an order due to that governmental order.
- The supplies the business relied upon then caused that business to close down partial/full.
- **ONLY** during the days of closure would the business then qualify (not the full quarter)

WHAT ELSE ARE MANY FALLING FOR WITH ERC? **If they had a governmental shutdown as the qualifier, the business qualifies for the entire quarter.**

False. Only days in which the business was under the governmental shutdown would they qualify, and only if they in fact had a partial or full shutdown due to that governmental order.

Compounded here is, businesses that believe they qualify due to a supplier having a governmental shutdown, then believe they qualify for the entire quarter.

WHAT IS THE LATEST ON THOSE PROMOTING ERC?

Lawyers are leading the way. Why?

They don't fall under IRC Section 230, as they are not tax professionals or providing tax services.

Why do they want in?

They can charge a contingency fee.

Also, promoters are hiring outside tax preparers and attorneys, allowing the promoter to NOT provide tax services, thus not falling under IRC Circular 230, and able to charge a contingency fee. Most promoters are in one state, the tax preparers are in another state, with attorneys in a completely different state, with the promoters binding legal agreement under the laws of a different state of the business receiving the ERC services. EXAMPLE: A business in Michigan hires an ERC promoter in New York. The promoter hires a tax preparer in Florida and an attorney in California. The promoter's agreement is binding under the laws of Delaware.

IRS BREAKS SILENCE: IRS MEMO 2023-005

Whether, under the scenarios involving supply chain disruptions described below, the operation of an employer's trade or business was fully or partially suspended during a calendar quarter due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to the coronavirus disease 2019 (COVID-19) (also referred to as the "suspension test") such that the employer satisfies the definition of an "eligible employer" under section 2301(c)(2)(A)(ii)(I) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116-136, 134 Stat. 281 (March 27, 2020), and section 3134(c)(2)(A)(ii)(I) of the Internal Revenue Code (Code).

The IRS Memo provides 5 facts with scenarios and results of each.

IRS MEMO 2023-005 SCENARIO 1

Facts

- Employer NOT subject to governmental orders to a partial/full shutdown.
- Employer experienced delays in receiving critical supplies.
- Employer never stopped operations.
- Employer believed supply issues were related to covid-19.
- Supplier did not provide any documentation indicating the supplier was under governmental orders to a partial/full shutdown.

Result

- Employer does not qualify for ERC because
 - No governmental order on the employer
 - No governmental order on the supplier
 - Regardless of supplier issue, the employer did not cease operations

IRS MEMO 2023-005 SCENARIO 2:

Facts

- Employer NOT subject to governmental orders to a partial/full shutdown.
- Employer experienced delays in receiving critical supplies due to items stuck at port.
- Employer was told by the supplier that the issues were related to covid-19.
- The supplier did not shut down.
- Supplier did not provide any documentation indicating the supplier was under governmental orders to a partial/full shutdown.

Result

- Employer does not qualify for ERC because
 - No governmental order on the employer
 - No governmental order on the supplier
 - Regardless of supplier issue or if supplier was under any governmental orders, the employer would need to demonstrate the critical supplies were delayed due to the governmental order

IRS MEMO 2023-005 SCENARIO 3:

Facts

- Employer WAS subject to governmental orders to a partial/full shutdown.
 - Governmental orders applied only to the month of April 2020.
- Supplier WAS subject to governmental orders to a partial/full shutdown.
 - Governmental orders applied only to the month of April 2020.
- Employer experienced delays in receiving critical supplies after governmental orders ceased.
 - Supplier did not provide any documentation indicating the supplier delays were due to Covid-19 or the governmental orders

Result

- Employer does qualify for ERC for April 2020, due to governmental orders
- Employer does not qualify for ERC after April 2020 because
 - No governmental order on the employer or the supplier
 - Regardless of supplier issue or if supplier was under any governmental orders, the employer would need to demonstrate the critical supplies were delayed due to the governmental order

IRS MEMO 2023-005 SCENARIO 4:

Facts

- Employer was NOT subject to governmental orders to a partial/full shutdown.
- Employer experienced delays in receiving critical supplies
- Employer found an alternative supplier for the critical supplies
- The critical supplies cost 35% more than the original supplier

Result

- Employer does qualify for ERC
 - No governmental order on the employer or the supplier
 - The employer was able to obtain critical supplies, and did not shutdown
 - Increased supply cost, even if due to Covid-19 reasons, does not qualify for ERC
 - Regardless of supplier issue or if supplier was under any governmental orders, the employer would need to demonstrate the critical supplies were delayed due to the governmental order

IRS MEMO 2023-005 SCENARIO 5:

Facts

- Employer was NOT subject to governmental orders to a partial/full shutdown.
- Employer experienced delays in receiving critical supplies in its retail store
- Employer was limited in what it could sell and had to raise prices
- Employer did not close operations

Result

- Employer does qualify for ERC
 - No governmental order on the employer or the supplier
 - The employer did not cease operations
 - The employer was able to obtain critical supplies, and did not shutdown
 - Increased prices on products to be sold to customers, even if due to Covid-19 reasons, does not qualify for ERC
 - Regardless of supplier issue or if supplier was under any governmental orders, the employer would need to demonstrate the critical supplies were delayed due to the governmental order

VIDEO 5

GROSS RECEIPTS TESTS

50% REDUCTION IN 2020, COMPARED TO 2019

20% REDUCTION IN 2021, COMPARED TO 2019

GROSS RECEIPTS TEST 2020 & 2021 (EXCEL)

SIGNIFICANT DECLINE IN GROSS RECEIPTS

IRS NOTICE 2021-20, PAGES 44-51

2020: 50% REDUCTION IN ANY QUARTER COMPARED TO 2019


2021: 20% REDUCTION IN ANY QUARTER COMPARED TO 2019

SEE SEMINAR WEBPAGE FOR GROSS RECEIPTS TEST ANALYSIS EXCEL SPREADSHEET

	2019	2020
	GROSS RECEIPTS	GROSS RECEIPTS
January	111,522	116,548
February	125,432	127,983
March	136,585	98,652
April	154,985	36,982
May	145,899	24,638
June	163,229	32,962
July	174,963	52,369
August	122,854	69,524
September	138,678	79,362
October	144,985	114,298
November	132,584	118,771
December	198,337	138,551
Total	1,750,053	1,010,640

ERTC PURPOSES TO DETERMINE IF YOUR GROSS RECEIPTS HAVE REDUCED **50% OR MORE**
 Reduction in Gross Receipts Analysis & Calculation
YEAR 2020

	2019	2020	Difference	Percentage Difference
	GROSS RECEIPTS	GROSS RECEIPTS		
Quarter 1	373,539	343,183	(30,356)	-8.13%
Quarter 2	464,113	94,582	(369,531)	-79.62%
Quarter 3	436,495	201,255	(235,240)	-53.89%
Quarter 4	475,906	371,620	(104,286)	-21.91%
Total	1,750,053	1,010,640		



**NOTE: 4th Quarter 2020 Compared to 4th Quarter 2019 (is ONE of the methods)
 Used to Determine if You Qualify for 1st Quarter 2021 ERTC**

2020

SEE SEMINAR WEBPAGE FOR GROSS RECEIPTS TEST ANALYSIS EXCEL SPREADSHEET

YEAR 2021

YOU ARE COMPARING TO 2019 (YOU SEE IT RIGHT)

	2019	2021
	GROSS RECEIPTS	GROSS RECEIPTS
January	111,522	109,485
February	125,432	127,983
March	136,585	98,652
April	154,985	136,933
May	145,899	196,522
June	163,229	149,631
July	174,963	129,558
August	122,854	94,966
September	138,678	81,779
October	144,985	114,298
November	132,584	148,771
December	198,337	188,551
Total	1,750,053	1,577,129

ERTC PURPOSES TO DETERMINE IF YOUR GROSS RECEIPTS HAVE REDUCED **20% OR MORE**
Reduction in Gross Receipts Analysis & Calculation

	2019	2021	Difference	Percentage Difference
	GROSS RECEIPTS	GROSS RECEIPTS		
Quarter 1	373,539	336,120	(37,419)	-10.02%
Quarter 2	464,113	483,086	18,973	4.09%
Quarter 3	436,495	306,303	(130,192)	-29.83%
Quarter 4	475,906	451,620	(24,286)	-5.10%
Total	1,750,053	1,577,129		

NOTE:
For 1st Quarter 2021, You Can Also Compare 4th Quarter 2020 to 4th Quarter 2019 (See 2020 Analysis)
If 4th Quarter 2020 is Down by at Least 20% Compared to 4th Quarter 2019, You Qualify for ERTC in 1st Quarter 2021

2021

VIDEO 6



TIME PERIOD
WAGES QUALIFY

What period of time do qualified wages get included in the ERTC calculation?

IRS NOTICE 2021-20 (Pages 10 & 11)

Depends on how the employer qualifies for ERTC under the rules related to that qualifier:

- Governmental Shutdown (Partial/Full)
 - Only the exact dates of the Governmental Shutdown (Partial/Full)
 - It does NOT include the whole quarter
- Reduction in Gross Receipts
 - The entire quarter in which the gross receipts are down enough to qualify

What period of time do qualified wages get included in the ERTC calculation?

IRS NOTICE 2021-20

Question 22: If an employer is subject to a governmental order to fully or partially suspend its business operations and the order is subsequently lifted in the middle of a calendar quarter, is the employer an eligible employer for the entire calendar quarter? **No.**


QUALIFYING ERTC TIME PERIODS

QUALIFIER: GROSS RECEIPTS VS. QUALIFIER: GOVERNMENTAL SHUTDOWN

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
<u>ERTC PERIOD IF QUALIFY BY REDUCTION IN GROSS RECEIPTS</u>	Yellow	Yellow	Yellow	Red	Red	Red	Green	Green	Green	Blue	Blue	Blue
<u>ERTC PERIOD IF QUALIFY BY GOVERNMENTAL PARTIAL/FULL SHUTDOWN</u>												
Assumption: March 16 - April 14			Purple	Purple								
Assumption: March 13 - October 18			Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue		

EXAMPLE

TIME PERIODS WAGES QUALIFY ON CALENDAR



WHAT WAGES QUALIFY

DEFINING WAGES FOR ERC

QUALIFYING WAGES FOR ERC ARE DEFINED AS

- **GROSS** WAGES PAID TO EMPLOYEES
 - IT IS NOT THE NET WAGES
 - ANY DEDUCTIONS TO WAGES ARE NOT TAKEN INTO CONSIDERATION (OTHER THAN NOTED BELOW)
 - GROSS WAGES ARE THE GROSS PAY TO EMPLOYEES BEFORE ANY TAXES ARE WITHHELD
- EMPLOYER PAID HEALTH INSURANCE
 - THIS IS INCLUDED IN THE DEFINITION OF “QUALIFYING WAGES” FOR ERC PURPOSES
 - THIS IS NET OF THE AMOUNT PAID BY THE EMPLOYEE
- **EXCEPTIONS**
 - ANY WAGES NOT SUBJECT TO SOCIAL SECURITY & MEDICARE WAGE ARE EXCLUDED
 - THESE WOULD BE DEDUCTIONS FROM WAGES THAT DO NOT APPEAR IN BOXES 3 OR 5 OF FORM W-2
 - THIS WOULD MOST COMMONLY BE DEDUCTIONS RAN THROUGH A SECTION 125 PLAN (ALSO CALLED A “CAFETERIA PLAN”)
 - HEALTH INSURANCE PAID “PRE-TAX” BY EMPLOYEES ARE THE PORTION OF WAGES EXCLUDED
 - DEPENDENT CARE BENEFITS PAID “PRE-TAX” BY EMPLOYEES ARE THE PORTION OF WAGES EXCLUDED
 - **THIS DOES NOT MEAN PRE-TAX RETIREMENT BENEFITS, AS WAGES USED BY EMPLOYEES TO PAY INTO THEIR RETIREMENT ACCOUNT (401K, SIMPLE IRA, 403B PLANS) ARE STILL SUBJECT TO SOCIAL SECURITY & MEDICARE WAGES AND THUS WAGES USED TO FUND RETIREMENT ARE INCLUDED**
 - IF THE WAGES APPEAR IN BOX 5 OF FORM W-2, THEY ARE INCLUDED. THESE WOULD BE CONSIDERED MEDICARE WAGES WHEN LOOKING AT THE DEFINITION PER FORM W-2


REMINDERS ON WAGES INCLUDED/EXCLUDED

- **WAGES EXCLUDE FOR EITHER 2020 OR 2021:**
 - WAGES USED FOR OTHER TAX CREDITS AND PPP FORGIVENESS
 - WAGES EXEMPT FROM SOCIAL SECURITY & MEDICARE TAXES
 - WAGES TO EMPLOYEES THAT ARE MORE THAN 50% OWNERS AND THEIR RELATIVES (MORE THAN 50% OWNERSHIP IS BASED ON FAMILY ATTRIBUTION RULES APPLY)
- **WAGES INCLUDE ALL CLASSIFICATIONS OF EMPLOYEES REGARDLESS OF EMPLOYEE SIZE CLASSIFICATION**
 - INCLUDES ALL FULL-TIME, PART-TIME, HOURLY, TEMPORARY, NON-EXEMPT SALARIED & EXEMPT SALARIED EMPLOYEES, AS WELL AS PRE-EXISTING VACATION SICK & OTHER LEAVE POLICY PAID WAGES
 - EMPLOYEES ARE NEVER, UNDER ANY CIRCUMSTANCE, BROKEN INTO AN ESSENTIAL OR NON-ESSENTIAL CLASSIFICATIONS. THIS MEANS REGARDLESS IF THE EMPLOYEE IS ESSENTIAL OR NOT, THEY ARE INCLUDED
 - WHETHER THE EMPLOYEE WAS EMPLOYED IN 2019 IS IRRELEVANT
- **NUMBER OF FULL-TIME EMPLOYEES IN 2019 DETERMINES THE EMPLOYER SIZE, WHICH THEN DETERMINES IF EMPLOYEES WAGES ARE INCLUDED**
 - **SMALL EMPLOYER SIZE (BASED SOLELY ON FULL-TIME HEADCOUNT IN 2019)**
 - 2020 - 100 or LESS EMPLOYEES IN 2019
 - 2021 – 500 or LESS EMPLOYEES IN 2019
 - ALL WAGES & EMPLOYER PAID HEALTH INSURANCE INCLUDED, **REGARDLESS IF THE EMPLOYEE WORKED OR NOT**
 - **LARGE EMPLOYER SIZE (BASED SOLELY ON FULL-TIME HEADCOUNT IN 2019)**
 - 2020 - OVER 100 EMPLOYEES IN 2019
 - 2021 – OVER 500 EMPLOYEES IN 2019
 - ONLY WAGES & EMPLOYER PAID HEALTH INSURANCE PAID TO EMPLOYEES **THAT DID NOT WORK** ARE INCLUDED
 - EXCLUDES RAISES, AS WELL AS PRE-EXISTING VACATION SICK & OTHER LEAVE POLICY
 - ONLY INCLUDES WAGES EQUIVALENT TO 30 DAYS PRIOR IN 2020 (NOT A FACTOR IN 2021)

LIMITATION AMOUNT OF WAGES INCLUDED IN THE ERTC CALCULATION

- **\$10,000 MAX PER EMPLOYEE PER QUALIFYING PERIOD**
 - ADDING QUALIFIED WAGES PLUS EMPLOYER PAID HEALTH INSURANCE TO DETERMINE THE \$10,000 MAX PER EMPLOYEE
 - IT IS **NOT** \$10,000 OF WAGES AND HEALTH INSURANCE ON TOP OF THAT
- **2020**
 - \$10,000 MAX FOR THE ENTIRE YEAR OF 2020, PER EMPLOYEE
- **2021**
 - \$10,000 MAX FOR EACH QUARTER IN 2021, PER EMPLOYEE
 - \$10,000 FOR QUARTER 1
 - \$10,000 FOR QUARTER 2
 - \$10,000 FOR QUARTER 3
 - IF A RECOVERY START UP BUSINESS
 - \$10,000 FOR QUARTER 4

VIDEO 7



EMPLOYER SIZE
ALWAYS BASED ON
FULL-TIME EMPLOYEE
HEAD COUNT IN 2019

HEAD COUNT IN 2020 AND 2021 IS **NEVER** A FACTOR
IN THE ACTUAL ERC CALCULATION,
EVEN IF IT HAS CHANGED FROM 2019.

**HOW TO CALCULATE THE
“NUMBER OF EMPLOYEES” FOR ERTC PURPOSES:
ONLY BASED ON FULL-TIME EMPLOYEES IN 2019**



WHY DOES HEADCOUNT MATTER?

THE FULL-TIME HEADCOUNT IN 2019 IS SIMPLY TO DETERMINE ONE THING!

- IS THE EMPLOYER A “SMALL” SIZE EMPLOYER

OR

- IS THE EMPLOYER A “LARGE” SIZE EMPLOYER

WHAT IS THE **ONE** *MAIN* DIFFERENCE BETWEEN A “SMALL” EMPLOYER AND A “LARGE” EMPLOYER?

A “SMALL” EMPLOYER GETS TO INCLUDE THE WAGES OF ALL EMPLOYEES **WHETHER EMPLOYEE WORKED OR NOT.**

A “LARGE” EMPLOYER ONLY GETS TO INCLUDE THE WAGES OF ALL EMPLOYEES **THAT DID NOT WORK, BUT GOT PAID.**

BIG NOTES ON HEAD COUNT!

- HEAD COUNT ONLY IS A FACTOR IN DETERMINING THE EMPLOYER SIZE, WHICH THEN SIMPLY DETERMINES THE RULES THE EMPLOYER FOLLOWS
- THE FULL-TIME EMPLOYEE HEAD COUNT IS ALWAYS, AND ONLY BASED ON 2019
 - THE HEAD COUNT IN 2020 AND 2021 IS NOT A FACTOR, AFFECTS NOTHING AND IS IRRELAVENT
 - THE EMPLOYEES INCLUDED IN THE HEAD COUNT IN 2019 DO NOT HAVE TO ALSO BE EMPLOYED IN 2020 OR 2021
- **AN EMPLOYER IS A “LARGE EMPLOYER” IF**
 - FOR 2020: “OVER” 100 FULL-TIME EMPLOYEES IN 2019
 - FOR 2021: “OVER” 500 FULL-TIME EMPLOYEES IN 2019
 - THAT HEAD COUNT MAKES A **LARGE EMPLOYER**, AND ONLY THE WAGES PAID & EMPLOYER PAID HEALTH INSURANCE PAID FOR EMPLOYEES THAT DID NOT WORK, BUT GOT PAID, ARE INCLUDED.
- **AN EMPLOYER IS A “SMALL” EMPLOYER IF**
 - FOR 2020: 100 OR LESS FULL-TIME EMPLOYEES IN 2019
 - FOR 2021: 500 OR LESS FULL-TIME EMPLOYEES IN 2019
 - THAT HEAD COUNT MAKES A **SMALL EMPLOYER**, AND ALL THE WAGES PAID & EMPLOYER PAID HEALTH INSURANCE PAID FOR EMPLOYEES REGARDLESS IF THEY WORKED GET INCLUDED.
- FULL-TIME IS NOT FULL-TIME EQUIVALENTS WHEN DETERMINING THE HEADCOUNT IN 2019
- WHEN DETERMINING WHICH EMPLOYEES WAGES ARE INCLUDED IN THE ERTC CALCULATION IN 2020 AND 2021, EMPLOYEES WILL INCLUDE ALL EMPLOYERS, REGARDLESS IF FULL-TIME OF NOT. THE HEADCOUNT IN 2019 IS SIMPLY TO DETERMINE IF THE EMPLOYER IS SMALL OR LARGE, TO THEN DETERMINE IF EMPLOYEES GET TO BE INCLUDED WHETHER THEY WORK OR NOT.

EMPLOYER SIZE BASED ON AVERAGE NUMBER OF “FULL-TIME EMPLOYEES” EMPLOYED DURING 2019

THIS IS SAME FOR BOTH 2020 AND 2021 (SEE IRS NOTICE 2021-20 FAQ #31)

- The term "**full-time employee**" means an employee who, with respect to any calendar month in 2019, had an average of at least 30 hours of service per week or 130 hours of service in the month (130 hours of service in a month is treated as the monthly equivalent of at least 30 hours of service per week), as determined in accordance with section 4980H of the Internal Revenue Code.
- An employer that operated its business for the entire 2019 calendar year determines the number of its full-time employees by taking the sum of the number of full-time employees in each calendar month in 2019 and dividing that number by 12.
- An employer that started its business operations during 2019 determines the number of its full-time employees by taking the sum of the number of full-time employees in each full calendar month in 2019 in which the employer operated its business and dividing by that number of months.
- An employer that started its business operations during 2020 determines the number of its full-time employees by taking the sum of the number of full-time employees in each full calendar month in 2020 in which the employer operated its business and dividing by that number of months, consistent with the approach discussed above for employers that began business operations during 2019.

AGGREGATION RULES APPLY

ONLY “FULL-TIME EMPLOYEES” EMPLOYED DURING 2019

IRS NOTICE 2021-49, PAGES 20-21

The term "full-time employee"

Does not mean “full-time equivalents”

As the head count is “per employee”

If an employee does not meet the definition of “full-time”

That employee is EXCLUDED from the head count

This does NOT mean the employee is excluded from being included in the actual ERTC calculation

If the employee from 2019 is no longer employed, this has no affect to the actual ERTC calculation, as the headcount on determines if the employer is a “small” or “large” employer.

Aggregation rules apply: So if aggregating businesses, the full-time 2019 headcount of all aggregated businesses must be added to together to determine the employer size for all

QUALIFYING WAGES INCLUDED DEPENDS ON EMPLOYER SIZE:

2020: 100 & **BELOW**

2021: 500 & **BELOW**

IRS NOTICE 2021-20 FAQ #30-39

ALL “GROSS” WAGES ARE INCLUDED

ALL EMPLOYEES ARE INCLUDED

INCLUDES QUALIFYING HEALTH PLAN EXPENSES ALLOCABLE PRO RATA

ESSENTIAL EMPLOYEES ARE NOT SEPARATED FROM NON-ESSENTIAL EMPLOYEES

EMPLOYEES PROVIDING SERVICES ARE NOT SEPARATED FROM EMPLOYEES NOT PROVIDING SERVICES

NO KNOWN EXCLUSION OF INCREASE IN WAGES

ALL WAGES INCLUDED: HOURLY, NON-EXEMPT SALARIED & EXEMPT SALARIED EMPLOYEES, AS WELL AS PRE-EXISTING VACATION SICK & OTHER LEAVE POLICY PAID WAGES

WAGES EXCLUDE WAGES USED FOR OTHER TAX CREDITS AND PPP FORGIVENESS, AS WELL AS WAGES EXEMPT FROM SOCIAL SECURITY & MEDICARE TAXES AND TO EMPLOYEES RELATED TO THE EMPLOYER (MORE THAN 50% OWNERSHIP IS THE THRESHOLD)

QUALIFYING WAGES INCLUDED DEPENDS ON EMPLOYER SIZE:

2020: **MORE THAN** 100

2021: **MORE THAN** 500

IRS NOTICE 2021-20 FAQ #30-39

ONLY “GROSS” WAGES PAID TO EMPLOYEES THAT DID NOT PROVIDE SERVICES ARE INCLUDED

ALL EMPLOYEES NOT PROVIDING SERVICES ARE INCLUDED

INCLUDES HEALTH PLAN EXPENSES ALLOCATED PRO RATA TO EMPLOYEE’S WAGES INCLUDED

ESSENTIAL & NON-ESSENTIAL EMPLOYEES DOESN’T CHANGE WHAT WAGES ARE INCLUDED

WAGES TO EMPLOYEES PROVIDING SERVICES ARE NOT WAGES INCLUDED

2020: EXCLUDES RAISES, AND ONLY INCLUDES WAGES EQUIVALENT TO 30 DAYS PRIOR, AS WELL AS PRE-EXISTING VACATION SICK & OTHER LEAVE POLICY AND WAGES USED FOR OTHER TAX CREDITS & PPP FORGIVENESS 2021: SAME EXCEPT WAGES ARE NOT LIMITED TO THE EQUIVALENT TO 30 DAYS PRIOR (PER IRS NOTICE 2021-23, PAGE 10) ALSO 2021 HAS EXCEPTION IN IRS NOTICE 2021-49 FOR “SEVERELY FINANCIALLY DISTRESSED EMPLOYERS”

INCLUDES HOURLY, NON-EXEMPT SALARIED & EXEMPT SALARIED EMPLOYEES

DETERMINATION OF AVERAGE NUMBER OF EMPLOYEES

IN 2019 FOR ERTC PURPOSES

FOR BOTH 2020 & 2021, THE AVERAGE NUMBER OF FULL-TIME* EMPLOYEES IS BASED ON 2019

	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Average
Number of Employees in 2019	84	96	105	79	94	56	92	78	111	88	150	144	1177	98

AVERAGE NUMBER OF FULL TIME EMPLOYEE'S IS BASED ON 2019 FOR BOTH 2021 & 2021

*** Full Time for ERC Purposes 30 Hrs Week or 130 Hrs Month**

YOU ONLY INCLUDE FULL-TIME EMPLOYEES IN THE HEAD COUNT, BUT YOU INCLUDE ALL EMPLOYEES WHEN DETERMING THE ERTC CREDIT

TOTAL OF 12 MONTHS

DIVIDED BY 12 MONTHS

PER IRS NOTICE 2021-20 (FAQ #31)

How does an eligible employer identify the average number of full-time employees employed during 2019?

The term "full-time employee" means an employee who, with respect to any calendar month in 2019, had an average of at least 30 hours of service per week or 130 hours of service in the month (130 hours of service in a month is treated as the monthly equivalent of at least 30 hours of service per week), as determined in accordance with section 4980H of the Code. An employer that operated its business for the entire 2019 calendar year determines the number of its full-time employees by taking the sum of the number of full-time employees in each calendar month in 2019 and dividing that number by 12.

An employer that started its business operations during 2019 determines the number of its full-time employees by taking the sum of the number of full-time employees in each full calendar month in 2019 in which the employer operated its business and dividing that sum by the number of full calendar months in 2019 in which the employer operated its business.

An employer that started its business operations during 2020 determines the number of its full-time employees by taking the sum of the number of full-time employees in each full calendar month in 2020 in which the employer operated its business and dividing by that number of months, consistent with the approach described above for employers that began business operations during 2019.

CALCULATE AVG. NUMBER OF EE's (EXCEL)

VIDEO 8

REPORTING ERTC TAX

CREDITS

INCOME TAX REPORTING

PURPOSES

WHAT'S THE BOTTOM LINE?

YOU WILL OWE INCOME TAXES AS THE WAGE DEDUCTION IS REDUCED BY THE AMOUNT OF ERTC CREDIT

IF YOUR FILING FORM 941-X FOR A PERIOD IN 2020

- THE IRS STATES IN IRS NOTICE 2021-49 YOU MUST AMEND YOUR 2020 TAX RETURN AND REDUCE THE WAGE DEDUCTION BY THE AMOUNT OF THE ERTC CREDIT

IF YOUR FILING FORM 941-X FOR A PERIOD IN 2021

- THE IRS STATES IN IRS NOTICE 2021-49 YOU MUST AMEND YOUR 2021 TAX RETURN AND REDUCE THE WAGE DEDUCTION BY THE AMOUNT OF THE ERTC CREDIT

WHAT NEEDS TO BE AMENDED?

- IF THE BUSINESS IS TAXED AS AN S-CORPORATION OR PARTNERSHIP, THIS WILL REQUIRE THAT BUSINESS RETURN TO BE AMENDED, AND THE INDIVIDUAL RETURN TO BE AMENDED AS WELL.
- IF THE BUSINESS IS SOLE PROPRIETORSHIP, THIS WILL REQUIRE THE INDIVIDUAL RETURN TO BE AMENDED TO REDUCE THE WAGE DEDUCTION BY THE AMOUNT OF THE ERTC CREDIT ON EITHER SCHEDULE C, E OR F.
- IF THE BUSINESS IS A C-CORPORATION, THIS WILL REQUIRE THE CORPORATE TAX RETURN TO BE AMENDED TO REDUCE THE WAGE DEDUCTION BY THE AMOUNT OF ERTC CREDIT.

BIGGEST SHOCK RELATED TO ERTC

IRS Notice 2021-49 (pages 24-25)

- Timing of qualified wages deduction disallowance as provided in IRS Notice 2021-49 (pages 24-25)
 - Defines when the employer must take the reduction in wages for tax purposes
 - The tax year in which the qualified wages were paid or incurred is the tax year that wages must be reduced
 - If the wages were paid or incurred in 2020, the reduction of wages is reported on the 2020 tax return
 - Same for 2021
 - Amending a payroll tax filing does not change the timing (year) of the reduction
 - Form 941x is filed in 2021 for any quarter in 2020
 - The tax credit is refunded in 2021 or applied to a future quarter in 2021
 - The reduction in wages is applied to tax year 2020
 - What if the employer already filed an income tax return for 2020
 - IRS recommends the employer file an amended income tax return for 2020
 - OR an Administrative Adjustment Request (AAR)

WHEN TO REPORT COVID TAX CREDITS

AS CITED IN IRS NOITCE 2021-49: SECTION 2301(E) GENERALLY PROVIDES, IN RELEVANT PART, THAT RULES SIMILAR TO THE RULES OF SECTION 280C(A) OF THE CODE SHALL APPLY. SECTION 280C(A) REQUIRES TRACING TO THE SPECIFIC WAGES GENERATING THE APPLICABLE CREDIT. SEE, GENERALLY, TREAS. REG. § 1.280C-1. TO SATISFY THIS TRACING REQUIREMENT, THE TAXPAYER MUST FILE AN AMENDED RETURN OR AAR, AS APPLICABLE

PER IRS NOTICE 2021-49 SPECIFICALLY STATES THE CREDIT IS TO BE RELFECTED ON THE TAX RETURN IN WHICH THE WAGES WERE DEDUCTED THAT RECEIVED THE TAX CREDIT.

EMPLOYEE RETENTION TAX CREDITS

IN YEAR WAGES WERE DEDUCTED, REGARDLESS OF WHEN THE CREDIT WAS RECEIVED OR FILED FOR

FYI:

FAMILY & SICK LEAVE TAX CREDITS

IN YEAR WAGES WERE DEDUCTED, REGARDLESS OF WHEN THE CREDIT WAS RECEIVED OR FILED FOR

WHERE TO REPORT COVID TAX CREDITS

FOR BOTH TAX CREDITS

PER IRS INSTRUCTIONS FOR

SCHEDULE C or F

FORMS 1120-S, 1065 & 1120

SPECIFICALLY SEE THE INSTRUCTIONS REGARDING THE DEDUCTION OF “TAXES”
APPLIES TO BOTH REFUNDABLE AND NONREFUNDABLE PORTIONS OF THE CREDIT

EMPLOYEE RETENTION TAX CREDIT AMOUNT
REPORTED AS A REDUCTION OF WAGES

NOTE: YOU DO NOT REDUCE THE WAGE DEDUCTION BY THE WAGES USED FOR ERTC
YOU ONLY REDUCE THE WAGE DEDUCTION BY THE AMOUNT OF THE CREDIT

FYI:

FAMILY & SICK LEAVE TAX CREDITS
REPORTED AS “OTHER INCOME”

ERTC Income Tax Adjustment Example

3rd Quarter 2020 EXAMPLE

	<u>Wages Used</u> in ERTC Calculation	<u>38,652</u>	
	ERTC <u>Credit Amount</u> Reported on Line 27 of <u>Form 941-X</u>	<u>19,326</u>	(a)
Total 2020 Salaries & Wages Reported as a Deduction on the <u>Original</u> Income Tax Return		148,355	
<u>ERC Credit Reduction</u> of the 2020 Salaries & Wages Reported as a Deduction on the Income Tax Return		<u>(19,326)</u>	
Adjusted/Reduced/Allowable 2020 Salaries & Wages Reported as Deduction on <u>Amended</u> Income Tax Return		<u>129,029</u>	
<u>Estimated Tax Due with Amended Tax Return</u> (Assuming Effective Income Tax Rate 25%)		<u>4,832</u>	(b)
<u>FYI - Net Economic Benefit of ERC: ERC Credit Less Additional Income Tax Due</u>		<u>14,495</u>	(a) Minus (b)

THIS WOULD WORK THE SAME FOR 2021

Don't get caught up on these specific amounts.

I pulled them out of thin air to provide an example.

IRS PENALTIES EXPECTED WHEN FILING AN AMENDED INCOME TAX RETURN, WITH TAX DUE

POSSIBLY CAN REQUEST AND RECEIVE RELIEF UNDER THE “FIRST TIME ABATE” CONSIDERATION

THIS IS NOT RELATED TO FILING FORM 941-X, BUT AFTER FILING YOUR INDIVIDUAL TAX RETURN THAT RESULTED FROM AN ADJUSTMENT TO YOUR BUSINESS.

YOU CANNOT REQUEST THIS UNTIL THE PENALTY HAS BEEN ASSESSED.

HOW TO QUALIFY FOR FIRST TIME ABATE

YOU MAY QUALIFY FOR FIRST TIME ABATE FOR A PENALTY IF YOU HAVE A HISTORY OF GOOD TAX COMPLIANCE.

HISTORY OF GOOD TAX COMPLIANCE

YOU ARE CONSIDERED HAVING A GOOD TAX COMPLIANCE HISTORY IF YOU:

- FILED THE SAME RETURN TYPE, IF REQUIRED, FOR THE PAST 3 TAX YEARS BEFORE THE TAX YEAR YOU RECEIVED THE PENALTY.
- DIDN'T RECEIVE ANY PENALTIES DURING THE PRIOR 3 YEARS, OR ANY PENALTY WAS REMOVED FOR AN ACCEPTABLE REASON OTHER THAN FIRST TIME ABATE

PENALTY RELIEF FOR FIRST TIME

FORM 843 (PENALTY RELIEF)

IRS PENALTIES EXPECTED WHEN FILING AN AMENDED INCOME TAX RETURN, WITH TAX DUE

FIRST TIME ABATE RELIEF AND UNPAID TAX

YOU CAN REQUEST FIRST TIME ABATE FOR A PENALTY EVEN IF YOU HAVEN'T FULLY PAID THE TAX ON YOUR RETURN. HOWEVER, THE FAILURE TO PAY PENALTY WILL CONTINUE TO INCREASE UNTIL YOU PAY THE TAX IN FULL.

EXAMPLE: YOU DIDN'T FULLY PAY YOUR TAXES IN 2021 AND GOT A NOTICE WITH THE BALANCE DUE AND PENALTY CHARGES. YOU CALL US REQUESTING PENALTY RELIEF AND WE GIVE YOU FIRST TIME ABATE. WE REMOVE THE PENALTY UP TO THE DATE OF YOUR REQUEST. HOWEVER, THE PENALTY WILL CONTINUE TO INCREASE SINCE THE TAX IS NOT FULLY PAID. SIX MONTHS LATER YOU PAY THE TAX IN FULL AND CONTACT US AGAIN TO REQUEST PENALTY RELIEF UNDER FIRST TIME ABATE FOR THE SAME RETURN. WE APPROVE FIRST TIME ABATE RELIEF FOR THE ADDITIONAL PENALTY AMOUNT THAT ACCRUED UNTIL THE DATE THE TAX WAS FULLY PAID.

PENALTY RELIEF FOR FIRST TIME

FORM 843 (PENALTY RELIEF)

IRS PENALTIES EXPECTED WHEN FILING AN AMENDED INCOME TAX RETURN, WITH TAX DUE

HOW TO REQUEST FIRST TIME ABATE

FOLLOW THE INSTRUCTIONS IN THE IRS NOTICE YOU RECEIVED.

SOME PENALTY RELIEF REQUESTS MAY BE ACCEPTED OVER THE PHONE. CALL US AT THE TOLL-FREE NUMBER AT THE TOP RIGHT CORNER OF YOUR NOTICE OR LETTER. YOU DON'T NEED TO SPECIFY FIRST TIME ABATE OR PROVIDE SUPPORTING DOCUMENTS IN YOUR REQUEST FOR RELIEF. WE WILL REVIEW YOUR ACCOUNT INFORMATION TO SEE IF YOU MEET THE REQUIREMENTS FOR FIRST TIME ABATE.

IF YOU CHOOSE NOT TO CALL, SEND A WRITTEN STATEMENT OR FORM 843, CLAIM FOR REFUND AND REQUEST FOR ABATEMENT.

IF YOU REQUEST REASONABLE CAUSE RELIEF BUT OUR RECORDS SHOW YOU QUALIFY FOR FIRST TIME ABATE, WE WILL APPLY FIRST TIME ABATE. WE WILL NOTIFY YOU THAT WE GRANTED YOU FIRST TIME ABATE DUE TO YOUR GOOD COMPLIANCE HISTORY.

IF YOU DON'T QUALIFY FOR FIRST TIME ABATE, WE'LL CONSIDER REASONABLE CAUSE RELIEF AND NOTIFY YOU OF OUR DECISION.

[PENALTY RELIEF FOR FIRST TIME](#)

[FORM 843 \(PENALTY RELIEF\)](#)

IRS PENALTIES EXPECTED WHEN FILING AN AMENDED INCOME TAX RETURN, WITH TAX DUE

HOW TO APPEAL A PENALTY RELIEF DECISION

IF YOU RECEIVED A NOTICE OR LETTER SAYING WE DIDN'T GRANT YOUR REQUEST FOR FIRST TIME ABATE RELIEF, REQUEST A DIFFERENT TYPE OF PENALTY RELIEF OR SEE PENALTY APPEAL ELIGIBILITY FOR NEXT STEPS.

INTEREST RELIEF

WE CHARGE INTEREST ON PENALTIES. INTEREST INCREASES THE AMOUNT YOU OWE UNTIL YOU PAY YOUR BALANCE IN FULL.

WE'LL AUTOMATICALLY REDUCE OR REMOVE THE RELATED INTEREST IF ANY OF YOUR PENALTIES ARE REDUCED OR REMOVED. FOR MORE INFORMATION ABOUT THE INTEREST WE CHARGE ON PENALTIES.

PENALTY RELIEF FOR FIRST TIME

FORM 843 (PENALTY RELIEF)

ERTC &

Q

B



Deduction



Filing Status Single Married filing jointly Married filing separately (MFS) Head of household (HOH) Qualifying surviving spouse (QSS)
 Check only one box. If you checked the MFS box, enter the name of your spouse. If you checked the HOH or QSS box, enter the child's name if the qualifying person is a child but not your dependent:

Your first name and middle initial	Last name	Your social security number
If joint return, spouse's first name and middle initial	Last name	Spouse's social security number
Home address (number and street). If you have a P.O. box, see instructions.		Apt. no.
City, town, or post office. If you have a foreign address, also complete spaces below.		State
Foreign country name		Foreign postal code
Foreign province/state/country		Foreign postal code

Presidential Election Campaign
 Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund.
 You Spouse

Digital Assets At any time during 2022, did you: (a) receive (as a reward, award, or payment for property or services); or (b) sell, exchange, gift, or otherwise dispose of a digital asset (or a financial interest in a digital asset)? (See instructions.) Yes No

Standard Deduction **Someone can claim:** You as a dependent Your spouse as a dependent
 Spouse itemizes on a separate return or you were a dual-status alien

Age/Blindness **You:** Were born before January 2, 1958 Are blind **Spouse:** Was born before January 2, 1958 Is blind

Dependents (see instructions):

(1) First name	Last name	(2) Social security number	(3) Relationship to you	(4) Child tax credit	Credit for other dependents
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>

Income

1a	Total amount from Form(s) W-2, box 1 (see instructions)	1a	
b	Household employee wages not reported on Form(s) W-2	1b	
c	Tip income not reported on line 1a (see instructions)	1c	
d	Medicaid waiver payments not reported on Form(s) W-2 (see instructions)	1d	
e	Taxable dependent care benefits from Form 2441, line 26	1e	
f	Employer-provided adoption benefits from Form 8839, line 29	1f	
g	Wages from Form 8919, line 6	1g	
h	Other earned income (see instructions)	1h	
i	Nontaxable combat pay election (see instructions)	1i	
z	Add lines 1a through 1h	1z	
2a	Tax-exempt interest	2a	
3a	Qualified dividends	3a	
4a	IRA distributions	4a	
5a	Pensions and annuities	5a	
6a	Social security benefits	6a	
b	Taxable interest	2b	
b	Ordinary dividends	3b	
b	Taxable amount	4b	
b	Taxable amount	5b	
b	Taxable amount	6b	
c	If you elect to use the lump-sum election method, check here (see instructions)		
7	Capital gain or (loss). Attach Schedule D if required. If not required, check here	7	
8	Other income from Schedule 1, line 10	8	
9	Add lines 1z, 2b, 3b, 4b, 5b, 6b, 7, and 8. This is your total income	9	
10	Adjustments to income from Schedule 1, line 26	10	
11	Subtract line 10 from line 9. This is your adjusted gross income	11	
12	Standard deduction or itemized deductions (from Schedule A)	12	
13	Qualified business income deduction from Form 8995 or Form 8995-A	13	
14	Add lines 12 and 13	14	
15	Subtract line 14 from line 11. If zero or less, enter -0-. This is your taxable income	15	

Standard Deduction for—
 • Single or Married filing separately, \$12,950
 • Married filing jointly or Qualifying surviving spouse, \$25,900
 • Head of household, \$19,400
 any box under Standard Deduction, see instructions.

Qualified Business Income Deduction

Form 1040, Line 13

What is this?

A tax deduction out of thin air which is 20% of your net business income as an additional tax deduction on your individual tax return.

Includes “QBI” from:

Schedule C & F

Schedule K-1’s for S-Corporations & Partnerships

QUALIFIED BUSINESS INCOME DEDUCTION WITH ERTC ADJUSTMENT TO WAGE DEDUCTION

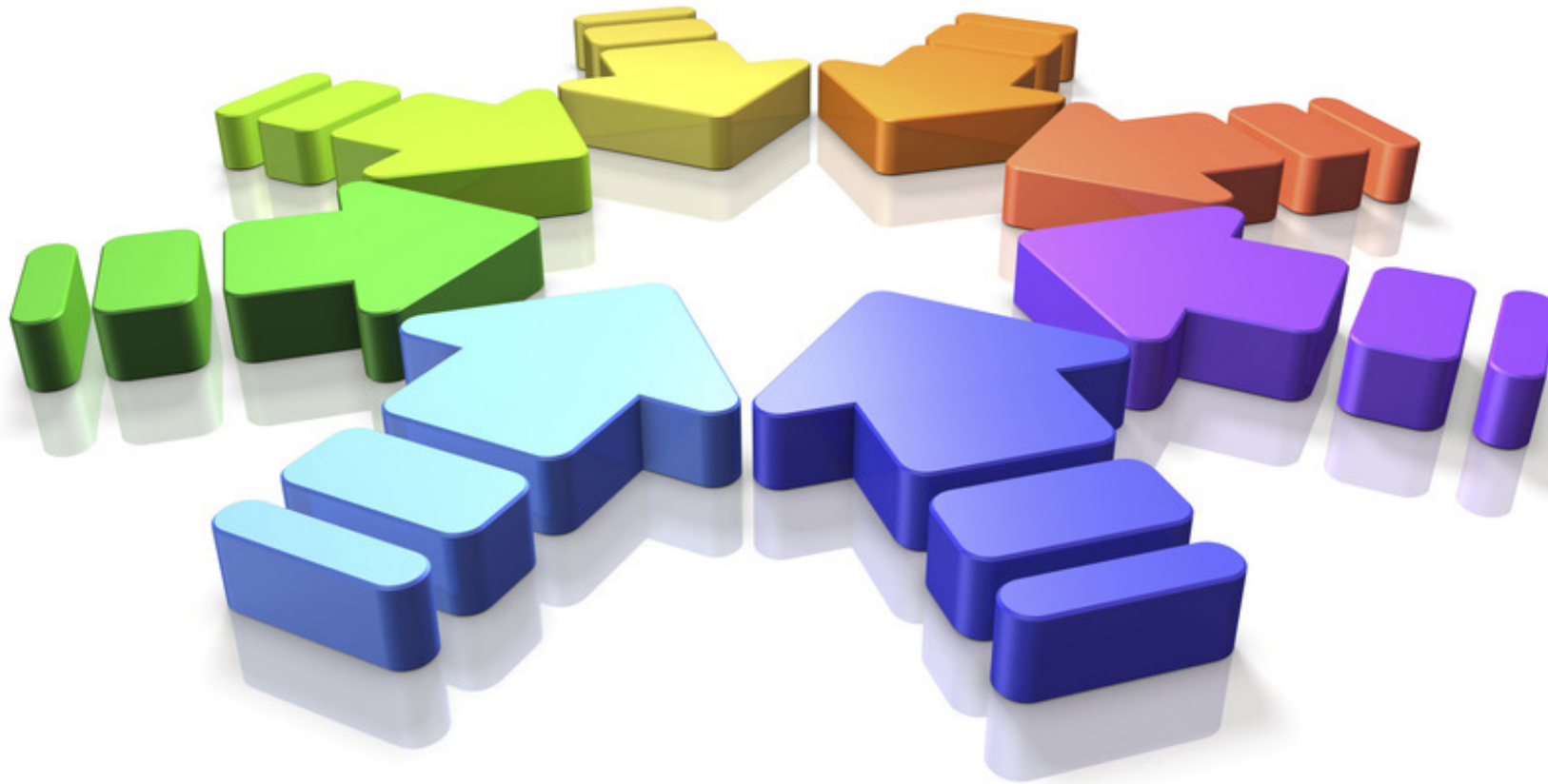
- IF A BUSINESS RECEIVES THE EMPLOYEE RETENTION TAX CREDIT
 - IT REDUCES DOWN WAGES DEDUCTED TO ARRIVE AT TAXABLE INCOME
 - THIS DOES **INCREASE** “QUALIFIED BUSINESS INCOME”

QUALIFIED BUSINESS INCOME DEDUCTION “QBI WAGES” WHEN ERTC IS PRESENT

- IF A BUSINESS RECEIVES THE EMPLOYEE RETENTION TAX CREDIT
 - IT REDUCES DOWN WAGES DEDUCTED TO ARRIVE AT TAXABLE INCOME
 - IT ALSO REDUCES DOWN “QBI WAGES”

VIDEO 9

ERTC AGGREGATION
FOR THOSE THAT OWN MORE THAN ONE BUSINESS



AGGREGATION BASICS

AGGREGATION IS APPLIED WHEN THERE IS

50% OR MORE

COMMON OWNERSHIP IN MULTIPLE BUSINESSES

REGARDLESS OF

LOCATION

CITY, COUNTY OR STATE AGGREGATE

TYPE OF BUSINESS

EXAMPLE: LAW FIRM & TOY STORE AGGREGATE

DIFFERENT LEGAL STRUCTURES

EXAMPLE: LLC, INC, PLLC, PC, PA, ETC. AGGREGATE

DIFFERENT TAX STRUCTURES

EXAMPLE: S-CORP, C-CORP, PARTNERSHIP, SOLE PROPRIETOR (SCHEDULE C/E/F) AGGREGATE

50% OR MORE COMMON OWNERSHIP IN MULTIPLE BUSINESSES FROM IRS NOTICE 2021-20

E. Aggregation Rules

Section 2301(d) of the CARES Act provides that all persons treated as a single employer under section 52(a) or (b) of the Code, or section 414(m) or (o) of the Code, will be treated as a single employer for purposes of the employee retention credit.

While this notice describes the aggregation rules under sections 52(a) and (b) and 414(m) and (o) in general terms, it does not provide separate guidance on the substantive requirements of those aggregation rules or otherwise interpret those rules.

AGGREGATION IS MANDATORY FOR ALL BUSINESSES IT APPLIES TO; IT IS NOT OPTIONAL.

A BUSINESS MAY ELECT TO “NOT” FILE FOR ERTC, BUT IT IS NOT AN “ELECTION” OPTION IF AGGREGATION RULES APPLY; AS THEY AUTOMATICALLY APPLY AND CANNOT BE ESCAPED.

AFTER AGGREGATION DETERMINED

AGGREGATION IS APPLIED TO

GROSS RECEIPTS

AGGREGATED GROUP MUST BE MEET REDUCTION
IN GROSS RECEIPTS ADDING ALL GROSS RECEIPTS

OR

PARTIAL OR FULL CLOSURE/AFFET BY GOVERNMENTAL ORDER
IF ONE AFFECTED, ALL AFFECTED

EMPLOYEE HEAD COUNT

AGGREGATE GROUP ADDS ALL EMPLOYEES
TOGETHER TO DETERMINE FULL-TIME HEAD COUNT

ANY LOCATION

SOME ESSENTIAL

RESTAURANT

GROUP (ADD)
ALL WAGES
ALL GROSS RECEIPTS
APPLY
ANY GOV'T SHUTDOWN

If same employee
In 2 companies
\$10,000 max applies

SCHEDULE F
FARM/RANCH

ONE AFFECTED, ALL AFFECTED

LAW PRACTICE

50% OR MORE
COMMON
OWNERSHIP

SCHEDULE C
SOLE PROP

WHOLE GROUP HAS TO BE DOWN
GROSS RECEIPTS

S-CORPORATION

LLC, INC.
PC, PLLC
ETC.

C-CORPORATION

PARTNERSHIP

DIFFERENT STATES

TREAT AS ONE

VIDEO 10



ERTC WAGES FROM HEALTH INSURANCE

CLAIMANT INFORMATION

1. MEDICARE (Medicare #) MEDICAID (Medicaid #) CHAMPUS/CHAMPVA GROUP (Sponsor's SSN) (VA #) FECA BLK LBL (SSN)

2. PATIENT'S NAME (First Name, Middle Initial, Last Name) 3. SEX M F O

4. PATIENT'S ADDRESS (No., Street) 5. PATIENT'S STATUS SELF CHILD OTHER (SPECIFY)

CITY STATE ZIP CODE TELEPHONE NO. Full Time Student Part Time Student

6. OTHER INSURANCE POLICY OR GROUP NO. 9132157

7. EMPLOYER'S NAME

8. EMPLOYER'S ADDRESS

9. EMPLOYER'S PHONE NO.

10. EMPLOYER'S BUSINESS TYPE

11. EMPLOYER'S BUSINESS ADDRESS

12. EMPLOYER'S BUSINESS PHONE NO.

WHAT ARE YOU DOING WITH HEALTH INSURANCE? WHAT IS THE GOAL?

THE GOAL IS TO INCREASE THE CREDIT:

You are taking the health insurance cost and converting it into compensation either by day or hour,

To then add to the payroll compensation of the participating employee to arrive at a TOTAL of qualified “wages” for ERTC purposes.

The health insurance cost is included in determining the “tax credit.”

You do need to know wages separate from health insurance cost for reporting on Form 941.

**2020: QUALIFIED WAGES INCLUDES
EMPLOYER PAID HEALTH INSURANCE THAT IS EXCLUDED FROM THE
EMPLOYEES GROSS INCOME, ALLOCATED (PRO RATA) TO THE EMPLOYEE**

AS PRESCRIBED BY THE APPROPRIATIONS ACT, SEC. 206 (RETROACTIVE)

Allowance for certain health plan expenses.-

(i) In general.--Such term shall include amounts paid by the eligible employer to provide and maintain a group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986), but only to the extent that such amounts are excluded from the gross income of employees by reason of section 106(a) of such Code.

(ii) Allocation rules.--For purposes of this section, amounts treated as wages under clause (i) shall be treated as paid with respect to any employee (and with respect to any period) to the extent that such amounts are properly allocable to such employee (and to such period) in such manner as the Secretary may prescribe. Except as otherwise provided by the Secretary, such allocation shall be treated as properly made if made on the basis of being pro rata among periods of coverage.

HEALTH INSURANCE COSTS

SEE IRS NOTICE 2021-20

Question 41: May a **small eligible employer** treat its health plan expenses as qualified wages for purposes of the employee retention credit?

Answer 41: A small eligible employer may treat its health plan expenses paid or incurred, after March 12, 2020, and before January 1, 2021, with respect to any employee during any period in a calendar quarter in which the employer's business operations are fully or partially suspended due to a governmental order or during a calendar quarter in which the employer experiences a significant decline in gross receipts as qualified wages, although only \$10,000 per employee for all calendar quarters can be taken into account for the employee retention credit.

Small eligible employers may treat health plan expenses allocable to the applicable periods as qualified wages even if the employees are not working and the eligible employer does not pay the employees any wages for the time they are not working.

HEALTH INSURANCE COSTS

SEE IRS NOTICE 2021-20

Question 41: May a **small eligible employer** treat its health plan expenses as qualified wages for purposes of the employee retention credit?

Answer 41: A small eligible employer may treat its health plan expenses paid or incurred, after March 12, 2020, and before January 1, 2021, with respect to any employee during any period in a calendar quarter in which the employer's business operations are fully or partially suspended due to a governmental order or during a calendar quarter in which the employer experiences a significant decline in gross receipts as qualified wages, although only \$10,000 per employee for all calendar quarters can be taken into account for the employee retention credit.

Small eligible employers may treat health plan expenses allocable to the applicable periods as qualified wages even if the employees are not working and the eligible employer does not pay the employees any wages for the time they are not working.

See FAQ #42 (See full language in Notice 2021-20: **Large eligible employers** may not treat as qualified wages health plan expenses allocable to the time the employees are providing services.

HEALTH INSURANCE COSTS

SEE IRS NOTICE 2021-20

Question 43: For an eligible employer that sponsors more than one plan for its employees (for example, both a group health plan and a health flexible spending arrangement (health FSA)), or more than one plan covering different employees, how are the qualified health plan expenses for each employee determined?

Answer 43: The qualified health plan expenses are determined separately for each plan. For each plan, those expenses are allocated to the employees who participate in that plan. In the case of an employee who participates in more than one plan, the allocated expenses of each plan in which the employee participates are aggregated for that employee.

IF YOU HAVE AN EMPLOYER SPONSOERED FULLY-INSURED GROUP HEALTH PLAN (NOT AS COMMON)
SEE FAQ #44

Question 44: For an eligible employer that sponsors a fully-insured group health plan, how are the qualified health plan expenses of that plan allocated on a pro rata basis?

Answer 44: See IRS Notice 2021-20.

A person in a dark suit and white shirt is pointing their right index finger towards the text. The background is a blurred office setting with a blue light flare.

COMPENSATION

CALCULATING
PAYROLL &
HEALTH INSURANCE
PER EMPLOYEE

ERTC "WAGES" FROM PAYROLL (ACTUAL SALARIES & WAGES)

EMPLOYEE SALARY (1)	SALARY	PAYROLL PER HOUR	PAYROLL PER DAY	PAYROLL PER PAYROLL PERIOD (2)
Sally	74,000.00	35.58	284.62	2,846.15
HOURLY				
Jimmy		28.00	224.00	2,240.00
PART-TIME				
Lucy (20 Hrs Week or 4 Hrs Day)		16.00	64.00	640.00
CONSIDERED RELATED (PPP ALLOWED)				
Mary	90,000.00	43.27	346.15	3,461.54

CALC TOTAL ERTC "WAGES" w/ HEALTH (EXCEL)

(1) DIVIDE ANNUAL SALARY BY 2,080 HOURS (52 WEEKS X 40 HOURS)

(2) EXAMPLE IS BI-WEEKLY (10 WORK DAYS OR 80 HOURS). ADJUST FOR OTHER POSSIBLE PAYROLL PERIOD

EXCEL SPREADSHEET PROVIDED

CALCULATING EMPLOYEE COMPENSATION (PAYROLL PLUS HEALTH INSURANCE)
 THERE ARE 3 SECTIONS TO THIS WORKSHEET (BE SURE TO SCROLL DOWN)
 THIS IS A GENERAL EXAMPLE FOR EXAMPLE & INFORMATIONAL PURPOSES ONLY AS OF 3/19/2021
 SEE IRS NOTICE 2021-20 ALONG WITH ITS FAQS #41 - #44 FOR SPECIFICS ON SMALL & LARGE EMPLOYERS AS WELL AS MULTI OR SPONSORED PLANS
 ALSO NOTE THAT FOR SMALL EMPLOYERS, EVEN IF AN EMPLOYEE IS NOT PAID, IF HEALTH INSURANCE IS PAID, SUCH HEALTH INSURANCE IS STILL INCLUDED
YOU CANNOT RELY ON FORMULA'S. FORMULA'S NOT LOCKED. YOU MUST CHECK ALL MATH.

ERTC "WAGES" FROM HEALTH INSURANCE (ALLOCATED TO THE EMPLOYEE)

EMPLOYEE	MONTHLY HEALTH INSURANCE	HEALTH INSURANCE PER HOUR	HEALTH INSURANCE PER DAY	HEALTH INSURANCE PER PAYROLL PERIOD
SALLY				
Sally	800.00	4.76	38.10	380.95
JIMMY				
Jimmy	700.00	4.17	33.33	333.33
LUCY				
Lucy (20 Hrs Week or 4 Hrs Day)	-	-	-	-
MARY				
Mary	1,000.00	5.95	47.62	476.19

CALC TOTAL ERTC "WAGES" w/ HEALTH (EXCEL)

EXCEL SPREADSHEET PROVIDED

IRS ALLOWS FOR A REASONABLE METHOD. THIS METHOD IS TAKING THE NUMBER OF HOURS WORKED IN THE MONTH (ASSUMED 21 DAYS FOR THE MONTH) SAME ASSUMPTIONS ABOVE

CALCULATING EMPLOYEE COMPENSATION (PAYROLL PLUS HEALTH INSURANCE)
 THERE ARE 3 SECTIONS TO THIS WORKSHEET (BE SURE TO SCROLL DOWN)
 THIS IS A GENERAL EXAMPLE FOR EXAMPLE & INFORMATIONAL PURPOSES ONLY AS OF 3/19/2021
 SEE IRS NOTICE 2021-20 ALONG WITH ITS FAQS #41 - #44 FOR SPECIFICS ON SMALL & LARGE EMPLOYERS AS WELL AS MULTI OR SPONSORED PLANS
 ALSO NOTE THAT FOR SMALL EMPLOYERS, EVEN IF AN EMPLOYEE IS NOT PAID, IF HEALTH INSURANCE IS PAID, SUCH HEALTH INSURANCE IS STILL INCLUDED
YOU CANNOT RELY ON FORMULA'S. FORMULA'S NOT LOCKED. YOU MUST CHECK ALL MATH.

ERTC "WAGES" FROM BOTH PAYROLL & HEALTH INSURANCE (ALLOCATED TO THE EMPLOYEE)

THIS IS THE SUM OF THE ABOVE

EMPLOYEE	ERTC "WAGES" PER HOURS	ERTC "WAGES" PER DAY	ERTC "WAGES" PER PAYROLL PERIOD
SALLY	40.34	322.71	3,227.11
JIMMY	32.17	257.33	2,573.33
LUCY (20 Hrs Week or 4 Hrs Day)	16.00	64.00	640.00
MARY	49.22	393.77	3,937.73



NO ONE EMPLOYEE OVER \$10,000 PER PERIOD

2020: PER ANNUAL
2021: PER QUARTER

EXCEL SPREADSHEET PROVIDED

CALC TOTAL ERTC "WAGES" w/ HEALTH (EXCEL)

CALCULATING EMPLOYEE COMPENSATION (PAYROLL PLUS HEALTH INSURANCE)

THERE ARE 3 SECTIONS TO THIS WORKSHEET (BE SURE TO SCROLL DOWN)
 THIS IS A GENERAL EXAMPLE FOR EXAMPLE & INFORMATIONAL PURPOSES ONLY AS OF 3/19/2021
 SEE IRS NOTICE 2021-20 ALONG WITH ITS FAQs #41 - #44 FOR SPECIFICS ON SMALL & LARGE EMPLOYERS AS WELL AS MULTI OR SPONSORED PLANS
 ALSO NOTE THAT FOR SMALL EMPLOYERS, EVEN IF AN EMPLOYEE IS NOT PAID, IF HEALTH INSURANCE IS PAID, SUCH HEALTH INSURANCE IS STILL INCLUDED
YOU CANNOT RELY ON FORMULA'S. FORMULA'S NOT LOCKED. YOU MUST CHECK ALL MATH.

VIDEO 11



**WHEN DO WAGES
GET TO BE
INCLUDED FOR
BUSINESS OWNERS,
THEIR SPOUSES
& FAMILY?
HOW DO THEY
QUALIFY FOR ERTC?**

**IRS NOTICE 2021-49
PAGES 25-31**

WHEN DO WAGES TO OWNERS QUALIFY?

- IF OWNER OWNS 50% OR LESS OF THE BUSINESS, THE OWNERS W-2 WAGES QUALIFY
- IF OWNER OWNS MORE THAN 50% OF THE BUSINESS, THE OWNERS W-2 WAGES DO NOT QUALIFY
 - AND NONE OF THE FAMILY MEMBERS WAGES QUALIFY, EVEN IF SUCH FAMILY DOES NOT OWN ANY OF THE BUSINESS
 - EXCEPTION: IF THE OWNER OWNS MORE THAN 50% OF THE BUSINESS, AND THAT OWNER HAS NO LIVING BLOOD RELATIVES, THAT OWNER'S WAGES QUALIFY

NOTE: IF MULTIPLE FAMILY MEMBERS OWN THE BUSINESS, YOU MUST ADD UP ALL OF THE FAMILY'S OWNERSHIP PERCENTAGE, AND THAT TOTAL FAMILY OWNERSHIP IS DEEMED TO BE EACH FAMILY MEMBERS OWNERSHIP.

IRC SECTION 267(c)

(c) CONSTRUCTIVE OWNERSHIP

For purposes of determining, in applying subsection (b), the ownership of stock—

- (1) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries;
- (2) An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family;
- (3) An individual owning (otherwise than by the application of paragraph (2)) any stock in a corporation shall be considered as owning the stock owned, directly or indirectly, by or for his partner;
- (4) The family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; and
- (5) Stock constructively owned by a person by reason of the application of paragraph (1) shall, for the purpose of applying paragraph (1), (2), or (3), be treated as actually owned by such person, but stock constructively owned by an individual by reason of the application of paragraph (2) or (3) shall not be treated as owned by him for the purpose of again applying either of such paragraphs in order to make another the constructive owner of such stock.

IRC 152(d)(2)(A)-(H)

(2) RELATIONSHIP For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

(A) A child or a descendant of a child.

(B) A brother, sister, stepbrother, or stepsister.

(C) The father or mother, or an ancestor of either.

(D) A stepfather or stepmother.

(E) A son or daughter of a brother or sister of the taxpayer.

(F) A brother or sister of the father or mother of the taxpayer.

(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

WHAT IS A MAJORITY OWNER FOR ERTC?

OWNS MORE THAN 50%

FAMILY ATTRIBUTION RULES APPLY TO DETERMINE MAJORITY OWNERSHIP.

INCLUDES FAMILY AND THE SPOUSE

EXCEPTION WHEN DETERMINING IF THERE ARE LIVING RELATIVES?

INCLUDES FAMILY BUT EXCLUDES THE SPOUSE
UNDER IRC 152(d)(2)(A)-(H) FOR SPOUSES

WHAT IS A CONSTRUCTIVE OWNERSHIP FOR ERTC?

AFTER ADDING UP ALL RELATIVES PERCENTAGE OF OWNERSHIP

THAT TOTAL OWNERSHIP PERCENTAGE

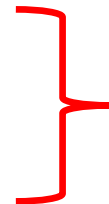
EACH RELATIVE CONSTRUCTIVELY OWNS

EXAMPLES:

DAD OWNS 24.5%

MOM OWNS 24.5%

SON OWNS 1%



EACH CONSTRUCTIVELY OWN 50% (NONE ARE MAJORITY OWNERS)

ADD TO ABOVE EXAMPLE

DAUGHTER OWN 1%

EACH CONSTRUCTIVELY OWN 51%

(ALL ARE MAJORITY OWNERS)

BIGGEST QUESTIONS WITH BUSINESS OWNER'S & SPOUSES WAGES QUALIFYING FOR ERTC?

DO OWNER'S, SPOUSES AND FAMILY WAGES QUALIFY FOR ERTC?

YES, IF 50% OR LESS OWNER IN THE BUSINESS
(CONSTRUCTIVE OWNERSHIP RULES APPLY UNDER IRC SECTION 267c)

YES, IF THE MAJORITY OWNER (& IF MARITAL SPOUSE) HAS NO BROTHER OR SISTER WHETHER WHOLE OR HALF-BLOODED, ANCESTOR, OR LINEAL DESCENDANT AS DEFINED IN SECTION 267(c)(4) of the CODE.

NO, IF THE MAJORITY OWNER (& IF MARITAL SPOUSE) HAS A LIVING BROTHER OR SISTER WHETHER WHOLE OR HALF-BLOODED, ANCESTOR, OR LINEAL DESCENDANT AS DEFINED IN SECTION 267(c)(4) of the CODE.

EVEN IF THE LIVING RELATIVE DOES NOT WORK FOR THE BUSINESS.

EVEN IF THE LIVING RELATIVE DOES NOT OWN ANY OF THE BUSINESS

BIGGEST QUESTIONS WITH BUSINESS OWNER'S & SPOUSES WAGES QUALIFYING FOR ERTC?

DO OWNER'S WAGES QUALIFY FOR ERTC?

YES, IF 50% OR LESS OWNER IN THE BUSINESS
(CONSTRUCTIVE OWNERSHIP RULES APPLY UNDER IRC SECTION 267c)

DO SPOUSES WAGES QUALIFY FOR ERTC?

YES, IF UNDER IRC SECTION 267c,
THERE IS 50% OR LESS CONSTRUCTIVE OWNERSHIP IN THE BUSINESS

DO RELATIVE'S WAGES QUALIFY FOR ERTC?

YES, IF UNDER IRC SECTION 267c,
THERE IS 50% OR LESS OWNERSHIP IN THE BUSINESS

DOES A 100% OWNER'S WAGES AND SPOUSE QUALIFY FOR ERTC?

NO. THIS IS A MAJORITY OWNER, OWNING MORE THAN 50%, AND IS DISQUALIFIED
YES, IF THE MAJORITY OWNER (& IF MARITAL SPOUSE) HAVE NO BROTHER OR
SISTER WHETHER WHOLE OR HALF-BLOODED, ANCESTOR, OR LINEAL
DESCENDANT AS DEFINED IN SECTION 267(c)(4) OF THE CODE.

BIGGEST QUESTIONS WITH BUSINESS OWNER'S & SPOUSES WAGES QUALIFYING FOR ERTC?

**DOES THE ZERO PERCENT OWNER SPOUSE'S WAGES QUALIFY,
IF THE OTHER SPOUSE IS A MORE THAN 50% OWNER?**

**NO. UNDER IRC SECTION 267c, EACH MARITAL PARTNER IS DEEMED TO BE A MORE
THAN 50% OWNER FOR ERTC PURPOSES,
EVEN IF ONE SPOUSE TECHNICALLY OWNS NO PERCENTAGE.**

**YES, IF THE MAJORITY OWNER AND MARITAL SPOUSE HAVE NO BROTHER OR SISTER
WHETHER WHOLE OR HALF-BLOODED, ANCESTOR, OR LINEAL
DESCENDANT AS DEFINED IN SECTION 267(c)(4) OF THE CODE.**

WHAT IF YOU HAVE 2 OWNERS (PARTNERS, SHAREHOLDERS) AND EACH OWN 50%, BUT NOT RELATED?

**BOTH OWNERS QUALIFY, AS WELL AS THEIR SPOUSES AND RELATIVES, BECAUSE NEITHER
OWN MORE THAN 50%, AND THEY ARE NOT RELATED.**

BIGGEST QUESTIONS WITH BUSINESS OWNER'S & SPOUSES WAGES QUALIFYING FOR ERTC?

DO WAGES OF TWO MARITAL PARTNERS WHO EACH ONLY OWN 50% QUALIFY FOR ERTC?

NO. UNDER IRC SECTION 267c, EACH MARITAL PARTNER IS DEEMED TO BE A MORE THAN 50% OWNER FOR ERTC PURPOSES, AND BOTH ARE DISQUALIFIED.

YES, IF THE MAJORITY OWNER AND MARITAL SPOUSE HAVE NO BROTHER OR SISTER WHETHER WHOLE OR HALF-BLOODED, ANCESTOR, OR LINEAL DESCENDANT AS DEFINED IN SECTION 267(c)(4) OF THE CODE.

DO WAGES OF TWO MARITAL PARTNERS QUALIFY FOR ERTC WHERE ONE OWNS 10% AND THE OTHER OWNS 90%?

NO. UNDER FAMILY ATTRIBUTION RULES, EACH MARITAL PARTNER IS DEEMED TO BE A MORE THAN 50% OWNER FOR ERTC PURPOSES, AND BOTH ARE DISQUALIFIED.

YES, IF THE MAJORITY OWNER AND MARITAL SPOUSE HAVE NO BROTHER OR SISTER WHETHER WHOLE OR HALF-BLOODED, ANCESTOR, OR LINEAL DESCENDANT AS DEFINED IN SECTION 267(c)(4) OF THE CODE.

BIGGEST QUESTIONS WITH BUSINESS OWNER'S & SPOUSES WAGES QUALIFYING FOR ERTC?

DO WAGES OF ANY OF THESE INDIVIDUALS QUALIFY FOR ERTC IF

HUSBAND OWNS 20%

WIFE OWNS 20%

FATHER OWNS 20%

MOTHER OWNS 20%

DAUGHTER OWNS 10%

SON OWNS 0% (ZERO OWNERSHIP)

COMPLETELY UNRELATED INDIVIDUAL 10%

SPOUSE OF THE COMPLETELY UNRELATED INDIVIDUAL (AND OWNS NO %)

EVERYONE RELATED LISTED ABOVE IS DEEMED TO BE A MORE THAN 50% OWNER FOR ERTC PURPOSES, AND ALL ARE DISQUALIFIED BECAUSE CONSTRUCTIVELY EACH RELATED PARTY IS CONSIDERED A MAJORITY OWNER UNDER IRC SECTION 267c (EACH WOULD BE DEEMED TO OWN 90% FOR ERTC PURPOSES)

FOR THE UNRELATED INDIVIDUAL. THE WAGES PAID TO THAT INDIVIDUAL AND THAT INDIVIDUALS SPOUSE ARE INCLUDED FOR ERTC

BIGGEST QUESTIONS WITH BUSINESS OWNER'S & SPOUSES WAGES QUALIFYING FOR ERTC?

IRS NOTICE 2021-49: EXAMPLE 1 ON PAGE 30

WHAT IF

- DAD OWNS 100% AND IS EMPLOYEE OF BUSINESS
- SON OWNS NONE AND IS NOT AN EMPLOYEE OF THE BUSINESS
- DAD CANNOT INCLUDE WAGES FOR ERTC BECAUSE HAS LIVING RELATIVE QUALIFYING UNDER IRC SECTION 267c

IRS NOTICE 2021-49: EXAMPLE 3 ON PAGE 31

WHAT IF

- OWNED 100% BY ONE SPOUSE
- OTHER SPOUSE OWNS 0%
- EACH SPOUSE IS DEEMED 100% OWNER
- BOTH SPOUSES ARE EMPLOYEES OF THE BUSINESS
- NEITHER SPOUSE HAS ANY RELATIVES UNDER IRC SECTION 267c
- THE RELATIONSHIP OF THE SPOUSES IS UNDER IRC 152(d)(2)(A)-(H)
- ARE NOT UNDER IRC SECTION 267c
- BOTH SPOUSES CAN INCLUDE WAGES FOR ERTC (BECAUSE NO LIVING RELATIVES UNDER 267c)

BIGGEST QUESTIONS WITH BUSINESS OWNER'S & SPOUSES WAGES QUALIFYING FOR ERTC?

DO SELF-EMPLOYED INDIVIDUALS OR PARTNERS QUALIFY FOR ERTC?

NO. SELF-EMPLOYED INCOME IS NOT WAGES AND PARTNERS CANNOT PAY THEMSELVES WAGES. WITH NO WAGES, THERE IS NO ERTC.

NOTE: EMPLOYEES OF THE SELF-EMPLOYED AND/OR PARTNERSHIP CAN QUALIFY
THE SAME LAW UNDER IRC 267c APPLIES FOR FAMILY
THE SAME LAW UNDER IRC 152(d)(2)(A)-(H) APPLIES TO SPOUSES

BIGGEST QUESTIONS WITH BUSINESS OWNER'S & SPOUSES WAGES QUALIFYING FOR ERTC?

DO SELF-EMPLOYED INDIVIDUALS "SPOUSES" WAGES QUALIFY FOR ERTC?

IRC SECTION 267c STILL APPLIES

NOTE: THE SELF-EMPLOYED IS BY DEFAULT IS 100% OWNER

YES, IF THE SELF-EMPLOYED (AND IF MARITAL SPOUSE) HAVE NO BROTHER OR SISTER (WHETHER WHOLE OR HALF-BLOODED), ANCESTOR, OR LINEAL DESCENDANT AS DEFINED IN SECTION 267(c)(4) OF THE CODE

NO, IF THE SELF-EMPLOYED (AND IF MARITAL SPOUSE) HAVE A LIVING BROTHER OR SISTER (WHETHER WHOLE OR HALF-BLOODED), ANCESTOR, OR LINEAL DESCENDANT AS DEFINED IN SECTION 267(c)(4) OF THE CODE

DO SELF-EMPLOYED INDIVIDUALS "FAMILY" WAGES QUALIFY FOR ERTC?

NO, AS THE 267c APPLIES (THEY ARE THE LIVING RELATIVE)

BIGGEST QUESTIONS WITH BUSINESS OWNER'S & SPOUSES WAGES QUALIFYING FOR ERTC?

DO PARTNERS (IN A PARTNERSHIP) "SPOUSES" WAGES QUALIFY FOR ERTC?

IRC SECTION 267c STILL APPLIES

YES, IF THE PARTNER IS NOT A MAJORITY OWNER (OWNS 50% OR LESS)

YES, IF THE PARTNER (AND IF MARITAL SPOUSE) HAVE NO BROTHER OR SISTER (WHETHER WHOLE OR HALF-BLOODED), ANCESTOR, OR LINEAL DESCENDANT AS DEFINED IN SECTION 267(c)(4) of the CODE

NO, IF THE PARTNER IS A MAJORITY OWNER (AND IF MARITAL SPOUSE) HAVE A LIVING BROTHER OR SISTER (WHETHER WHOLE OR HALF-BLOODED), ANCESTOR, OR LINEAL DESCENDANT AS DEFINED IN SECTION 267(c)(4) of the CODE

DOES A PARTNERS' "FAMILY" WAGES QUALIFY FOR ERTC?

YES, IF THE PARTNER IS NOT A MAJORITY OWNER (OWNS 50% OR LESS)

NO, IF PARTNER IS MAJORITY OWNER, AS THE 267c APPLIES (THEY ARE THE LIVING RELATIVE)

VIDEO 12



FEE FOR SERVICES RELATED TO ERC

ATTENTION CPA's

FACTS WITH ANY CONTINGENCY FEE RELATED TO TAX SERVICES PER THE AICPA

AICPA Code of Professional Conduct –

Section 1.510.010.03 states: “A fee is considered determined based on the findings of governmental agencies and, therefore, is not a contingent fee if the member can demonstrate a reasonable expectation, at the time of a fee arrangement, that a government agency will provide substantive consideration of the subject matter with respect to the member’s client.”

Section 1.510.010.05 states: “Example of When a Contingent Fee Is Not Permitted - A contingent fee is not permitted if a member prepared a client’s amended federal or state income tax return claiming a refund of taxes because a valid deduction was inadvertently omitted from the originally filed return.”

Per Ed Karl, CPA, CGMA, Vice President – AICPA Tax Policy & Advocacy, the answer is no for the simple fact that the filing of Form 941-X does not have the expectation of substantial review by the IRS, and not expected to be challenged by the IRS.

ATTENTION ENROLLED AGENT'S (EA's)

FACTS WITH ANY CONTINGENCY FEE RELATED TO TAX SERVICES PER THE IRS & CIRCULAR 230

Treasury Department Circular No. 230 considerations for contingent fees (section 10.27 Fees).

- (a) In general. A practitioner may not charge an unconscionable fee in connection with any matter before the Internal Revenue Service.
- (b) Contingent fees —
 - (1) Except as provided in paragraphs (b)(2), (3), and (4) of this section, a practitioner may not charge a contingent fee for services rendered in connection with any matter before the Internal Revenue Service.
 - (2) A practitioner may charge a contingent fee for services rendered in connection with the Service's **examination of, or challenge** to —
 - (i) An original tax return; or
 - (ii) An amended return or claim for refund or credit where the amended return or claim for refund or credit was filed within 120 days of the taxpayer receiving a written notice of the examination of, or a written challenge to the original tax return.
 - (3) A practitioner may charge a contingent fee for services rendered in connection with a claim for credit or refund filed **solely in connection with the determination of statutory interest or penalties assessed by the Internal Revenue Service.**
 - (4) A practitioner may charge a contingent fee for services rendered in **connection with any judicial proceeding** arising under the Internal Revenue Code.

ATTENTION: CPA's, EA's, TAX PROFESSIONALS & TAX PREPARERS UNDER CIRCULAR 230: CONTINGENCY FEES NOT ALLOWED RELATED TO FILING FORM 941-X FOR ERC

Contingency fees are not allowed to be charged by CPA's, EA's, tax pro's and tax preparers either under the AICPA or IRS, as aforementioned, BECAUSE there is no audit or challenge, or expectation of this, when filing Form 941-X. Form 941-X is originally filed to simply claim a tax credit, that is allowed, but not previously taken.

WHO GETS TO CHARGE CONTINGENCY FEES, IN GENERAL?

Those not practicing before the IRS, not a CPA, not an EA, not providing "tax preparation" services, which can include consultants as well as attorneys may charge contingency fees in certain circumstances, outside of ERC services. While the IRS would contend services related to ERC constitute practicing before the IRS, some have found legal ways to nonetheless charge contingency fees. Again, these would be those not actually providing "tax services." Attorneys may contend they are providing legal services only, and thus, consider themselves outside the IRS jurisdiction.

EMPLOYERS WARNED TO BEWARE OF THIRD PARTIES PROMOTING IMPROPER EMPLOYEE RETENTION CREDIT CLAIMS

The Internal Revenue Service has three times warned employers to be wary of third parties who are advising them to claim the Employee Retention Credit (ERC) when they may not qualify. Some third parties are taking improper positions related to taxpayer eligibility for and computation of the credit.

These third parties may not inform taxpayers that wage deductions claimed on the business' federal income tax return must be reduced by the amount of the credit.

If the business filed an income tax return deducting qualified wages before it filed an employment tax return claiming the credit, the business should file an amended income tax return to correct any overstated wage deduction.

Businesses are encouraged to be cautious of advertised schemes and direct solicitations promising tax savings that are too good to be true.

Taxpayers are always responsible for the information reported on their tax returns. Improperly claiming the ERC could result in taxpayers being required to repay the credit along with penalties and interest.

IRS Re-Assigns 90% of its AUDITORS to ERC Issues

- Due to the increase in 3rd party promoters
- U.S. Department of Treasury sampled 11,096 Form 941-X filed related to ERC and tallied those up to \$2 TRILLION in ERTC credit

Will you be targeted or audited by the IRS if you file for ERC?

The simple answer is no.

The IRS may target an ERC “promoter” who has become known as reckless, and so if you are not careful in who you choose to work with related to ERC, your Form 941-X may indirectly receive scrutiny, but the main thing to remember is, if you receive ERC correctly, you having NOTHING to be concerned about. It wouldn’t matter if you get audited because an audit is nothing more than “verifying” you got the ERC correctly. So, again, you taking this course, getting educated, working with a professional you trust, should give you peace of mind that if you are audited, you having nothing to worry about as you will “win” the audit, which only means, you would receive “no adjustment.”

IRS Asking 3rd Party Aggressive ERC Promoters Be Reported

FORM 14242 TO REPORT PROMOTERS TO IRS

REPORT SCAM PREPARERS FORM 3949-A

FORMS TO REPORT ERC 3rd PARTY PROMOTERS

REPORT ERC PROMOTERS (FORM 14242)

REPORT ERC SCAMS (FORM 3949-A)

VIDEO 13

2020

EMPLOYEE
RETENTION
TAX
CREDIT

www.JJtheCPA.com. INFO FOR EDUCATIONAL PURPOSES ONLY

ERTC EXAMPLES & RESOURCES

[2020 ERTC CALCULATION EXAMPLES](#)

[2021 ERTC CALCULATION EXAMPLES](#)

[2020 ERTC FLOWCHART TO OPTIONS](#)

[2021 ERTC FLOWCHART TO OPTIONS](#)

[PPP vs. ERTC: ECONOMIC VALUE CALC \(pdf\)](#)

2020: QUALIFIED WAGES INCLUDE

IF DURING THE FULL OR PARTIAL SUSPENSION OF THE OPERATION OF THEIR TRADE OR BUSINESS DURING ANY CALENDAR QUARTER BECAUSE OF GOVERNMENTAL ORDERS LIMITING COMMERCE, TRAVEL, OR GROUP MEETINGS DUE TO COVID-19

THE QUALIFIED WAGES ARE THE ACTUAL WAGES ONLY INCURRED DURING THE PERIOD OF SUSPENSION

IF DURING A QUARTER WITH A SIGNIFICANT DECLINE IN GROSS RECEIPTS

THE QUALIFIED WAGES ARE WAGES INCURRED DURING THE APPLICABLE QUARTER

UP TO \$10,000 OF WAGES PER EMPLOYEE FOR ALL 2020

MAXIMUM CREDIT PER EMPLOYEE IS \$5,000 FOR ALL 2020

2020: QUALIFIED WAGES INCLUDE

THE DEFINITION OF QUALIFIED WAGES ALSO DEPENDS ON HOW MANY EMPLOYEES AN ELIGIBLE EMPLOYER HAS

IF AN EMPLOYER AVERAGED MORE THAN 100 FULL-TIME EMPLOYEES DURING 2019, QUALIFIED WAGES ARE GENERALLY THOSE WAGES, INCLUDING CERTAIN HEALTH CARE COSTS, (UP TO \$10,000 PER EMPLOYEE) PAID TO **EMPLOYEES THAT ARE NOT PROVIDING SERVICES** BECAUSE OPERATIONS WERE SUSPENDED OR DUE TO THE DECLINE IN GROSS RECEIPTS. THESE EMPLOYERS CAN ONLY COUNT WAGES UP TO THE AMOUNT THAT THE EMPLOYEE WOULD HAVE BEEN PAID FOR WORKING AN EQUIVALENT DURATION DURING THE 30 DAYS IMMEDIATELY PRECEDING THE PERIOD OF ECONOMIC HARDSHIP.

IF AN EMPLOYER AVERAGED 100 OR FEWER FULL-TIME EMPLOYEES DURING 2019, QUALIFIED WAGES ARE THOSE WAGES, INCLUDING HEALTH CARE COSTS, (UP TO \$10,000 PER EMPLOYEE) PAID TO **ANY EMPLOYEE DURING THE PERIOD** OPERATIONS WERE SUSPENDED OR THE PERIOD OF THE DECLINE IN GROSS RECEIPTS, REGARDLESS OF **WHETHER OR NOT ITS EMPLOYEES ARE PROVIDING SERVICES**.

FOR BOTH EMPLOYER SIZES, HEALTH PLAN EXPENSES ARE INCLUDED PAID BY THE EMPLOYER THAT IS EXCLUDED FROM THE EMPLOYEES GROSS INCOME AND ALLOCATED PRO RATA TO THE EMPLOYEE

2020: SIGNIFICANT DECLINE IN GROSS RECEIPTS THIS IS ONLY FOR 2020

A SIGNIFICANT DECLINE IS 50%

A SIGNIFICANT DECLINE IN GROSS RECEIPTS BEGINS:

ON THE FIRST DAY OF THE FIRST CALENDAR QUARTER OF 2020 IN WHICH THIS OCCURS

FOR WHICH AN EMPLOYER'S GROSS RECEIPTS ARE LESS THAN 50% OF ITS GROSS RECEIPTS

FOR THE SAME CALENDAR QUARTER IN 2019.

THE SIGNIFICANT DECLINE IN GROSS RECEIPTS ENDS:

ON THE FIRST DAY OF THE FIRST CALENDAR QUARTER **FOLLOWING** THE CALENDAR QUARTER

IN WHICH GROSS RECEIPTS ARE MORE THAN OF 80% OF ITS GROSS RECEIPTS

FOR THE SAME CALENDAR QUARTER IN 2019

THE 2020 ERTC ENDS 12/31/2020, AND THIS PROVISION DOES NOT CARRY INTO 2021

2020: EXAMPLE (IRS NOTICE 2021-20 FAQ #23) SIGNIFICANT DECLINE IN GROSS RECEIPTS (ONLY FOR 2020)

Employer A's gross receipts were \$100,000, \$190,000, and \$230,000 in the first, second, and third calendar quarters of 2020, respectively.

Its gross receipts were \$210,000, \$230,000, and \$250,000 in the first, second, and third calendar quarters of 2019, respectively.

Thus, Employer A's 2020 first, second, and third quarter gross receipts were approximately 48 percent (52% decrease), 83 percent (17% decrease), and 92 percent (8% decrease) of its 2019 first, second, and third quarter gross receipts, respectively.

Accordingly, Employer A had a significant decline in gross receipts commencing on the first day of the first calendar quarter of 2020 (the calendar quarter in which gross receipts were less than 50 percent of the same quarter in 2019) and ending on the first day of the third calendar quarter of 2020 (the quarter following the quarter for which the gross receipts were more than 80 percent of the same quarter in 2019).

Thus, Employer A is entitled to a retention credit with respect to the first and second calendar quarters.

2020: EXAMPLE (IRS NOTICE 2021-20 FAQ #23)

SIGNIFICANT DECLINE IN GROSS RECEIPTS

SAME AS PREVIOUS SLIDE

IRS EXAMPLE	2019	2020	Difference	Percentage of 2020 Compared to 2019	Percentage Reduction 2020 Compared to 2019
	GROSS RECEIPTS	GROSS RECEIPTS			
Quarter 1	210,000	100,000	(110,000)	48%	-52%
Quarter 2	230,000	190,000	(40,000)	83%	-17%
Quarter 3	250,000	230,000	(20,000)	92%	-8%
Total	<u>690,000</u>	<u>520,000</u>			
50% Redcution Needed for 2020					

THESE 2 COLUMNS ARE SAYING THE SAME THING

FOR QUARTER 1: 2020 GROSS RECEIPTS IS 48% OF THE GROSS RECEIPTS IN 2019

FOR QUARTER 1: 2020 GROSS RECEIPTS HAS THEN DECLINED BY 52%

ERTC: EXCEL SPREADSHEETS

- PPP vs. ERTC: ECONOMIC VALUE CALC (Excel)
- CALCULATE AVG. NUMBER OF EE's (EXCEL)
- GROSS RECEIPTS TEST 2020 & 2021 (EXCEL)
- CALC TOTAL ERTC "WAGES" w/ HEALTH (EXCEL)
- ANALYSIS: MAX ERTC & PPP LOAN FORGIVENESS (EXCEL)
- ERTC CALCULATION WORKSHEET 2020 & 2021 (EXCEL)



THE WORKSHEET HAS BEEN LOCKED. YOU CAN UNLOCK IT UNDER THE "REVIEW" TAB. THERE IS NO PASSWORD. IF YOU UNLOCK, ANY CHANGES ARE OF YOUR OWN. CHECK ALL CALCULATIONS. THIS WAS NOT PROVIDED TO PROVIDE EXCEL FORMULA'S FOR YOUR CALCULATION EXAMPLE PURPOSES ONLY.



2021 70% ERTC Total Comp Per EE	2021 70% ERTC Hrly Calc Per EE	2020 50% ERTC Total Comp Per EE	2020 50% ERTC Hrly Calc Per EE
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LOOK AT THE **BOTTOM OF THE EXCEL WORKSHEET** TO SEE ALL FOUR (4) WORKSHEETS

2020 EMPLOYEE RETENTION TAX CREDIT CALCULATION:

GOVERNMENTAL SHUTDOWN EXAMPLE IS THE “EXACT” DAYS OF THE SHUTDOWN, SO BREAK DOWN THE WAGES TO EACH DAY WITHIN THAT DATE RANGE

EXAMPLE: “SMALL EMPLOYER”
GOVERNMENTAL SHUTDOWN
APRIL 2, 2020 – APRIL 30, 2020
21 BUSINESS DAYS

21 DAYS MULTIPLIED BY 8 HOURS PER DAY
EQUALS 168 HOURS

THIS BUSINESS IS ONLY OPEN MONDAY –
FRIDAY (SO ONLY THE DAYS OF BUSINESS
WOULD BE INCLUDED)

ASSUMES ALL EMPLOYEES WERE PAID
AND WERE ALL PAID 8 HOURS PER DAY
(REGARDLESS IF THEY WORKED OR NOT)

2020 EMPLOYEE RETENTION TAX CREDIT TRACKING			
EMPLOYEE NAME	Hourly Pay	Hours Paid	Total Pay
Sam	\$ 13.00	168 ★	\$ 2,184.00
Sally	\$ 24.00	168	\$ 4,032.00
Roger	\$ 16.50	168	\$ 2,772.00
Lucy	\$ 24.75	168	\$ 4,158.00
Wayne	\$ 15.50	168	\$ 2,604.00
Lisa	\$ 16.00	168	\$ 2,688.00
TOTAL QUALIFIED WAGES			★ \$ 18,438.00
ERTC @ 50%			\$ 9,219.00 ★

NO ONE EMPLOYEE
OVER \$10,000 ★

2020 EMPLOYEE RETENTION TAX CREDIT TRACKING
Starting March 13, 2020
(See Additional Requirements)
MAXIMUM QUALIFIED "WAGES" IS \$10,000 PER YEAR 2020
(THAT WOULD BE MAXIMUM PAYROLL "CREDIT" OF \$5,000) PER YEAR 2020
\$5,000 PER EMPLOYEE, PER YEAR 2020

THIS IS FOR 2020 ★

2020 EMPLOYEE RETENTION TAX CREDIT CALCULATION: GROSS RECEIPTS REDUCUTION EXAMPLE IS WAGES FOR THE QUARTER IN 2021

EMPLOYEE RETENTION TAX CREDIT TRACKING

STARTING MARCH 13, 2020 ★

(See Additional Requirements)

MAXIMUM QUALIFIED "WAGES" IS \$10,000 PER YEAR ★

(THAT WOULD BE MAXIMUM PAYROLL "CREDIT" OF \$5,000)

PER EMPLOYEE, PER YEAR 2020

EXAMPLE: "SMALL
EMPLOYER"

GROSS RECEIPTS DOWN AT
LEAST 50% IN QUARTER 2
OF 2020 AS COMPARED TO
QUARTER 2 IN 2019

THIS WOULD BE THE TOTAL
WAGES PAID IN QUARTER 2

THIS CAN EASILY BE
OBTAINED FROM THE
WAGES REPORTED ON
FORM 941 FOR QUARTER 2
OF 2020

	(A)	(B)
	★ Total Eligible Wages During Qualified Time	EE Retention Credit 50% Allowable Multiply (A) x 50%
Employee Name		
Ronnie	\$ 1,600	\$ 800 ★
Sara	\$ 5,000	\$ 2,500
Justin	\$ 960	\$ 480
	TOTAL	3,780 ★
		Please Check Match

EXAMPLE OF HOW QUICKLY THIS CAN ADD UP: \$12/HOUR EMPLOYEES

EMPLOYEE RETENTION TAX CREDIT (ERTC)						
2020						
Employer Has 100 or Less Employees Qualifies Due to a Reduction in Gross Receipts, Which is All Wages for the Quarter						
	Quarter 1	Quarter 2	Quarter 3	Quarter 4	2020	
Employee Sally	*On Wages 3/13-3/31 Qualify					
Per Hour Pay	\$ 12.00	\$ 12.00	\$ 12.00	\$ 12.00		
x Hours Work Per Week	40 Hrs	40 Hrs	40 Hrs	40 Hrs		
Gross Pay for the Week	\$ 480	\$ 480	\$ 480	\$ 480		
x 4 Weeks (for Month)	N/A	\$ 1,920	\$ 1,920	\$ 1,920		
Qualify for the Quarter (Max \$10,000 Wages Per All 2020 Per Employee)	\$ 1,248	\$ 5,760	\$ 2,992	NONE		
x 50%	\$ 624	\$ 2,880	\$ 1,496	\$ -	\$ 5,000	1 Employee
Employee Retention Tax Credit (for 1 Employee - Sally)						
What if you have 5 Employees Making What Sally Makes?	\$ 3,120	\$ 14,400	\$ 7,480	\$ -	\$ 25,000	5 Employees
What if you have 10 Employees Making What Sally Makes?	\$ 6,240	\$ 28,800	\$ 14,960	\$ -	\$ 50,000	10 Employees
What if you have 25 Employees Making What Sally Makes?	\$ 15,600	\$ 72,000	\$ 37,400	\$ -	\$ 125,000	25 Employees
What if you have 100 Employees Making What Sally Makes?	\$ 62,400	\$ 288,000	\$ 149,600	\$ -	\$ 500,000	100 Employees

Even if Qualifies in 4th Quarter, No Wages Included Because All Maxed Out in 3rd Quarter

\$ 5,000
\$ 25,000
\$ 50,000
\$ 125,000
\$ 500,000

Max Wages Reached in 3rd Quarter
\$1,248 Allowed in 1st Quarter
\$5,760 Allowed in 2nd Quarter
Therefore, Only \$2,992 Allowed in 3rd Quarter

NOW, HOW TO GET 2020 EMPLOYEE RETENTION TAX CREDIT

YOU CAN ONLY GET THE ERTC BY FILING FORM 941-X FOR 2020

REQUEST REFUND BY MARKING 941-X FOR “CLAIM”

OR

REQUEST CARRYOVER CREDIT BY MARKING 941-X
“ADJUSTED EMPLOYMENT TAX RETURN”

YOU FILE A FORM 941x FOR EACH QUARTER IN 2020 IN WHICH ERTC EXISTS

MAIL EACH FORM 941x SEPARATELY

ANY ERTC FROM 1ST QUARTER 2020, CAN ONLY BE REPORTED ON 2020 2ND QUARTER FORM 941x

VIDEO 14

2021

EMPLOYEE
RETENTION
TAX
CREDIT

ERTC EXAMPLES & RESOURCES

2020 ERTC CALCULATION EXAMPLES

2021 ERTC CALCULATION EXAMPLES

2020 ERTC FLOWCHART TO OPTIONS

2021 ERTC FLOWCHART TO OPTIONS

PPP vs. ERTC: ECONOMIC VALUE CALC (pdf)

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2021: QUALIFIED WAGES INCLUDE

IF DURING THE FULL OR PARTIAL SUSPENSION OF THE OPERATION OF THEIR TRADE OR BUSINESS DURING ANY CALENDAR QUARTER BECAUSE OF GOVERNMENTAL ORDERS LIMITING COMMERCE, TRAVEL, OR GROUP MEETINGS DUE TO COVID-19

THE QUALIFIED WAGES ARE THE ACTUAL WAGES ONLY INCURRED DURING THE PERIOD OF SUSPENSION

IF DURING A QUARTER WITH A SIGNIFICANT DECLINE IN GROSS RECEIPTS

THE QUALIFIED WAGES ARE WAGES INCURRED DURING THE APPLICABLE QUARTER

UP TO \$10,000 OF WAGES PER EMPLOYEE PER QUARTER

MAXIMUM CREDIT PER EMPLOYEE IS \$7,000 FOR EACH QUARTER

MAXIMUM CREDIT PER EMPLOYEE IS \$21,000 FOR ALL 2021 (FOR 1ST, 2ND & 3RD QUARTERS IN 2021)

RECOVERY START UP BUSINESS CAN OBTAIN ERTC FOR 4TH QUARTER 2021

HOWEVER, THE MAX CREDIT IS \$7,000 PER EMPLOYEE, BUT OVERALL MAX \$50,000 ERTC

2021: QUALIFIED WAGES INCLUDE

THE DEFINITION OF QUALIFIED WAGES ALSO DEPENDS ON HOW MANY EMPLOYEES AN ELIGIBLE EMPLOYER HAS

IF AN EMPLOYER AVERAGED MORE THAN 500 FULL-TIME EMPLOYEES DURING 2019, QUALIFIED WAGES ARE GENERALLY THOSE WAGES, INCLUDING CERTAIN HEALTH CARE COSTS, (UP TO \$10,000 PER EMPLOYEE) PAID TO EMPLOYEES THAT ARE NOT PROVIDING SERVICES BECAUSE OPERATIONS WERE SUSPENDED OR DUE TO THE DECLINE IN GROSS RECEIPTS. THE PROVISION THAT THESE EMPLOYERS CAN ONLY COUNT WAGES UP TO THE AMOUNT THAT THE EMPLOYEE WOULD HAVE BEEN PAID FOR WORKING AN EQUIVALENT DURATION DURING THE 30 DAYS IMMEDIATELY PRECEDING THE PERIOD OF ECONOMIC HARDSHIP IS REMOVED FOR 2021. (SEE EXCEPTION IN IRS NOTICE 2021-49 RELATED TO AN EMPLOYER CONSIDERED A “SEVERELY FINANCIALLY DISTRESSED EMPLOYER.” THIS EMPLOYER CAN FOLLOW THE RULES OF THE 500 OR FEWER EMPLOYEES BELOW)

IF AN EMPLOYER AVERAGED 500 OR FEWER FULL-TIME EMPLOYEES DURING 2019, QUALIFIED WAGES ARE THOSE WAGES, INCLUDING HEALTH CARE COSTS, (UP TO \$10,000 PER EMPLOYEE) PAID TO ANY EMPLOYEE DURING THE PERIOD OPERATIONS WERE SUSPENDED OR THE PERIOD OF THE DECLINE IN GROSS RECEIPTS, REGARDLESS OF WHETHER OR NOT ITS EMPLOYEES ARE PROVIDING SERVICES.

FOR BOTH EMPLOYER SIZES, HEALTH PLAN EXPENSES ARE INCLUDED PAID BY THE EMPLOYER THAT IS EXCLUDED FROM THE EMPLOYEES GROSS INCOME AND ALLOCATED PRO RATA TO THE EMPLOYEE

2021: SIGNIFICANT DECLINE IN GROSS RECEIPTS

A SIGNIFICANT DECLINE IS 20%
THERE IS NO QUARTER BEGINNING OR ENDING PROVISIONS
THE QUARTER MUST SIMPLY QUALIFY

A decline in gross receipts in a calendar quarter in 2021 where the gross receipts of that calendar quarter are less than 80% of the gross receipts in the same calendar quarter in 2019

Employers that did not exist in 2019 can use the corresponding quarter in 2020 to measure the decline in their gross receipts

DECLINE IN GROSS RECEIPTS CHANGED TO 20%
COMPARING QUARTERS IN 2021 TO CORRELATING QUARTER IN 2019
2021 QUARTER 1 COMPARED TO 2019 QUARTER 1
2021 QUARTER 2 COMPARED TO 2019 QUARTER 2
2021 QUARTER 3 COMPARED TO 2019 QUARTER 3

2021 ALTERNATIVE METHOD (ONLY FOR 2021)

“ALTERNATIVE” METHOD TO DETERMINE ERTC QUALIFICATION FOR THE QUARTER

(STILL REQUIRES A 20% DECREASE IN GROSS RECEIPTS)

THIS ALLOWS THE IMMEDIATE PREVIOUS QUARTER TO BE USED TO DETERMINE IF
THE EMPLOYER QUALIFIES FOR THE CURRENT QUARTER

THIS IS NOT THE SAME AS 2020, AS THERE IS NO AUTOMATIC QUALIFICATION.

EACH QUARTER IS A STAND-ALONE

THE “ALTERNATIVE QUARTER TO CALCULATE GROSS RECEIPTS” IS AS FOLLOWS

TO QUALIFY FOR 1ST QUARTER 2021:

2020 QUARTER 4 COMPARED TO 2019 QUARTER 4

TO QUALIFY FOR 2ND QUARTER 2021:

2021 QUARTER 1 COMPARED TO 2019 QUARTER 1

TO QUALIFY FOR 3RD QUARTER 2021:

2021 QUARTER 2 COMPARED TO 2019 QUARTER 2

ERTC: EXCEL SPREADSHEETS

- PPP vs. ERTC: ECONOMIC VALUE CALC (Excel)
- CALCULATE AVG. NUMBER OF EE's (EXCEL)
- GROSS RECEIPTS TEST 2020 & 2021 (EXCEL)
- CALC TOTAL ERTC "WAGES" w/ HEALTH (EXCEL)
- ANALYSIS: MAX ERTC & PPP LOAN FORGIVENESS (EXCEL)
- ERTC CALCULATION WORKSHEET 2020 & 2021 (EXCEL)



THE WORKSHEET HAS BEEN LOCKED. YOU CAN UNLOCK IT UNDER THE "REVIEW" TAB. THERE IS NO PASSWORD. IF YOU UNLOCK, ANY CHANGES ARE OF YOUR OWN. CHECK ALL CALCULATIONS. THIS WAS NOT PROVIDED TO PROVIDE EXCEL FORMULA'S FOR YOUR CALCULATION EXAMPLE PURPOSES ONLY.



2021 70% ERTC Total Comp Per EE	2021 70% ERTC Hrly Calc Per EE	2020 50% ERTC Total Comp Per EE	2020 50% ERTC Hrly Calc Per EE
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LOOK AT THE **BOTTOM OF THE EXCEL WORKSHEET** TO SEE ALL FOUR (4) WORKSHEETS

2021 EMPLOYEE RETENTION TAX CREDIT CALCULATION:

GOVERNMENTAL SHUTDOWN EXAMPLE IS THE “EXACT” DAYS OF THE SHUTDOWN, SO BREAK DOWN THE WAGES TO EACH DAY WITHIN THAT DATE RANGE

EXAMPLE: “SMALL EMPLOYER”
GOVERNMENTAL SHUTDOWN
JANUARY 29, 2021 – FEBRUARY 26, 2021
21 BUSINESS DAYS

21 DAYS MULTIPLIED BY 8 HOURS PER DAY
EQUALS 168 HOURS

THIS BUSINESS IS ONLY OPEN MONDAY –
FRIDAY (SO ONLY THE DAYS OF BUSINESS
WOULD BE INCLUDED)

ASSUMES ALL EMPLOYEES WERE PAID
AND WERE ALL PAID 8 HOURS PER DAY
(REGARDLESS IF THEY WORKED OR NOT)

2021 EMPLOYEE RETENTION TAX CREDIT TRACKING			
EMPLOYEE NAME	Hourly Pay	Hours Paid	Total Pay
Sam	\$ 13.00	168 ★	\$ 2,184.00 ★
Sally	\$ 24.00	168	\$ 4,032.00
Roger	\$ 16.50	168	\$ 2,772.00
Lucy	\$ 24.75	168	\$ 4,158.00
Wayne	\$ 15.50	168	\$ 2,604.00
Lisa	\$ 16.00	168	\$ 2,688.00
TOTAL QUALIFIED WAGES			\$ 18,438.00 ★
ERTC @ 70% ★			\$ 12,906.60 ★

NO ONE EMPLOYEE OVER \$10,000 ★

2021 EMPLOYEE RETENTION TAX CREDIT TRACKING
Starting January 1, 2021
(See Additional Requirements)
MAXIMUM QUALIFIED "WAGES" IS \$10,000 PER QUARTER
(THAT WOULD BE MAXIMUM PAYROLL "CREDIT" OF \$7,000) PER QUARTER
\$7,000 PER EMPLOYEE, PER QUARTER

THIS IS FOR 2021 ★

2021 EMPLOYEE RETENTION TAX CREDIT CALCULATION: GROSS RECEIPTS REDUCUTION EXAMPLE IS WAGES FOR THE QUARTER IN 2021

EMPLOYEE RETENTION TAX CREDIT TRACKING		
Starting January 1, 2021 ★		
(See Additional Requirements)		
MAXIMUM QUALIFIED "WAGES" IS \$10,000 PER QTR		
(THAT WOULD BE MAXIMUM PAYROLL "CREDIT" OF \$7,000) ★		
PER EMPLOYEE, PER QUARTER		
	(A)	(B)
		EE Retention Credit
	Total Eligible Wages	70% Allowable
Employee Name	During Qualified Time	Multiply (A) x 70% ★
Ronnie	\$ 1,600	\$ 1,120
Sara	\$ 5,000	\$ 3,500
Justin	\$ 960	\$ 672
	TOTAL	5,292 ★

EXAMPLE: "SMALL EMPLOYER"

GROSS RECEIPTS DOWN AT LEAST 20% IN QUARTER 2 OF 2021 AS COMPARED TO QUARTER 2 IN 2019

THIS WOULD BE THE TOTAL WAGES PAID IN QUARTER 2



THIS CAN EASILY BE OBTAINED FROM THE WAGES REPORTED ON FORM 941 FOR QUARTER 2 OF 2021

EXAMPLE OF HOW QUICKLY THIS CAN ADD UP: \$12/HOUR EMPLOYEES

2021							
Employer Has 500 or Less Employees (Not a Recovery Start Up Business) Qualifies Due to a Reduction in Gross Receipts, Which is All Wages for the Quarter				Quarter 1	Quarter 2	Quarter 3	2021
Employee Sally							
Per Hour Pay	\$	12.00	\$	12.00	\$	12.00	
x Hours Work Per Week		40 Hrs		40 Hrs		40 Hrs	
Gross Pay for the Week	\$	480	\$	480	\$	480	
x 4 Weeks (for Month)	\$	1,920	\$	1,920	\$	1,920	
x 3 Months (for a Quarter) USING SIMPLE MATH (USE ACTUAL WAGES PAID)	\$	5,760	\$	5,760	\$	5,760	
x 70%	\$	4,032	\$	4,032	\$	4,032	
Employee Retention Tax Credit (for 1 Employee - Sally)	\$	4,032	\$	4,032	\$	4,032	CREDIT \$ 12,096 1 Employee
What if you have 5 Employees Making What Sally Makes?	\$	20,160	\$	20,160	\$	20,160	\$ 60,480 5 Employees
What if you have 10 Employees Making What Sally Makes?	\$	40,320	\$	40,320	\$	40,320	\$ 120,960 10 Employees
What if you have 25 Employees Making What Sally Makes?	\$	100,800	\$	100,800	\$	100,800	\$ 302,400 25 Employees
What if you have 100 Employees Making What Sally Makes?	\$	403,200	\$	403,200	\$	403,200	\$ 1,209,600 100 Employees

NOW, HOW TO GET 2021 EMPLOYEE RETENTION TAX CREDIT

YOU CAN ONLY GET THE ERTC BY FILING FORM 941-X FOR 2021 (ASSUMING YOU ALREADY FILE FORM 941

REQUEST REFUND BY MARKING 941-X FOR “CLAIM”

OR

REQUEST CARRYOVER CREDIT BY MARKING 941-X
“ADJUSTED EMPLOYMENT TAX RETURN”

YOU FILE A FORM 941x FOR EACH QUARTER IN 2021 IN WHICH ERTC EXISTS

MAIL EACH FORM 941x SEPARATELY

VIDEO 15



**LET'S KNOCK
OUT**

SOME BIG

QUESTIONS

THE BIG ERTC QUESTIONS!

Is the Employee Retention Tax Credit (ERTC) taxable? **YES**

Do you report ERTC as income? **NO**

Does ERTC reduce tax deductions? **YES, it reduces deductible wages. (Increases taxable net income, so has a tax affect)**

When does the ERTC reduce down tax deductions? **In the year the credit applied to (based on when wages deducted).**

If I get the ERTC “credit” in 2021 or 2022 that was an ERTC for year 2020, what year do I reduce wages? **2020**

What if I haven’t received the ERTC “credit” yet, but it was for year 2020, what year do I reduce wages? **2020**

Is this the same for self-employed individuals? **NO, self-employed don’t qualify for ERTC on their earnings.**

Can a self-employed individual get the ERTC? **YES, but only on their employees qualifying wages.**

Does a more than 50% owner qualify for ERTC on their wages? **NO, unless under IRS Code Section 267(c).**

Does the spouse of a more than 50% owner qualify for ERTC on their wages? **NO, unless under IRS Code Section 267(c) .**



CAN YOU GET ERTC IF YOU GOT PPP?
CAN YOU GET ERTC IF YOU GOT PPP FORGIVENESS?

YES, JUST NOT ON THE SAME WAGES.

DO YOU HAVE TO USE PPP BEFORE YOU GET ERTC?

NO. THERE ARE NO ORDERING RULES.

WHAT'S MISSED MOST WITH ERTC?

THE \$10,000 MAXIMUM IS WAGES **PLUS** EMPLOYER PAID HEALTH INSURANCE

WHAT'S THE MOST LOST IN TRANSLATION WITH ERTC IN 2021?

THAT YOU COMPARE THE QUARTERS IN 2021, TO THE CORRELATING QUARTER IN
2019

WHAT'S MOST MISUNDERSTOOD WITH ERTC?

1. ESSENTIAL BUSINESSES CAN'T QUALIFY FOR ERTC. **WRONG!** ESSENTIAL BUSINESSES CAN QUALIFY.
2. YOU DO NOT HAVE TO HAVE A GOVERNMENTAL ORDER **AND** HAVE A REDUCTION IN GROSS RECEIPTS. **IT IS EITHER/OR. ONLY ONE HAS TO OCCUR.**
3. ERTC BASED ON REDUCTION IN GROSS RECEIPTS, THE CLASSIFICATION OF ESSENTIAL OR NON-ESSENTIAL BUSINESS IS NOT A FACTOR; IT IS IRRELEVANT FOR THIS QUALIFIER.
4. IF QUALIFYING FOR ERTC DUE TO GOVERNMENTAL ORDER, THE QUALIFYING PERIOD IS ONLY FOR THE PERIOD IN WHICH THE GOVERNMENTAL ORDER IS IN EFFECT. THIS DOES MAKE THE ENTIRE QUARTER QUALIFY. REMEMBER, THE GOVERNMENTAL ORDER CAN LAST LONGER THAN A QUARTER. IN SHORT, THIS QUALIFIER IS NOT BASED ON A CALENDAR QUARTER, IT IS BASED ON THE PERIOD OF TIME A GOVERNMENTAL ORDER IS IN EFFECT.
5. QUALIFYING WAGES INCLUDED ESSENTIAL AND NON-ESSENTIAL EMPLOYEES, REGARDLESS IF THE EMPLOYER QUALIFIES DUE TO GOVERNMENTAL SHUT-DOWN OR BY REDUCTION OF GROSS RECEIPTS.



**MOST
COMMON
QUESTIONS
ONCE YOU
GET INTO
THE
NUMBERS**

COMMON ERTC QUESTIONS

- ARE ERTC WAGES BASED ON WHEN PAID OR INCURRED?
 - **INCURRED. THE WAGES HAVE TO BE INCURRED DURING THE QUALIFYING PERIOD**
- IF WAGES ARE INCURRED IN QUARTER 4 of 2020, BUT PAID IN QUARTER 1 of 2021, WHICH ERTC RULES DO THEY FOLLOW?
 - **THE 2020 RULES BECAUSE THAT IS WHEN THE WAGES WERE INCURRED**
- WHEN FILING FORM 941x FOR A PARTICULAR QUARTER, DO WAGES INCURRED IN A PRIOR QUARTER THAT QUALIFY FOR ERTC GET INCLUDED IN THE PRIOR QUARTER WHEN THEY WERE INCURRED, OR IN THE QUARTER IN WHICH THEY WERE PAID?
 - **BECAUSE FORM 941x IS BASED ON WHEN WAGES ARE PAID (NOT INCURRED), THE ERTC “CREDIT” WOULD BE INCLUDED IN THE QUARTER PAID**
- IF QUARTER 2 for 2021 DOES NOT QUALIFY FOR ERTC, BUT QUARTER 1 for 2021 DOES, WHAT QUARTER WOULD THE ERTC BE REPORTED ON FOR FORM 941x PURPOSES... IF THE WAGES INCURRED IN QUARTER 1 AND WERE PAID IN QUARTER 2.
 - **ON THE QUARTER 2 FORM 941x. FORM 941x DOES NOT DETERMINE OR REPORT IF THAT IS A QUALIFYING QUARTER FOR ERTC PURPOSES. WHAT FORM 941 REPORTS ARE WAGES PAID THAT QUALIFIED FOR ERTC**

COMMON ERTC QUESTIONS

- ON FORM 941x THE ERTC “CREDIT” IS BROKEN INTO NON-REFUNDABLE AND REFUNDABLE, SO WOULDN’T QUALIFYING WAGES INCURRED IN A PRIOR QUARTER, PAID IN THE FOLLOWING QUARTER MESS THAT UP?
 - **NO. BECAUSE THE NON-REFUNDABLE AND REFUNDABLE PORTION OF THE ERTC “CREDIT” IS BASED ON EMPLOYER’S PORTION OF SOCIAL SECURITY TAXES, WHICH IS BASED ON WHEN WAGES ARE PAID, NOT INCURRED. THEREFORE, REPORTING THE ERTC “CREDIT” WHEN QUALIFYING WAGES ARE PAID CORRECTLY LINES UP SUCH TAXES WITH WHEN WAGES ARE PAID**
- WHAT IF QUALIFYING WAGES WERE INCURRED IN 2020 BUT PAID IN 2021, WHERE IS THIS REPORTED ON FORM 941x?
 - **IF THE WAGES QUALIFY FOR ERTC, THE CREDIT IS REPORTED ON FORM 941x WHEN PAID. FORM 941x IS NOT LINING UP THE ERTC “CREDIT” TO THE QUARTER IN WHICH THE EMPLOYER QUALIFIES. FORM 941x IS SIMPLY REPORTING WAGES PAID. THEREFORE, ANY CREDITS FOLLOW WHEN WAGES ARE PAID.**

COMMON ERTC QUESTIONS

- WHAT IF QUALIFYING WAGES WERE INCURRED IN 2020 BUT PAID IN 2021, WHICH YEAR RECEIVES THE INCOME TAX ADJUSTMENT?
 - IF THE WAGES QUALIFY FOR ERTC IN 2020, THE REDUCTION IN THE WAGES TAX DEDUCTIONS IS APPLIED TO YEAR 2020. THIS APPEARS TO BE THE CASE, EVEN IF THE WAGES INCURRED IN 2020 WERE PAID IN 2021 BECAUSE THE QUALIFYING WAGES WERE INCURRED IN 2020 (PER IRS NOTICE 2021-49)
- IF FILING FORM 941x FOR 2020, SHOULD EACH QUARTER BE AMENDED, OR CAN ALL OF IT BE REPORTED IN QUARTER 4 OF 2020?
 - IT APPEARS IT WAS POSSIBLE IN JANUARY 2021 TO REPORT A FULL YEAR'S WORTH OF 2020 ERTC "CREDIT" ON QUARTER 4 FORM 941 FOR 2020, PER THE LAW ENACTED 12/27/2020. HOWEVER, SINCE WE ARE PAST THAT TIME, YOU WOULD AMEND EACH QUARTER FOR THE APPLICABLE ERTC IN 2020, BASED ON WHEN SUCH WAGES WERE PAID. NOTE: ANY ERTC FOR 1ST QUARTER 2020 CAN ONLY BE REPORTED ON 2ND QUARTER FORM 941x (PER LATEST IRS FORM 941x INSTRUCTIONS)

COMMON ERTC QUESTIONS

WHAT IS THE 2021 ALTERNATIVE METHOD FOR 2021?

(IRS NOTICE 2021-23)

PROVIDES FOR AN “ALTERNATIVE” METHOD TO DETERMINE ERTC QUALIFICATION FOR THE QUARTER (STILL REQUIRES A 20% DECREASE IN GROSS RECEIPTS)

THIS ALLOWS THE IMMEDIATE PREVIOUS QUARTER TO BE USED TO DETERMINE IF THE EMPLOYER QUALIFIES FOR THE CURRENT QUARTER

THIS IS NOT THE SAME AS 2020, AS THERE IS NO AUTOMATIC QUALIFICATION. EACH QUARTER IS A STAND-ALONE

THE “ALTERNATIVE QUARTER TO CALCULATE GROSS RECEIPTS” IS AS FOLLOWS (PLEASE REVIEW CAREFULLY)

TO QUALIFY FOR 1ST QUARTER 2021:

2020 QUARTER 4 COMPARED TO 2019 QUARTER 4

TO QUALIFY FOR 2ND QUARTER 2021:

2021 QUARTER 1 COMPARED TO 2019 QUARTER 1

TO QUALIFY FOR 3RD QUARTER 2021:

2021 QUARTER 2 COMPARED TO 2019 QUARTER 2

COMMON ERTC QUESTIONS

(IRS NOTICE 2021-23)

IF A 2021 QUARTER QUALIFIES UNDER THE ALTERNATIVE METHOD, DOES THE NEXT QUARTER AUTOMATICALLY QUALIFY FOR ERTC?

NO.

EACH QUARTER MUST QUALIFY ON ITS OWN. IF A QUARTER OR PRECEDING QUARTER HAS DOES NOT HAVE A DECREASE OF AT LEAST 20%, THERE IS NO ERTC FOR THE QUARTER.

EXAMPLE:

QUARTER 4 2020: HAS AT LEAST A 20% DECREASE COMPARED TO QUARTER 4 2019

QUARTER 1 2021: DOES NOT HAVE AT LEAST A 20% DECREASE COMPARED TO QUARTER 1 2019

QUARTER 2 2021: DOES NOT HAVE AT LEAST A 20% DECREASE COMPARED TO QUARTER 2 2019

QUARTER 1 2021 QUALIFIES UNDER THE ALTERNATIVE METHOD

QUARTER 2 2021 DOES NOT QUALIFY BECAUSE

NEITHER QUARTER 1 NOR QUARTER 2 HAVE A 20% DECREASE



ERTC

IS RETROACTIVE BACK TO
WAGES PAID AFTER 3/12/2020

THROUGH 9/30/2021

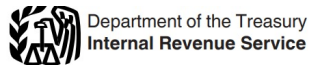
THROUGH 12/31/21 FOR RECOVERY START UP BUSINESSES ONLY

IF AMENDING FORM 941-X
FOR THE ERTC IN 1st
QUARTER 2020, YOU DO NOT
AMEND 1st QUARTER 2020!

IT IS INCLUDED IN 2nd QUARTER 2020.
AMEND 2nd QUARTER 2020 FORM 941
WITH 1st QUARTER 2020 AMOUNTS.

REMEMBER ONLY WAGES AFTER 3/12/2020

Instructions for Form 941-X



Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund

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**33a. Qualified Wages Paid March 13 Through
March 31, 2020, for the Employee Retention
Credit**

Use line 33a only for corrections to the second quarter of 2020.

If you're correcting the qualified wages paid March 13, 2020, through March 31, 2020, for the employee retention credit that you reported on Form 941, line 24, for the second quarter of 2020, enter the total corrected amount for all employees in column 1. In column 2, enter the amount you originally reported or as previously corrected. In column 3, enter the difference between columns 1 and 2. Enter the corrected amount from column 1 on [Worksheet 2](#), Step 2, line 2c.

IF YOU ARE AMENDING MULTIPLE QUARTERS

**ALWAYS MAIL EACH FORM 941-X
SEPARATELY**

**MAILING MULTIPLE FORM 941-X'S IN ONE
ENVELOPE IS RISKING NOT ALL FORMS BEING
SEEN OR PROCESSED**

MAIL ONE FORM 941-X PER ENVELOPE

REGARDLESS OF HOW YOU GO ABOUT GETTING
THE ACTUAL ERTC

IF YOU FILED FORM 7200
AND DID **NOT** REPORT ERTC
ON FOR 941

**& YOU MUST FILE 941-X
TO ACTUALLY REPORT THE TAX CREDIT**

FORM 7200 WAS ONLY AN “ADVANCE REQUEST”



CARES Act

**Coronavirus Aid,
Relief, and Economic
Security Act**

CARES ACT

Page 67

SEC. 2310

CONSOLIDATED APPROPRIATIONS ACT

Page 4927

SEC. 206. Employee Retention Credit (ERTC)

Page 4929

New provisions related to taking ERTC & receiving PPP (can get both now)

Page 4932

ERTC Retroactive, report in quarter after the enactment date (4th quarter)

Page 4933


SEC. 207. Extension & modification to ERTC

70% of eligible wages, up to \$10,000 per employee, per quarter
Extended to quarters 1 & 2 in 2021 (before 7/1/2021)

**CARES ACT &
CONSOLIDATED APPROPRIATIONS ACT
FIND FULL TEXT AT LINK PROVIDED**

Pages listed above are to the pdf containing the Act, and are the starting page to the section

FOR REFERENCE PURPOSES ONLY



Consolidated Appropriations Act

10/19/23

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APPROPRIATIONS CONSOLIDATION ACT

SEC. 207. EXTENSION AND MODIFICATION OF EMPLOYEE RETENTION AND REHIRING TAX CREDIT.

(i) **Public Awareness Campaign.**--Section 2301 of the CARES Act is amended by adding at the end the following new subsection:

``(n) **Public Awareness Campaign.**--

``(1) **In general.**--The Secretary shall conduct a public awareness campaign, in coordination with the Administrator of the Small Business Administration, to provide information regarding the availability of the credit allowed under this section.

``(2) **Outreach.**--Under the campaign conducted under paragraph (1), the Secretary shall--

``(A) provide to all employers which reported not more than 500 employees on the most recently filed return of applicable employment taxes a notice about the credit allowed under this section and the requirements for eligibility to claim the credit, and

``(B) **not later than 30 days after the date of the enactment of this subsection,** provide to all employers educational materials relating to the credit allowed under this section, including specific materials for businesses with not more than 500 employees.''.

APPROPRIATIONS CONSOLIDATION ACT

SEC. 206. CLARIFICATIONS AND TECHNICAL IMPROVEMENTS TO CARES ACT EMPLOYEE RETENTION CREDIT.

(b) Modification of Treatment of Health Plan Expenses.--Section 2301(c) of the CARES Act is amended--

- (1) by striking subparagraph (C) of paragraph (3), and
- (2) in paragraph (5)--

(A) by striking ``The term'' and inserting the following:

``(A) In general.--The term'', and

(B) by adding at the end the following new subparagraph:

``(B) Allowance for certain health plan expenses.--

``(i) In general.--Such term shall include amounts paid by the eligible employer to provide and maintain a group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986), but only to the extent that such amounts are excluded from the gross income of employees by reason of section 106(a) of such Code.

``(ii) Allocation rules.--For purposes of this section, amounts treated as wages under clause (i) shall be treated as paid with respect to any employee (and with respect to any period) to the extent that such amounts are properly allocable to such employee (and to such period) in such manner as the Secretary may prescribe. Except as otherwise provided by the Secretary, such allocation shall be treated as properly made if made on the basis of being pro rata among periods of coverage.''.

APPROPRIATIONS CONSOLIDATION ACT

SEC. 206. CLARIFICATIONS AND TECHNICAL IMPROVEMENTS TO CARES ACT EMPLOYEE RETENTION CREDIT.

(c) **Improved Coordination Between Paycheck Protection Program and Employee Retention Tax Credit.--**

(1) **Amendment to paycheck protection program.--**Section 7A(a)(12) of the Small Business Act, as redesignated, transferred, and amended by the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, is amended by adding at the end the following: ``Such payroll costs shall not include qualified wages taken into account in determining the credit allowed under section 2301 of the CARES Act or qualified wages taken into account in determining the credit allowed under subsection (a) or (d) of section 303 of the Taxpayer Certainty and Disaster Relief Act of 2020.'`.

(2) **Amendments to employee retention tax credit.--**

(A) In general.--Section 2301(g) of the CARES Act is amended to read as follows:

``(g) **Election to Not Take Certain Wages Into Account.--**

``(1) In general.--This section shall not apply to so much of the qualified wages paid by an eligible employer as such employer elects (at such time and in such manner as the Secretary may prescribe) to not take into account for purposes of this section.

APPROPRIATIONS CONSOLIDATION ACT

SEC. 206. CLARIFICATIONS AND TECHNICAL IMPROVEMENTS TO CARES ACT EMPLOYEE RETENTION CREDIT.

``(2) **Coordination with paycheck protection program.**—The Secretary, in consultation with the Administrator of the Small Business Administration, shall issue guidance providing that **payroll costs paid during the covered period shall not fail to be treated as qualified wages under this section by reason of an election under paragraph (1) to the extent that a covered loan of the eligible employer is not forgiven by reason of a decision under section 7A(g) of the Small Business Act.** Terms used in the preceding sentence which are also used in section 7A of the Small Business Act shall have the same meaning as When used in such section.''.

(B) Conforming amendments.--

(i) **Section 2301 of the CARES Act is amended by striking subsection (j).**

(ii) **Section 2301(1) of the CARES Act is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.**

APPROPRIATIONS CONSOLIDATION ACT

SEC. 207. EXTENSION AND MODIFICATION OF EMPLOYEE RETENTION AND REHIRING TAX CREDIT.

(a) Extension.--

(1) In general.--Section 2301(m) of the CARES Act is amended by striking ``January 1, 2021'' and inserting ``July 1, 2021''.

(2) Conforming amendment.--Section 2301(c)(2)(A)(i) of the CARES Act is amended by striking ``during calendar year 2020'' and inserting ``during the calendar quarter for which the credit is determined under subsection (a)''.

(b) Increase in Credit Percentage.--Section 2301(a) of the CARES Act is amended by striking ``50 percent'' and inserting ``70 percent''.

(c) Increase in Per Employee Limitation.--Section 2301(b)(1) of the CARES Act is amended by striking ``for all calendar quarters shall not exceed \$10,000'' and inserting ``for any calendar quarter shall not exceed \$10,000''.

APPROPRIATIONS CONSOLIDATION ACT

SEC. 207. EXTENSION AND MODIFICATION OF EMPLOYEE RETENTION AND REHIRING TAX CREDIT.

(d) Modifications to Definition of Eligible Employer.--

(1) Decrease in reduction in gross receipts necessary to Qualify as eligible employer.--

(A) In general.--Section 2301(c)(2)(A)(ii)(II) of the CARES Act is amended to read as follows:

``(II) the gross receipts (within the meaning of section 448(c) of the Internal Revenue Code of 1986) of such employer for such **calendar quarter** are **less than 80 percent of the gross receipts of such employer for the same calendar quarter in calendar year 2019.**''.

(B) Application to employers not in existence in 2019.--Section 2301(c)(2)(A) of the CARES Act, as amended by subparagraph (A), is amended by adding at the end the following new flush sentence:

``With respect to any employer for any calendar quarter, if such employer was not in existence as of the beginning of the same calendar quarter in calendar year 2019, clause (ii)(II) shall be applied by substituting `2020' for `2019'.``.

(2) Election to determine gross receipts test based on prior quarter.--

(A) In general.--Subparagraph (B) of section 2301(c)(2) of the CARES Act is amended to read as follows:

``(B) **Election to use alternative quarter.**--At the election of the employer--

``(i) subparagraph (A)(ii)(II) shall be applied--

``(I) by substituting `for the immediately preceding calendar quarter' for `**for such calendar quarter**', and

``(II) by substituting `the corresponding calendar quarter in calendar year 2019' for `**the same calendar quarter in calendar year 2019**, and

``(ii) the last sentence of subparagraph (A) shall be applied by substituting `the corresponding calendar quarter in calendar year 2019' for `**the same calendar quarter in calendar year 2019**'.

APPROPRIATIONS CONSOLIDATION ACT

SEC. 207. EXTENSION AND MODIFICATION OF EMPLOYEE RETENTION AND REHIRING TAX CREDIT.

(e) **Modification of Determination of Qualified Wages.--**

(1) Modification of threshold for treatment as a large employer.--Section 2301(c)(3)(A) of the CARES Act is amended by striking ``100'' each place it appears in clauses (i) and (ii) and inserting ``500''.

(2) Elimination of limitation.--Section 2301(c)(3) of the CARES Act is amended--

(A) by striking subparagraph (B), and

(B) by striking ``Such term'' in the second sentence of subparagraph (A) and inserting the following:

``(B) Exception.--The term `qualified wages''.

(f) Denial of Double Benefit.--Section 2301(h) of the CARES Act is amended--

(1) by striking paragraphs (1) and (2) and inserting the following:

``(1) Denial of double benefit.--Any wages taken into account in determining the credit allowed under this section shall not be taken into account as wages for purposes of sections 41, 45A, 45P, 45S, 51, and 1396 of the Internal Revenue Code of 1986.''.

(2) by redesignating paragraph (3) as paragraph (2).

VIDEO 16



	CARES Act of March 2020	Relief Act of 2021	American Rescue Plan Act of 2021
Period for qualified wages paid	March 13 – December 31, 2020	Extended: January 1 – June 30, 2021	Extended: July 1, 2021 – December 31, 2021 September 30, 2021*
Eligible employer	Any employer operating a trade, business, or a tax-exempt organization, but not governments, their agencies, and instrumentalities.	Expanded to include certain governmental employers that are: <ul style="list-style-type: none"> • Organizations described in section 501(c)(1) and exempt from tax under section 501(a), and • Colleges or universities or whose principal purposes is to provide medical or hospital care 	No changes

* Infrastructure Investment & Jobs Acts:
 Ended Early
 Only 12/31/21 for Recovery Start Up Business

	CARES Act of March 2020	Relief Act of 2021	American Rescue Plan Act of 2021
Employment tax offset	Employer's portion of Social Security tax	No change	Changed to employer's portion of Medicare tax
Eligibility requirements	<p>Employer must experience:</p> <ul style="list-style-type: none"> • full or partial suspension of operations due to government order due to COVID-19 during any quarter, or • significant decline in gross receipts (beginning when gross receipts are less than 50% of gross receipts for the same calendar quarter in 2019 and ending in the first calendar quarter after the calendar quarter in which gross receipts are greater than 80 percent of gross receipts for the same calendar quarter in 2019) 	<p>Amended decline in gross receipts to be defined as quarter where gross receipts are less than 80% of the same quarter in 2019.</p> <p>Added an alternative quarter election rule giving employers ability to look at prior calendar quarter in 2021 and compare to the same calendar quarter in 2019 to determine whether there was a decline in gross receipts.</p> <p>Provided a rule for employers not existence in 2019 to allow employers that were not in existence in 2019 to determine whether there was a decline in gross receipts by comparing the calendar quarter in 2021 to its gross receipts to the same calendar quarter in 2020.</p>	<p>Amended to make the credit available to "recovery startup businesses," employers who otherwise do not meet eligibility criteria (full or partial suspension or decline in gross receipts)</p> <p>"Recovery startup businesses" are employers:</p> <ul style="list-style-type: none"> • That began carrying on any trade or business after February 15, 2020, • That had average annual gross receipts under \$1,000,000 for the 3-taxable-year period ending with the taxable year that precedes the calendar quarter for which the credit is determined, and • Do not meet the other eligibility criteria

	CARES Act of March 2020	Relief Act of 2021	American Rescue Plan Act of 2021
Percent of qualified wages eligible for credit	<ul style="list-style-type: none"> • 50% of qualified wages (\$10,000 per employee for the year including certain health care expenses) • 100 or fewer average full-time employees in 2019, wages paid to employees providing services and not providing services are qualified wages • Greater than 100 average full-time employees in 2019, wages paid to employees not providing services are qualified wages 	<ul style="list-style-type: none"> • Increased maximum to 70% (\$10,000 per employee per calendar quarter including certain health care expenses) for qualified wages paid between January 1 and June 30, 2021 • 500 or fewer average full-time employees in 2019, wages paid to employees providing services and not providing services are qualified wages • Greater than 500 average full-time employees in 2019, wages paid to employees not providing services are qualified wages 	<ul style="list-style-type: none"> • Maximums unchanged • "Severely financially distressed employers" may treat all wages as qualified wages during the calendar quarter in which the employer is severely financially distressed • "Severely financially distressed employers" are employers with gross receipts that are less than 10% of the gross receipts in a calendar quarter as compared to the same calendar quarter in 2019. • No change for small employers qualified wages • Provides that employers that were not in existence in 2019 may use the average number of full-time employees in 2020 to determine whether the employer had greater than 500 average full-time employees

	CARES Act of March 2020	Relief Act of 2021	American Rescue Plan Act of 2021
Credit maximums	Maximum credit of \$5,000 per employee in 2020	Increased the maximum per employee to \$7,000 per employee per quarter in 2021	<ul style="list-style-type: none"> • Maintained quarterly maximum defined in Relief Act (\$7,000 per employee per calendar quarter, resulting in a total of \$28,000 per employee in 2021) • "Recovery startup businesses" are limited to a \$50,000 credit per calendar quarter

VIDEO 17



Department of the Treasury
Internal Revenue Service

IRS RULES ON ERTC

Early Termination of the ERTC for Most Employers (IRS 11/29/21)

The Infrastructure Investment and Jobs Act amends section 3134 of the Internal Revenue Code to limit the availability of the employee retention credit in the fourth quarter of 2021 to taxpayers that are **recovery startup businesses**, as defined in section 3134(c)(5). Therefore, taxpayers that are not recovery startup businesses are not eligible for the employee retention credit for wages paid after September 30, 2021.

Some taxpayers that are no longer eligible to claim the employee retention credit for wages paid after September 30, 2021 may have already reduced their employment tax deposits in anticipation of claiming the employee retention credit for the fourth quarter of 2021. These taxpayers should monitor guidance issued by the IRS to learn if they must take any action regarding these amounts.

Some taxpayers may have already submitted Form 7200 to request an advance payment of the employee retention credit for the fourth quarter of 2021. If the Form 7200 hasn't been processed, the IRS will use the taxpayer's indication of whether it is a recovery startup business (Form 7200, Part 1, line H) as part of its determination regarding whether the Form 7200 claiming the employee retention credit in the fourth quarter of 2021 should be accepted or rejected. If an advance payment of the employee retention credit for the fourth quarter of 2021 was already sent to a taxpayer that is no longer eligible to claim the employee retention credit for the fourth quarter of 2021 because it is not a recovery startup business, the taxpayer will still include that advance payment on the appropriate line of its employment tax return (for example, Form 941, Part 1, line 13h) for the quarter. In this case, **the taxpayer may have a balance due when it files that employment tax return**. Taxpayers should continue to monitor guidance issued by the IRS to learn if they should take any additional action regarding these amounts.

IRS OFFICIAL GUIDANCE (Links Provided)

IRS NOTICE 2021-20

- Addresses calendar year 2020, and the basics of the rules for ERTC for Covid-19 purposes

IRS NOTICE 2021-23

- Addresses 1st & 2nd quarter of 2021 ERTC, and differences from the 2020 ERTC

IRS REVENUE PROCEDURE 2021-33

- Addresses gross receipts related to ERTC, either year

IRS NOTICE 2021-49

- Acknowledges 3rd & 4th quarter of 2021 ERTC, and expands on ERTC issues (many applying to both years)

IRS NOTICE 2021-65

- Guidance on ERTC ending early and repayment of advanced payments and reduce payroll deposits in anticipation of the ERTC for 4th quarter 2021.



IRS NOTICE 2021-20: REFERENCE OF Q&A IN NOTICE

REFER TO THE NOTICE FOR THE ANSWERS, BUT THIS WILL HELP YOU FIND THE SUBJECT MATTER QUICKER

Question 1: What is a “trade or business” for purposes of the employee retention credit?

Question 2: How does an organization determine if it is considered an “instrumentality” of the Federal government, or of a State or local government, for purposes of the employee retention credit?

Question 3: Are tribal governments and tribal entities eligible for the employee retention credit?

Question 4: Are employers in U.S. Territories eligible for the employee retention credit?

Question 5: Are self-employed individuals eligible for the employee retention credit? **No.**

Question 6: Are household employers eligible for the employee retention credit? **No.**

Question 7: What is the general impact of the aggregation rules that treat certain entities as a single employer?

Question 8: How is the employee retention credit allocated to an eligible employer that is a member of an aggregated group? **According to payroll.**

Question 9: How do the aggregation rules apply to tribes and tribal entities?

Question 10: What “orders from an appropriate governmental authority” may be taken into account by an employer for purposes of determining eligibility for the employee retention credit?

Question 11: If a governmental order requires non-essential businesses to suspend operations but allows essential businesses to continue operations, is an essential business considered to have a full or partial suspension of operations due to a governmental order? **Yes, if non-essential more than 10% of gross receipts.**

Question 12: If a governmental order causes the suppliers to a business to suspend their operations, is the business considered to have a suspension of operations due to a governmental order? **Yes.**

Question 13: If a governmental order causes the customers of a business to stay at home, or otherwise causes a reduction in demand for its products or services, and the business responds to the lack of demand by suspending some or all of its operations, is the business considered to have a suspension of operations due to a governmental order? **No.**

IRS NOTICE 2021-20 (ERTC 2020)

NOMINAL PORTION OF BUSINESS
COMPARING ESSENTIAL & NON-ESSENTIAL
PORTIONS OF THE BUSINESS

IRS NOTICE 2021-20

Question 11: If a governmental order requires non-essential businesses to suspend operations but allows essential businesses to continue operations, is an essential business considered to have a full or partial suspension of operations due to a governmental order?

10%

NOMINAL PORTION OF BUSINESS COMPARING ESSENTIAL & NON-ESSENTIAL PORTIONS OF THE BUSINESS

IRS NOTICE 2021-20

Answer 11: An employer that operates an essential business is not considered to have a full or partial suspension of operations if the governmental order allows all of the employer's operations to remain open. However, an employer that operates an essential business may be considered to have a partial suspension of operations if, under the facts and circumstances, more than a nominal portion of its business operations are suspended by a governmental order. For example, an employer that maintains both essential and non-essential business operations, each of which are more than nominal portions of the business operations, may be considered to have a partial suspension of its operations if a governmental order restricts the operations of the non-essential portion of the business, even if the essential portion of the business is unaffected. In addition, an essential business that is permitted to continue its operations may, nonetheless, be considered to have a partial suspension of its operations if a governmental order requires the business to close for a period of time during normal working hours.

Solely for purposes of this employee retention credit, a portion of an employer's business operations will be deemed to constitute more than a nominal portion of its business operations if either (i) the gross receipts from that portion of the business operations is not less than 10 percent of the total gross receipts (both determined using the gross receipts of the same calendar quarter in 2019), or (ii) the hours of service performed by employees in that portion of the business is not less than 10 percent of the total number of hours of service performed by all employees in the employer's business (both determined using the number of hours of service performed by employees in the same calendar quarter in 2019).

ONE BUSINESS BUT **TWO** OPERATIONS

ONE OPERATION IS ESSENTIAL: **HOSPITAL**

ONE OPERATION IS NON-ESSENTIAL: **PHARMACY**

	GROSS RECEIPTS	
HOSPITAL	\$ 890,000	88%
PHARMACY	\$ 125,000	12%
TOTAL GROSS RECEIPTS	\$ 1,015,000	

BECAUSE THE PHARMACY GROSS RECEIPTS ARE MORE THAN 10% OF THE OVERALL GROSS RECEIPTS, THE WHOLE BUSINESS IS CONSIDERED TO HAVE BEEN AFFECTED BY A GOVERNMENTAL SHUT-DOWN.



NOTE: EMPLOYEES ARE NEVER BROKEN OUT BETWEEN ESSENTIAL & NON-ESSENTIAL

IRS NOTICE 2021-20: REFERENCE OF Q&A IN NOTICE

REFER TO THE NOTICE FOR THE ANSWERS, BUT THIS WILL HELP YOU FIND THE SUBJECT MATTER QUICKER

Question 14: If an employer voluntarily suspends operation of a trade or business or voluntarily reduces hours due to COVID-19, but the suspension or reduction in hours is not due to a governmental order, may the employer qualify as an eligible employer solely on the basis of the voluntary suspension or reduction in hours?

Question 15: If a governmental order requires an employer to close its workplace, but the employer is able to continue operations comparable to its operations prior to the closure by requiring employees to telework, is the employer considered to have a suspension of operations?

Question 16: What factors should be considered in determining if an employer is able to continue operations comparable to its operations prior to closure such that the employer's operations are not considered to have been fully or partially suspended due to a governmental order?

Question 17: If a governmental order requires an employer to close its workplace for certain purposes, but the workplace may remain operational for other limited purposes, is the employer considered to have a suspension of operations due to the governmental order?

Question 18: What factors should be taken into account in determining whether a modification required by a governmental order has more than a nominal effect on business operations for purposes of Q/A-17?

Question 19: Are an employer's operations considered to be partially suspended for purposes of the employee retention credit if the employer is required to reduce its operating hours by a governmental order?

Question 20: Is an employer that operates a trade or business in multiple locations and is subject to governmental orders requiring full or partial suspension of its operations in some jurisdictions, but not in others, considered to have a partial suspension of operations? **Yes.**

Question 21: If the operations of a trade or business of one member of an aggregated group are fully or partially suspended due to a governmental order, are the operations of the trade or business of the other members of the aggregated group considered to be fully or partially suspended for purposes of the employee retention credit?

Question 22: If an employer is subject to a governmental order to fully or partially suspend its business operations and the order is subsequently lifted in the middle of a calendar quarter, is the employer an eligible employer for the entire calendar quarter? **No.**

Question 23: How is the period during which there is a significant decline in gross receipts determined?

Question 24: What are "gross receipts" for an employer other than a tax-exempt organization?

Question 25: What are "gross receipts" for a tax-exempt employer?

IRS NOTICE 2021-20: REFERENCE OF Q&A IN NOTICE

REFER TO THE NOTICE FOR THE ANSWERS, BUT THIS WILL HELP YOU FIND THE SUBJECT MATTER QUICKER

Question 26: For members of an aggregated group, is a significant decline in gross receipts determined based on the entire group?

Question 27: How does an employer that started its business in 2019 determine whether it experienced a significant decline in gross receipts for purposes of the employee retention credit?

Question 28: How does an employer that acquires a trade or business during the 2020 calendar year determine if the employer experienced a significant decline in gross receipts?

Question 29: How is the maximum amount of the employee retention credit available to eligible employers determined?

Question 30: What are “qualified wages”?

Question 31: How does an eligible employer identify the average number of full-time employees employed during 2019?

Question 32: For members of an aggregated group, is the average number of full-time employees determined based on the entire group? **Yes.**

Question 33: What wages may a small eligible employer treat as qualified wages?

Question 34: What wages may a large eligible employer treat as qualified wages?

Question 35: May a large eligible employer claim an employee retention credit for an increase in the amount of wages it paid its employees during the time that employees are not providing services?

Question 36: May a large eligible employer treat the wages paid to hourly and non-exempt salaried employees for hours for which they are not providing services as qualified wages for purposes of the employee retention credit?

Question 37: May a large eligible employer treat wages paid to exempt salaried employees for time for which they are not providing services as qualified wages for purposes of the employee retention credit?

Question 38: May an eligible employer treat wages paid to employees pursuant to a pre-existing vacation, sick and other personal leave policy as qualified wages for purposes of the employee retention credit?

Question 39: May an eligible employer treat payments made to former employees who have terminated employment as qualified wages for purposes of the employee retention credit?

Question 40: Do qualified health plan expenses include both the portion of the cost paid by the eligible employer and the portion of the cost paid by the employee?

IRS NOTICE 2021-20: REFERENCE OF Q&A IN NOTICE

REFER TO THE NOTICE FOR THE ANSWERS, BUT THIS WILL HELP YOU FIND THE SUBJECT MATTER QUICKER

Question 41: May a small eligible employer treat its health plan expenses as qualified wages for purposes of the employee retention credit? Yes.

Question 42: May a large eligible employer treat its health plan expenses as qualified wages for purposes of the employee retention credit if the expenses are allocable to the time that employees were not providing services?

Question 43: For an eligible employer that sponsors more than one plan for its employees (for example, both a group health plan and a health flexible spending arrangement (health FSA)), or more than one plan covering different employees, how are the qualified health plan expenses for each employee determined?

Question 44: For an eligible employer that sponsors a fully-insured group health plan, how are the qualified health plan expenses of that plan allocated on a pro rata basis?

Question 45: For an eligible employer that sponsors a self-insured group health plan, how are the qualified health plan expenses of that plan allocated on a pro rata basis?

Question 46: For an eligible employer who contributes to a health savings account (HSA), or Archer Medical Saving Account (Archer MSA) and sponsors a high deductible health plan (HDHP), are contributions to the HSA or Archer MSA included in the qualified health plan expenses?

Question 47: For an eligible employer who sponsors a health reimbursement arrangement (HRA), a health flexible spending arrangement (health FSA), or a qualified small employer health reimbursement arrangement (QSEHRA), are contributions to the HRA, health FSA, or QSEHRA included in the qualified health plan expenses?

Question 48: Are health plan expenses that are allocable to qualified sick leave wages and qualified family leave wages for purposes of credits available under sections 7001 and 7003 of the FFCRA excluded from the definition of qualified wages for purposes of the employee retention credit?

Question 49: May an employer that received a PPP loan be eligible for the employee retention credit? Yes, just not on the same payroll.

Question 50: How does an eligible employer claim the employee retention credit for qualified wages?

Question 51: Can an eligible employer receive an advance payment of the employee retention credit if the eligible employer does not have sufficient federal employment taxes set aside for deposit to cover the amount of the anticipated credit?

Question 52: Is there a minimum advance amount that can be claimed on a Form 7200?

Question 53: What is the last day eligible employers may submit a Form 7200 requesting an advance payment of the employee retention credit for qualified wages paid in 2020?

IRS NOTICE 2021-20: REFERENCE OF Q&A IN NOTICE

REFER TO THE NOTICE FOR THE ANSWERS, BUT THIS WILL HELP YOU FIND THE SUBJECT MATTER QUICKER

Question 54: Who can sign a Form 7200? Should a taxpayer submit additional documents to confirm that a person is authorized to sign a Form 7200?

Question 55: For eligible employers that include multiple entities treated as a single employer for purposes of the employee retention credit under the aggregation rules, will the individual entities separately report their credit on their federal employment tax returns?

Question 56: May an eligible employer elect to not take into account qualified wages for purposes of the employee retention credit?

Question 57: May an eligible employer that files quarterly federal employment tax returns take into account qualified wages paid in a past calendar quarter in which the eligible employer may have been entitled to claim the credit, but elected not to do so?

Question 58: How does an eligible employer use the special fourth quarter rule in section 206(e)(2) of the Relief Act?

Question 59: Are qualified wages excluded from gross income as “qualified disaster relief payments”?

Question 60: Does the employee retention credit reduce the expenses that an eligible employer could otherwise deduct on its federal income tax return? **Yes.**

Question 61: Does an eligible employer receiving an employee retention credit for qualified wages need to include any portion of the credit in income? **No.**

Question 62: Can an eligible common law employer that uses a third-party to report and pay employment taxes to the IRS get the employee retention credit?

Question 63: May a payroll reporting agent sign and submit Form 7200 on behalf of a client employer?

Question 64: When should the name and EIN of a third-party payer be included on Form 7200?

Question 65: If a common law employer uses a third-party payer for only a portion of their workforce, should the employer list the third-party payer on the Form 7200?

Question 66: What information must third-party payers obtain from their client employers to claim the employee retention credit on their client employer's behalf?

Question 67: May third-party payers rely on client employer information regarding the employee retention credit?

Question 68: Upon request by the IRS, what records must third-party payers obtain from their client employers to substantiate the client employer's eligibility for the employee retention credit?

IRS NOTICE 2021-20: REFERENCE OF Q&A IN NOTICE

REFER TO THE NOTICE FOR THE ANSWERS, BUT THIS WILL HELP YOU FIND THE SUBJECT MATTER QUICKER

Question 69: Are client employers responsible for avoiding a "double benefit" with respect to the employee retention credit and the credit under section 45S of the Code?

Question 70: What records should an eligible employer maintain to substantiate eligibility for the employee retention credit?

Question 71: How long should an eligible employer maintain records to substantiate eligibility for the employee retention credit?

IRS NOTICE 2021-23 RELATED TO 1ST & 2ND QUARTERS IN 2021 (HIGHLIGHTS)

EXTENSION OF ERTC TO 1ST & 2ND QUARTER 2021

FOOTNOTE #1 on PAGE 3 REFERENCES ISSUES LATER ADDRESSED IN IRS NOTICE 2021-49

ELIGIBLE EMPLOYERS EXPANDED TO INCLUDE CERTAIN NON-PROFITS

SEE PAGE 4 FOR DETAILS AS THEY ARE VERY SPECIFIC

IRS REVENUE PROC. 2021-33 (ERTC GROSS RECEIPTS)

DECLINE IN GROSS RECEIPTS CHANGED TO 20%

COMPARING QUARTERS IN 2021 TO CORRELATING QUARTER IN 2019

2021 QUARTER 1 COMPARED TO 2019 QUARTER 1

2021 QUARTER 2 COMPARED TO 2019 QUARTER 2

IN IRS NOTICE 2021-49 THIS CONFIRMS THIS IS THE SAME FOR THE REMAINING QUARTERS IN 2021

2021 QUARTER 3 COMPARED TO 2019 QUARTER 3

~~2021 QUARTER 4 COMPARED TO 2019 QUARTER 4~~

PROVIDES FOR AN “ALTERNATIVE” METHOD TO DETERMINE ERTC QUALIFICATION FOR THE QUARTER (STILL REQUIRES A 20% DECREASE IN GROSS RECEIPTS)

THIS ALLOWS THE IMMEDIATE PREVIOUS QUARTER TO BE USED TO DETERMINE IF THE EMPLOYER QUALIFIES FOR THE CURRENT QUARTER

THIS IS NOT THE SAME AS 2020, AS THERE IS NO AUTOMATIC QUALIFICATION. EACH QUARTER IS A STAND-ALONE

THE “ALTERNATIVE QUARTER TO CALCULATE GROSS RECEIPTS” IS AS FOLLOWS (PLEASE REVIEW CAREFULLY)

TO QUALIFY FOR 1ST QUARTER 2021:

2020 QUARTER 4 COMPARED TO 2019 QUARTER 4

TO QUALIFY FOR 2ND QUARTER 2021:

2021 QUARTER 1 COMPARED TO 2019 QUARTER 1

IN IRS NOTICE 2021-49 THIS CONFIRMS THE ALTERNATIVE METHOD IS CONTINUED FOR THE REMAINING QUARTERS IN 2021

TO QUALIFY FOR 3RD QUARTER 2021:

2021 QUARTER 2 COMPARED TO 2019 QUARTER 2

~~TO QUALIFY FOR 4TH QUARTER 2021:~~

~~2021 QUARTER 3 COMPARED TO 2019 QUARTER 3~~

IRS NOTICE 2021-23 RELATED TO 1st & 2nd QUARTERS IN 2021 (HIGHLIGHTS)

ERTC CREDIT IS CHANGED TO 70% FOR 2021

MAXIMUM CREDIT PER EMPLOYEE IS \$7,000 (PER QUARTER)

CHANGES EMPLOYER SIZE FOR APPLICATION OF CERTAIN RULES

500 OR LESS STILL BASED ON 2019 is SMALL EMPLOYER

MORE THAN 500 STILL BASED ON 2019 is LARGE EMPLOYER

AGGREGATION RULES STILL APPLY

MUST COUNT ALL EMPLOYEES IN AN AGGREGATED GROUP TO DETERMINE EMPLOYER SIZE

FOR LARGE EMPLOYERS (500 OR MORE EMPLOYEES IN 2019)

THERE IS NO LONGER A LIMITATION ON WAGES ONLY SPECIFIC TO STRIKING THE RULE OF
LIMITING WAGES TO THE EQUIVALENT OF THE 30 DAYS IMMEDIATELY PRECEDING THE COMMENCEMENT OF QUALIFIED PERIOD

PER IRS NOTICE 2021-49, THIS CONTINUES FOR THE REMAINING QUARTERS IN 2021 (EXCEPT EFFECTIVE 11/15/2021, ERTC ENDS 9/30/21)

CLARIFIES THAT “WAGES” MEANS ALL REMUNERATION FOR EMPLOYMENT UNDER SECTION 3121(a)

CLARIFIES THE DEFINITION OF “EMPLOYMENT” UNDER SECTION 3121(b)

CANNOT CLAIM ERTC ON WAGES USED FOR TAX CREDITS SECTION 45-S

SECTION 45-S IS THE EMPLOYER CREDIT FOR PAID FAMILY & MEDICAL LEAVE

FOR EMPLOYEES QUALIFYING FOR THE WORK OPPORTUNITY CREDIT (WOC)

IN 2020, SUCH EMPLOYEES WAGES WERE EXCLUDED DURING THAT TIME PERIOD, REGARDLESS IF THE CREDIT WAS TAKEN

IN 2021, SUCH EMPLOYEES WAGES CAN BE INCLUDED DURING THAT TIME PERIOD, BUT NOT WAGES USED FOR THE WOC

CONFIRMS WAIVER OF EMPLOYMENT TAX DEPOSIT PENALTIES RELATED ANTICIPATION OF ERTC

IF AN EMPLOYER OBTAINS AN ADVANCE ERTC, BUT LATER IS DETERMINED TO BE TOO MUCH,
IF DUE TO REASONABLE ANTICIPATION

AND IF THE TAX IS PAID UPON LEARNING OF THE ADJUSTMENT, NO LATER THAN THE NORMAL FORM 941 DUE DATE



Gross receipt exclusions clarified for ERTC

Revenue Procedure 2021-33: SAFE HARBOR

- Under the safe harbor, Paycheck Protection Program forgiveness, SVO Grants, Restaurant Revitalization Grants can be excluded from gross receipts for determining eligibility for the Employee Retention Tax Credit.
- These other programs are exempt from “gross income” for tax purposes.
- For ERTC purposes, “gross receipts” includes tax-exempt income.
- Nonetheless, the safe harbor is allowing for the exclusion of the above programs from “gross receipts” specific only the ERTC calculation of determining a reduction in “gross receipts.”
- The safe harbor is elected by simply NOT including the above programs in the calculation.
- The safe harbor is not required, and can be revoked by later not taking the safe harbor in the ERTC calculation.
- IRS Notice 2021-49 confirms this applies to 3rd & 4th quarter 2021.

IRS NOTICE 2021-23 (ERTC 2021 QTR 1&2)

IRS offers further guidance on ERTC (IRS NOTICE 2021-49)

- The Internal Revenue Service and the Treasury Department guidance on the employee retention tax credit, including guidance for employers who pay qualified wages for 3rd and 4th quarter 2021, with the same rules in effect for 1st & 2nd quarters in 2021 (unless otherwise noted).
- The 70% remains in effect for 3rd & 4th quarter, as well as the maximum being determine by quarter.
- The IRS and the Treasury guidance in Notice 2021-49 deals also with how various issues apply to the employee retention credit in both 2020 and 2021, amplifying earlier guidance offered earlier this year in Notice 2021-20 and Notice 2021-23.
- The notice explains changes made by the American Rescue Plan Act of 2021 to the employee retention credit that are applicable to the third and fourth quarters of 2021.

IRS NOTICE 2021-49 (ERTC 2021 QTR 3&4 w/ EXANDED)

IRS offers further guidance on ERTC (IRS NOTICE 2021-49)

The changes include, among other items:

- For 3rd & 4th quarter 2021, the ERTC will be applied against employer “Medicare” payroll taxes.
 - Previously, the ERTC is applied against employer “Social Security” payroll taxes
 - Form 941 and Form 941x will include the calculation changes, most notably on Worksheet 4
 - The ERTC in excess of the employers “Medicare” payroll taxes is still considered a refundable credit
- Expanding the definition of eligible employer to include “recovery startup businesses.”
 - Only applies to 3rd & 4th quarter 2021 (page 7)
 - Recovery startup businesses are those that began carrying on a trade or business after 2/15/2020 and had less than \$1 million in annual gross receipts, along with several other conditions.
 - Must qualify in each quarter.
 - The maximum ERTC is \$50,000 for each quarter.
 - Unless the business does not qualify as this type of business for 4th quarter, no limit
 - Aggregation rules apply
 - See pages 6-11 for further details as this is rare circumstances
 - NOTE: The Infrastructure Act ended ERTC for all businesses 9/30/21,
except this qualifying business still can claim ERTC for 4th quarter 2021

IRS offers further guidance on ERTC (IRS NOTICE 2021-49)

The changes include, among other items:

- **Modifying the definition of qualified wages for “severely financially distressed employers”**
 - Benefits large employers with more than 500 employees in 2019
 - Removes the large employer restriction on defining qualified wages to only include wages paid to employee not providing services
 - This allows a large employer to include all wages paid to employees under same rules a small employer in 2021 (500 or less employees in 2019)
 - An employer that has gross receipts that are less than 10% of correlating quarter in 2019
 - This would equate to a more than 90% decrease in gross receipts
 - This does NOT mean the gross receipts test of a 20% decline has changed
 - **Only applies to 3rd & 4th quarter of 2021**
 - Quarter 3 2021 compared to 3rd quarter 2019
 - ~~Quarter 4 2021 compared to 4th quarter 2019~~
 - The alternative method of determining 90% gross receipts decline also applies
 - Quarter 3 can qualify by comparing quarter 2 2021 to 2nd quarter 2019
 - ~~Quarter 4 can qualify by comparing quarter 3 2021 to 3rd quarter 2019~~

IRS offers further guidance on ERTC (IRS NOTICE 2021-49)

The changes include, among other items:

- Statute of limitations for the IRS to assess additional tax related to ERTC
 - 5 years
 - Extended statute of limitations only applies to 3rd & 4th quarter 2021
 - This does NOT extend the time the employer has to claim the ERTC.
 - Rules per Form 941x remain in place for the employer
- Full-time employee “equivalents” in determining employer size for ERTC purposes
 - No, employers do not calculate employees based on “equivalents”

IRS offers further guidance on ERTC (IRS NOTICE 2021-49)

The changes include, among other items:

- **Excluded from qualified wages (page 22)**
 - “Tips” paid in any medium other than cash
 - If tips were paid NOT in “cash,” it is NOT included in qualified wages for ERTC
- **Included in qualified wages (page 22)**
 - “Tips” \$20 or more paid in cash (and reported as wages by the employer)
- **An employer can take advantage of both ERTC and the “tip tax credit” under Section 45-B (pages 22-24)**
 - The same wages can be used for both tax credits

IRS offers further guidance on ERTC (IRS NOTICE 2021-49, Pages 24-25)

The changes include, among other items:


- **Timing of qualified wages deduction disallowance**
 - Defines when the employer must take the reduction in wages for tax purposes
 - The tax year in which the qualified wages were paid or incurred is the tax year that wages must be reduced
 - If the wages were paid or incurred in 2020, the reduction of wages is reported on the 2020 tax return
 - Same for 2021
 - Amending a payroll tax filing does not change the timing (year) of the reduction
 - Form 941x is filed in 2021 for any quarter in 2020
 - The tax credit is refunded in 2021 or applied to a future quarter in 2021
 - The reduction in wages is applied to tax year 2020
 - What if the employer already filed a income tax return for 2020
 - IRS recommends the employer file an amended income tax return for 2020
 - **OR** an Administrative Adjustment Request (AAR)

IRS offers further guidance on ERTC

(IRS NOTICE 2021-49, Pages 25-31)

- **Related individuals further defined, as well as addressing majority owner & spouses wages**
 - Also see examples in the IRS Notice on pages 30-31
 - Rules did not change, but were expanded upon
 - Family attribution rules apply, possible making related parties constructive majority owners
 - Section 267(c) of the Code provides rules for constructive ownership
 - Majority owner wages are excluded from qualified wages for ERTC
 - Spouses of majority owners are excluded from qualified wages for ERTC
 - EXCEPTION to the rule of majority owner and spouses of majority owners wages being excluded
 - **IF THE MAJORITY OWNER (& IF MARITAL SPOUSE) HAVE NO BROTHER OR SISTER WHETHER WHOLE OR HALF-BLOODED, ANCESTOR, OR LINEAL DESCENDANT AS DEFINED IN SECTION 267(c)(4) of the CODE**
- **RESTATED**
 - **IF THE MAJORITY OWNER (& IF MARITAL SPOUSE) HAS A BROTHER OR SISTER WHETHER WHOLE OR HALF-BLOODED, ANCESTOR, OR LINEAL DESCENDANT AS DEFINED IN SECTION 267(c)(4) of the CODE, THE WAGES OF THE MAJORITY OWNER AND THE SPOUSE OF THE MAJORITY OWNER ARE DISQUALIFIED**

IRS offers further guidance on ERTC (IRS NOTICE 2021-49)

- **Alternative quarter election in determining reduction in gross receipts**
 - Applies to quarters 3 & 4  2021
 - Employer does NOT need to consistently apply the election to quarters in 2021
 - Example: Employer could use the alternative method for quarter 2 of 2021,
 - but not quarter 3 of 2021
 - The election is made by simply using this calculation to qualify the quarter
- **Permits an employer that acquires a business to include the gross receipts of the acquired business when determining the decline in gross receipts for ERTC purposes (IRS Notice 2021-49, page 33)**

IRS offers further guidance on ERTC ending 9/30/21 (IRS NOTICE 2021-65)

- Recovery startup businesses under Sec. 3134(c)(2)) are still eligible for 4th quarter 2021.
- Provides for a waiver of failure-to-deposit penalties, subject to three other conditions:
 1. The employer reduced its deposits in anticipation of the ERC, consistent with the rules provided in Section 3.b. of Notice 2021-24;
 2. The employer deposits the amounts it had retained in anticipation of claiming the ERC on or before the relevant due date for employment taxes with respect to wages paid on Dec. 31, 2021, (regardless of whether the employer actually pays wages on that date); and
 3. The employer reports the tax liability resulting from the termination of the employer's ERC on the applicable employment tax return or schedule that includes the period from Oct. 1, 2021, through Dec. 31, 2021.

IRS NOTICE 2021-65 (PAY BACK ERTC 4th QTR 2021)

IRS Issues Final Regulations to Allow Assessment of Covid-19 Related Tax Credits, Including ERC (T.D. 9978)

These regulations finalize earlier proposed regulations (REG-111879-20 and REG-109077-21) with minor modifications. They provide that erroneous refunds of COVID-19 credits will be treated as underpayments of taxes imposed under Sec. 3111(a) or 3111(b), as applicable, and are subject to taxes imposed under Sec. 3221(a), which means assessment and administrative collection procedures apply.

The preamble to the regulations states, "This allows the IRS to prevent the avoidance of the purposes of the limitations under the credit provisions and to recover the erroneous refund amounts efficiently while also preserving administrative protections afforded to taxpayers with respect to contesting their tax liabilities under the Code and avoiding unnecessary costs and burdens associated with litigation."

These assessment and administrative collection procedures may apply both in the processing of employment tax returns and in examining returns for excess claimed credits; they are not exclusive and do not replace the existing recapture methods. Instead, they are an alternative method that the IRS has at its disposal to recover erroneous refunds of tax credits for employee retention, family leave, and sick leave. The preamble to the regulations notes that, in certain circumstances, third-party payers sometimes claim tax credits on behalf of their common law employer clients. The final regulations clarify that employers against which an erroneous refund of credits may be assessed as an underpayment include persons treated as the employer under Secs. 3401(d), 3504, and 3511, consistent with their liability for the employment taxes against which the credits applied.

IRS Issues Final Regulations to Allow Assessment of Covid-19 Related Tax Credits, Including ERC (T.D. 9978)

In addition, the final regulations clarify the proposed regulations by expressly stating that the common law employer clients of these third-party payers that remain subject to all provisions of law applicable to employers with respect to the payment of wages or compensation, as applicable, may also be assessed for an erroneous refund of credits. This clarification makes clear to employers that the existing rules in Secs. 3504 and 3511(c) concerning the liability of common law employer clients of third-party payers remain applicable in this situation.

VIDEO 18



ERC MYTHS

BUSTING THE TOP 18

18 Myths: Lies by Employee Retention Tax Credit Promoters

1. ERTC is over?

No. Available on qualified wages from 3/13/2020 through 9/30/2021 (12/31/2021 if recovery start up business. IRS Notice 2021-20, 2021-23, 2021-49

2. Need to hire someone to help you?

No. This is straight forward and actually easy. My seminar shows you how to get, calculate and file ERTC step-by-step.

3. You can't get ERTC if you got PPP?

Wrong. You can get both per the Appropriations Act enacted 12/27/2020. IRC Notice 2021-20 Page 12.

4. You can pay (charge) a contingency fee?

No. Illegal per IRS Circular 230 Section 10.27.

5. You must experience a reduction of gross receipts AND be closed partial/full due to governmental shutdown?

No. It is either/or. Only one event need occur. IRS Notice 2021-20 Page 7.

6. Self Employed Qualify?

No. Not on their self-employed earnings. IRS Notice 2021-20 Page 20, Q&A #5.

18 Myths: Lies by Employee Retention Tax Credit Promoters

7. If you pay someone a Form 1099, you can use that to obtain ERTC?

Wrong. The person receiving the Form 1099 is a self-employed individual, and does not qualify. IRS Notice 2021-29 Page 20, Q&A #5.

8. If your customer is affected, you can qualify for ERTC?

Wrong. IRS Notice 2021-20 Page 29 Q&A #13.

9. If your supplier is affected, you can qualify for ERTC?

Myth in that your supplier must be shutdown due to governmental order, and due to that governmental order the supplier could not send you critical supplies that had a more than nominal affect on your business, and then only the dates it had an affect on your business, no more than the dates of the suppliers governmental orders; with a copy of the governmental order with proof that supplier couldn't provide supplies to your business because of the governmental order, with proof you tried to play orders that were unfulfilled and proof the supplies were critical and had an actual affect on your business. IRS Notice 2021-20 Page 28 Q&A #12.

10. If supplier is the cause of your qualifying event, you qualify for the entire quarter?

Wrong. IRS Notice 2021-20 Page 43 Q&A #22

18 Myths: Lies by Employee Retention Tax Credit Promoters

11. Essential businesses don't qualify for ERTC?

Wrong. If their gross receipts are down accordingly, they qualify. Also, if they have a non-essential component of their operations that such revenues exceed 10% of the overall gross revenues, the entire business can qualify if there was a governmental order. Also, if aggregation is applied with multiple owned businesses, it may qualify. It is not an absolute that essential businesses don't qualify. IRS Notice 2021-20 Page 27 Q&A #11.

12. You separate non-essential employees from essential employees?

NEVER, no matter the qualifying event for ERTC. IRS Notice 2021-20

13. If a business is closed for any period of time due to governmental order, they qualify for the entire quarter?

Wrong as only the qualified wages during the actual days of the shutdown qualify. IRS Notice 2021-20 Page 42 Q&A 22.

14. When determining if gross receipts are down, you compare 2021 to 2020?

Wrong, as you always are comparing the quarter's gross receipts to 2019; whether for 2020 or 2021. IRS Notice 2021-20 Page 44 AND IRS Notice 2021-23 Page 5

18 Myths: Lies by Employee Retention Tax Credit Promoters

15. Full-time equivalents are applied when determining the full-time employee head count in 2019?
Wrong, as you only include actual full-time employees. IRS Notice 2021-49 Page 20.
16. Owners, spouses and relatives qualify for the ERTC?
Only if the constructive (aggregated) family ownership is 50% or less or only if the over 50% owner has no living blood relatives. IRS Notice 2021-49 Page 25.
17. ERTC has no tax affect?
Wrong, as it is a reduction of the wage deduction. IRS Notice 2021-20 Page 92 Q&A #60.
18. ERTC reduces the wage deduction when the employer receives the refund check?
WRONG, as the reduction of the wage deduction is recognized in the year in which the wages used to obtain the ERTC were deducted for income tax purposes, which means an amended income tax return is required. IRS Notice 2021-49 Page 24.

VIDEO 19



FILING PAYROLL TAX FORMS

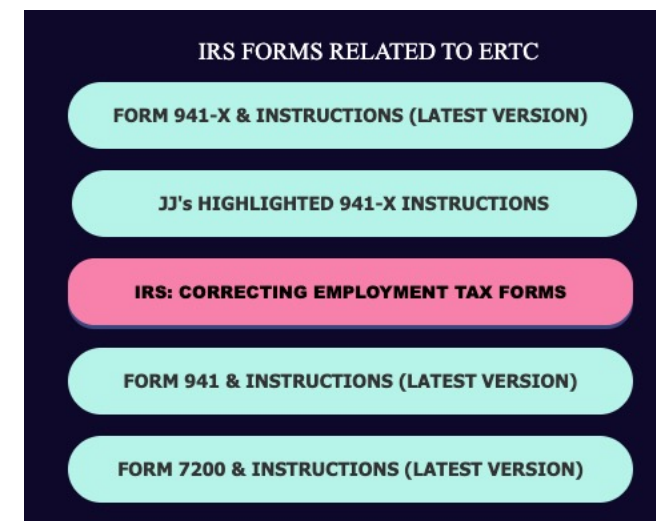
- FORM 7200
- FORM 941
- FORM 941-X

BE SURE TO USE THE RIGHT FORM, FOR THE RIGHT YEAR

FORM 941 FOR 2020
FORM 941 FOR 2021

FORM 941-X FOR
EITHER 2020 OR 2021

FORM 7200 (NO LONGER APPLICABLE)



FORM

7200

Advance Payment of Employer
Credits Due to COVID-19

NO LONGER APPLICABLE

THIS WAS ONLY TO RECEIVE ERTC IN
ADVANCE OF FILING 941

IF SOMEHOW YOU HAVE NOT FILED THE ORIGINAL FORM 941'S:
YOU WILL REPORT THE ERC ON THE FORM 941 YOU WILL FILE.
YOU WILL NOT FILE A FORM 941-X.
WE DO NOT COVER HOW TO PREPARE FORM 941.

**NO LONGER APPLICABLE TO ERTC, IF YOU ALREADY FILED FORM 941.
IF YOU DID NOT CLAIM THE ERC ON THE ORIGINALLY FILED FORM 941,
YOU CAN ONLY OBTAIN ERTC BY BY FILING FORM 941-X**

FORM

941

**Employer's QUARTERLY
Federal Tax Return**

**NOTE: IF YOU FILED FORM 7200, BUT DID NOT REPORT YOUR
ERTC ON FORM 941, YOU NEED TO FILE FORM 941-X**

FORM

941X

AMENDED

Employer's QUARTERLY
Federal Tax Return

ONLY FOR APPLICABLE NOW FOR ERTC

YOU COMPLETE A SEPARATE 941-X
FOR EACH QUARTER

YOU DO NOT RE-SEND FORM 941

TREAT AS "OVER-REPORTED TAXES"

LINE 27 IS KEY

WHAT YOU NEED TO COMPLETE FORM 941-X (SEE LINKS)

- Form 941-X
- Form 941-X Instructions
 - Worksheet 2 or 4 (**The last pages of the 941-X instructions**)
- Form 941 (The **original Form 941** for the quarter you are filing Form 941-X for)

- The amount of qualified wages for the quarter
- The amount of employer paid health expenses for the quarter

- Calculator

I HAVE GONE THROUGH THE 941-X INSTRUCTIONS AND HIGHLIGHTED FOR YOU THE APPLICABLE AREAS RELATED TO THE ERTC

Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund

Section references are to the Internal Revenue Code unless otherwise noted.

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and completing Form 941-X, you'll need a copy of the Instructions for Form 941 for the quarter that you're correcting because these instructions don't repeat all of the information included in the Instructions for Form 941. For example, these instructions don't discuss who is eligible to claim the credit for qualified sick and family leave wages, the employee retention credit, or the COBRA premium assistance credit. Prior revisions of the Instructions for Form 941 are available at [IRS.gov/Form941](https://www.irs.gov/Form941) (select the link for "All Form 941 Revisions" under "Other Items You May Find Useful").

What's New

The COVID-19 related credit for qualified sick and family leave wages is limited to leave taken after March 31, 2020, and before October 1, 2021. The credit for qualified sick and family leave wages, as enacted under the Families First Coronavirus Response Act (FFCRA) and amended and extended by the COVID-related Tax Relief Act of 2020, is for leave taken after March 31, 2020, and before April 1, 2021, and the credit for qualified sick and family leave wages under sections 3131, 3132, and 3133 of the Internal Revenue Code, as enacted under the American Rescue Plan Act of 2021 (the ARP), is for leave taken after March 31, 2021, and before October 1, 2021. For more information about the credit for qualified sick and family leave wages, go to [IRS.gov/PLC](https://www.irs.gov/PLC).

Corrections to amounts reported on Form 941, lines 5a(i), 5a(ii), 11b, 13c, 19, and 20, for the credit for qualified sick and family leave wages for leave taken after March 31, 2020, and before April 1, 2021, are reported on Form 941-X, lines 9, 10, 17, 25, 28, and 29, respectively.

Corrections to amounts reported on Form 941, lines 11d, 13e, 23, 24, 25, 26, 27, and 28, for the credit for qualified sick and family leave wages for leave taken after March 31, 2021, and before October 1, 2021, are reported on Form 941-X, lines 18b, 26b, 35, 36, 37, 38, 39, and 40, respectively.

The COVID-19 related employee retention credit has expired. The employee retention credit enacted under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and amended and extended by the Taxpayer Certainty and Disaster Tax Relief Act of 2020, was limited to qualified wages paid after March 12, 2020, and before July 1, 2021. The employee retention credit under section 3134 of the Internal Revenue Code, as enacted by the ARP and amended by the Infrastructure Investment and Jobs Act, was limited to qualified wages paid after June 30, 2021, and before October 1, 2021, unless the employer was a recovery startup business. An employer that was a recovery startup business could also claim the employee retention credit for qualified wages paid after September 30, 2021, and before January 1,

Future Developments

For the latest information about developments related to Form 941-X and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form941X](https://www.irs.gov/Form941X).

TIP These instructions have been updated for changes due to the expiration of the COVID-19 related employee retention credit and the COBRA premium assistance credit. You may use these instructions and the April 2022 revision of Form 941-X for all years for which the statute of limitations on corrections hasn't expired. Before you proceed with these instructions

IRS FORMS RELATED TO ERTC

- FORM 941-X & INSTRUCTIONS (LATEST VERSION)
- JJ's HIGHLIGHTED 941-X INSTRUCTIONS
- IRS: CORRECTING EMPLOYMENT TAX FORMS
- FORM 941 & INSTRUCTIONS (LATEST VERSION)
- FORM 7200 & INSTRUCTIONS (LATEST VERSION)

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

FOR THE REMAINDER OF THE STEPS SHARED IN THE FOLLOWING SLIDES
IT WILL BE WITH THE ASSUMPTION YOU HAVE NOT PREVIOUSLY REPORTED ERTC TO THE IRS
FOR THE APPLICABLE QUATER

- It will be based on you never previously reporting ERTC on the original Form 941
- For most of you, this is the first time you are reporting ERTC to the IRS, and thus the remainder of the slides related to the step to complete Form 941-X will be based on that assumption (of never reporting ERTC before)

CAUTION

IF YOU PREVIOUSLY REPORTED ERTC ON THE ORIGINAL FORM 941

- FOR MOST OF YOU, YOU DID NOT DO THIS, IN WHICH CASE, THIS CAUTION DOESN'T APPLY
- IF THIS IS THE FIRST TIME YOU ARE REPORTING ERTC, THIS CAUTION DOES NOT APPLY
- If you actually, previously reported ERTC on the original Form 941, then column 2 is what you previously reported on Form 941, and you will have to do the math for columns 3 and 4.
- If you reported too much ERTC on the original Form 941, then column 3 would be a negative and column 4 would be a positive, and you will most likely OWE money with Form 941-X
- Again, the following slides are assuming you have never reported ERTC to the IRS for the applicable quarter

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

GENERAL NOTES

- Only complete the lines that applicable to the ERTC
- You do NOT complete any lines where the amounts did NOT change from the original Form 941
- You must enter cents and not round amounts.
- If an amount is a negative, you enter a minus sign (unless software only uses parentheses)
- Omit dollar signs
- Staple all sheets together in upper-left corner
- The amounts will come from Worksheet 2 and Worksheet 4, both found with the 941-X instructions
- NOTE: Line 27 on Page 3 is the sum total of your ERTC, so don't forget to complete this.
- GET THIS RIGHT
 - Column 3 you enter as a positive amount
 - Column 4 you enter as a negative amount
 - If you do not show column 4 as a negative, the end result on line 27 will be you owing tax with Form 941-X
- COMPLETE WORKSHEET 2 OR 4 BEFORE COMPLETING FORM 941-X AS THE AMOUNTS ON FORM 941-X COME FROM THESE WORKSHEETS
- **IF YOU ARE AMENDING MULTIPLE QUARTERS ALWAYS MAIL EACH FORM 941-X SEPARATELY. MAILING MULTIPLE FORM 941-X'S IN ONE ENVELOPE IS RISKING NOT ALL BEING SEEN OR PROCESSED**

ERTC FROM ALL QUARTERS IN 2020 & FIRST 2 QTRS IN 2021

Worksheet 2. Adjusted Employee Retention Credit for Qualified Wages Paid After March 12, 2020, and Before July 1, 2021

Keep for Your Records 

You must use this worksheet if you claimed the employee retention credit for qualified wages paid after March 12, 2020, and before July 1, 2021, on your original Form 941 and you correct any amounts used to figure the employee retention credit for qualified wages paid after March 12, 2020, and before July 1, 2021. You'll also use this worksheet to figure this credit if you're claiming it for the first time on Form 941-X. If you're a third-party payer, you must complete this worksheet for each client for which it is applicable, on a client-by-client basis.

Step 1. Determine the corrected employer share of social security tax this quarter after it is reduced by any credit claimed on Form 8974, Form 5884-C, and/or Form 5884-D

1a If you completed Worksheet 1 to claim a credit for qualified sick and family leave wages for leave taken after March 31, 2020, and before April 1, 2021, enter the amount from Worksheet 1, Step 1, line 1i, and go to Step 2. If you're not claiming a credit for qualified sick and family leave wages for leave taken before April 1, 2021, continue by completing lines 1b-1n below and then go to Step 2 1a _____

1b Enter the amount of social security wages from Form 941, Part 1, line 5a, column 1, or, if corrected, the amount from Form 941-X, line 8, column 1 1b _____

1c Enter the amount of social security tips from Form 941, Part 1, line 5b, column 1, or, if corrected, the amount from Form 941-X, line 11, column 1 1c _____

1d Add lines 1b and 1c 1d _____

1e Multiply line 1d by 6.2% (0.062) 1e _____

1f If you're a third-party payer of sick pay that isn't an agent and you're claiming credits for amounts paid to your employees, enter the employer share of social security tax included on Form 941, Part 1, line 8, or, if corrected, the amount of the employer share of social security tax on sick pay that you included on Form 941-X, line 15, column 1 (enter as a **negative** number) 1f _____

1g Employer share of social security tax included on Form 941-X, line 20, column 4 1g _____

1h If you received a Section 3121(g) Notice and Demand during the quarter, enter the amount of the employer share of social security tax from the notice 1h _____

1i **Employer share of social security tax.** Combine lines 1e, 1f, 1g, and 1h 1i _____

1j Enter the amount from Form 941, Part 1, line 11a, or, if corrected, the amount from Form 941-X, line 16, column 1 (credit from Form 8974) 1j _____

1k Enter the amount from Form 5884-C, line 11, for this quarter (for quarters ending before April 1, 2021, this amount was also included on Form 941, Part 3, line 23, or, if corrected, the amount from Form 941-X, line 32, column 1) 1k _____

1l Enter the amount from Form 5884-D, line 12, for this quarter 1l _____

1m **Total nonrefundable credits already used against the employer share of social security tax.** Add lines 1j, 1k, and 1l 1m _____

1n **Employer share of social security tax remaining.** Subtract line 1m from line 1i 1n _____

Step 2. Figure the employee retention credit

Caution: For qualified wages paid before January 1, 2021, the cumulative total for all quarters of 2020 that can be claimed on lines 2a, 2b, 2c, and 2d can't exceed \$10,000 per employee. For qualified wages paid after December 31, 2020, the total amount included on lines 2a and 2b can't exceed \$10,000 per employee each quarter.

2a Qualified wages (excluding qualified health plan expenses) for the employee retention credit (Form 941, Part 3, line 21, or, if corrected, Form 941-X, line 30, column 1) 2a _____

2b Qualified health plan expenses allocable to qualified wages for the employee retention credit (Form 941, Part 3, line 22, or, if corrected, Form 941-X, line 31a, column 1) 2b _____

2c Qualified wages (excluding qualified health plan expenses) paid March 13, 2020, through March 31, 2020, for the employee retention credit (Form 941, Part 3, line 23, or, if corrected, Form 941-X, line 33a, column 1). Enter an amount here only if filing a Form 941-X to correct the second quarter of 2020 2c _____

2d Qualified health plan expenses allocable to qualified wages paid March 13, 2020, through March 31, 2020, for the employee retention credit (Form 941, Part 3, line 25, or, if corrected, Form 941-X, line 34, column 1). Enter an amount here only if filing a Form 941-X to correct the second quarter of 2020 2d _____

2e Add lines 2a, 2b, 2c, and 2d 2e _____

2f **Retention credit.** If you're correcting the second, third, or fourth quarter of 2020, multiply line 2e by 50% (0.50). If you're correcting the first or second quarter of 2021, multiply line 2e by 70% (0.70) 2f _____

2g Enter the amount of the employer share of social security tax from Step 1, line 1a, or, if applicable, Step 1, line 1n 2g _____

2h Enter the amount of the nonrefundable portion of the credit for qualified sick and family leave wages for leave taken after March 31, 2020, and before April 1, 2021 (this amount may come from Worksheet 1, Step 2, line 2j, in these instructions if you're correcting that credit for the quarter or you may need to enter the credit claimed on your original Form 941 for the quarter) 2h _____

2i Subtract line 2h from line 2g 2i _____

2j **Nonrefundable portion of employee retention credit.** Enter the smaller of line 2f or line 2i. Enter this amount on Form 941-X, line 18a, column 1 2j _____

2k **Refundable portion of employee retention credit.** Subtract line 2j from line 2f and enter this amount on Form 941-X, line 26a, column 1 2k _____

YOU WILL NEED THE ORIGINAL FORM 941 TO COMPLETE THE WORKSHEET

AND YOU WILL NEED TO COMPLETE THIS WORKSHEET BEFORE FILLING IN THE AMOUNTS ON PAGES 2-4 ON FORM 941-X

NEEDS TO MATCH LINE 27 OF FORM 941-X

**ERTC FROM
QUARTERS 3 & 4 IN 2021**

**YOU WILL NEED THE
ORIGINAL FORM 941 TO
COMPLETE THE
WORKSHEET**

AND

**YOU WILL NEED TO
COMPLETE THIS
WORKSHEET BEFORE
FILLING IN THE
AMOUNTS
ON PAGES 2-4 ON
FORM 941-X**

Worksheet 4. Adjusted Employee Retention Credit for Qualified Wages Paid After June 30, 2021, and Before January 1, 2022

Keep for Your Records 

You must use this worksheet if you claimed the employee retention credit for qualified wages paid after June 30, 2021, and before January 1, 2022, on your original Form 941 and you correct any amounts used to figure the employee retention credit for qualified wages paid after June 30, 2021, and before January 1, 2022. You'll also use this worksheet to figure this credit if you're claiming it for the first time on Form 941-X. If you're a third-party payer, you must complete this worksheet for each client for which it is applicable, on a client-by-client basis.

Step 1. Determine the corrected employer share of Medicare tax

1a If you completed Worksheet 3 to claim a credit for qualified sick and family leave wages for leave taken after March 31, 2021, and before October 1, 2021, enter the amount from Worksheet 3, Step 1, line 1f, and go to Step 2. If you're not claiming a credit for qualified sick and family leave wages for leave taken after March 31, 2021, and before October 1, 2021, continue by completing lines 1b–1g below and then go to Step 2 1a _____

1b Enter the amount of Medicare wages from Form 941, Part 1, line 5c, column 1, or, if corrected, the amount from Form 941-X, line 12, column 1 1b _____

1c Multiply line 1b by 1.45% (0.0145) 1c _____

1d If you're a third-party payer of sick pay that isn't an agent and you're claiming credits for amounts paid to your employees, enter the employer share of Medicare tax included on Form 941, Part 1, line 8, or, if corrected, the amount of the employer share of Medicare tax on sick pay that you included on Form 941-X, line 15, column 1 (enter as a **negative** number) 1d _____

1e Employer share of Medicare tax included on Form 941-X, line 21, column 4 1e _____

1f If you received a Section 3121(q) Notice and Demand during the quarter, enter the amount of the employer share of Medicare tax from the notice 1f _____

1g **Employer share of Medicare tax.** Combine lines 1c, 1d, 1e, and 1f 1g _____

Step 2. Figure the employee retention credit

Caution: You must be a recovery startup business to claim the employee retention credit for qualified wages paid after September 30, 2021, and before January 1, 2022 (fourth quarter 2021). The total amount included on lines 2a and 2b can't exceed \$10,000 per employee each quarter.

2a Qualified wages (excluding qualified health plan expenses) for the employee retention credit (Form 941, Part 3, line 21, or, if corrected, Form 941-X, line 30, column 1) 2a _____

2b Qualified health plan expenses allocable to qualified wages for the employee retention credit (Form 941, Part 3, line 22, or, if corrected, Form 941-X, line 31a, column 1) 2b _____

2c Add lines 2a and 2b 2c _____

2d **Retention credit.** Multiply line 2c by 70% (0.70). If you qualify for the employee retention credit **solely** because your business is a recovery startup business, don't enter more than \$50,000 per quarter 2d _____

2e Enter the amount of the employer share of Medicare tax from Step 1, line 1a, or, if applicable, Step 1, line 1g 2e _____

2f Enter the amount of the nonrefundable portion of the credit for qualified sick and family leave wages for leave taken after March 31, 2021, and before October 1, 2021 (this amount may come from Worksheet 3, Step 2, line 2r, in these instructions if you're correcting that credit or you may need to enter the credit claimed on your original Form 941) 2f _____

2g Subtract line 2f from line 2e 2g _____

2h **Nonrefundable portion of employee retention credit.** Enter the smaller of line 2d or line 2g. Enter this amount on Form 941-X, line 18a, column 1 2h _____

2i **Refundable portion of employee retention credit.** Subtract line 2h from line 2d and enter this amount on Form 941-X, line 26a, column 1 2i _____

**NEEDS TO MATCH LINE
27 OF FORM 941-X**

Form **941-X: Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund**
 Department of the Treasury — Internal Revenue Service
 OMB No. 1545-0029

Employer identification number (EIN) -

Name (not your trade name)

Trade name (if any)

Address

Number Street Suite or room number

City State ZIP code

Foreign country name Foreign province/county Foreign postal code

Read the separate instructions before completing this form. Use this form to correct errors you made on Form 941 or 941-SS. Use a separate Form 941-X for each quarter that needs correction. Type or print within the boxes. You **MUST** complete all five pages. Don't attach this form to Form 941 or 941-SS unless you're reclassifying workers; see the instructions for line 42.

Part 1: Select **ONLY** one process. See page 6 for additional guidance, including information on how to treat employment tax credits and social security tax deferrals.

- 1. Adjusted employment tax return.** Check this box if you underreported tax amounts. Also check this box if you overreported tax amounts and you would like to use the adjustment process to correct the errors. You must check this box if you're correcting both underreported and overreported tax amounts on this form. The amount shown on line 27, if less than zero, may only be applied as a credit to your Form 941, Form 941-SS, or Form 944 for the tax period in which you're filing this form.
- 2. Claim.** Check this box if you overreported tax amounts only and you would like to use the claim process to ask for a refund or abatement of the amount shown on line 27. Don't check this box if you're correcting ANY underreported tax amounts on this form.

Return You're Correcting...

Check the type of return you're correcting.

- 941**
- 941-SS**

Check the **ONE** quarter you're correcting.

- 1:** January, February, March
- 2:** April, May, June
- 3:** July, August, September
- 4:** October, November, December

Enter the calendar year of the quarter you're correcting.

(YYYY)

Enter the date you discovered errors.

/ /
 (MM / DD / YYYY)

YOU DO NOT COMPLETE BOTH 1 & 2.

COMPLETE 1 OR 2.

CARRY CREDIT TO NEXT QUARTER

REFUND

OVERREPORTED MEANS YOU OVERPAID YOUR TAXES PREVIOUSLY & NOW YOU ARE CLAIMING A CREDIT TO REDUCE DOWN YOUR TAXES DUE

CHECK BOX 3

Part 2: Complete the certifications.

3. I certify that I've filed or will file Forms W-2, Wage and Tax Statement, or Forms W-2c, Corrected Wage and Tax Statement, as required.

Note: If you're correcting underreported tax amounts only, go to Part 3 on page 2 and skip lines 4 and 5. If you're correcting overreported tax amounts, for purposes of the certifications on lines 4 and 5, Medicare tax doesn't include Additional Medicare Tax. Form 941-X can't be used to correct overreported amounts of Additional Medicare Tax unless the amounts weren't withheld from employee wages or an adjustment is being made for the current year.

4. If you checked line 1 because you're adjusting overreported federal income tax, social security tax, Medicare tax, or Additional Medicare Tax, check all that apply. You must check at least one box.

I certify that:

- a. I repaid or reimbursed each affected employee for the overcollected federal income tax or Additional Medicare Tax for the current year and the overcollected social security tax and Medicare tax for current and prior years. For adjustments of employee social security tax and Medicare tax overcollected in prior years, I have a written statement from each affected employee stating that he or she hasn't claimed (or the claim was rejected) and won't claim a refund or credit for the overcollection.
- b. The adjustments of social security tax and Medicare tax are for the employer's share only. I couldn't find the affected employees or each affected employee didn't give me a written statement that he or she hasn't claimed (or the claim was rejected) and won't claim a refund or credit for the overcollection.
- c. The adjustment is for federal income tax, social security tax, Medicare tax, or Additional Medicare Tax that I didn't withhold from employee wages.

5. If you checked line 2 because you're claiming a refund or abatement of overreported federal income tax, social security tax, Medicare tax, or Additional Medicare Tax, check all that apply. You must check at least one box.

I certify that:

- a. I repaid or reimbursed each affected employee for the overcollected social security tax and Medicare tax. For claims of employee social security tax and Medicare tax overcollected in prior years, I have a written statement from each affected employee stating that he or she hasn't claimed (or the claim was rejected) and won't claim a refund or credit for the overcollection.
- b. I have a written consent from each affected employee stating that I may file this claim for the employee's share of social security tax and Medicare tax. For refunds of employee social security tax and Medicare tax overcollected in prior years, I also have a written statement from each affected employee stating that he or she hasn't claimed (or the claim was rejected) and won't claim a refund or credit for the overcollection.
- c. The claim for social security tax and Medicare tax is for the employer's share only. I couldn't find the affected employees, or each affected employee didn't give me a written consent to file a claim for the employee's share of social security tax and Medicare tax, or each affected employee didn't give me a written statement that he or she hasn't claimed (or the claim was rejected) and won't claim a refund or credit for the overcollection.
- d. The claim is for federal income tax, social security tax, Medicare tax, or Additional Medicare Tax that I didn't withhold from employee wages.

IF YOU CHECKED
BOX 1 IN PART 1,
CHECK BOX 4c

YOU DO NOT COMPLETE
BOTH 4 & 5.

COMPLETE 4 OR 5.





IF YOU CHECKED
BOX 2 IN PART 1,
CHECK BOX 5d

For Paperwork Reduction Act Notice, see the separate instructions. www.irs.gov/Form941X

Cat. No. 17025J

Form **941-X**

AT THE TOP OF EACH PAGE OF FORM 941-X (AFTER PAGE 1)
YOU MUST COMPLETE THIS INFORMATION

 Name <i>(not your trade name)</i>	 Employer identification number (EIN)	 Correcting quarter (1, 2, 3, 4)
		 Correcting calendar year (YYYY)

Part 3: Enter the corrections for this quarter. If any line doesn't apply, leave it blank.

	Column 1 Total corrected amount (for ALL employees)	Column 2 Amount originally reported or as previously corrected (for ALL employees)	Column 3 Difference (If this amount is a negative number, use a minus sign.)	Column 4 Tax correction
6. Wages, tips, and other compensation (Form 941, line 2)				Use the amount in Column 1 when you prepare your Forms W-2 or Forms W-2c.
7. Federal income tax withheld from wages, tips, and other compensation (Form 941, line 3)				Copy Column 3 here ▶
8. Taxable social security wages (Form 941 or 941-SS, line 5a, Column 1)				$\times 0.124^*$ =
9. Qualified sick leave wages* (Form 941 or 941-SS, line 5a(i), Column 1)				$\times 0.062$ =
10. Qualified family leave wages* (Form 941 or 941-SS, line 5a(ii), Column 1)				$\times 0.062$ =
11. Taxable social security tips (Form 941 or 941-SS, line 5b, Column 1)				$\times 0.124^*$ =
12. Taxable Medicare wages & tips (Form 941 or 941-SS, line 5c, Column 1)				$\times 0.029^*$ =
13. Taxable wages & tips subject to Additional Medicare Tax withholding (Form 941 or 941-SS, line 5d)				$\times 0.009^*$ =
14. Section 3121(q) Notice and Demand—Tax due on unreported tips (Form 941 or 941-SS, line 5f)				Copy Column 3 here ▶
15. Tax adjustments (Form 941 or 941-SS, lines 7 through 9)				Copy Column 3 here ▶
16. Qualified small business payroll tax credit for increasing research activities (Form 941 or 941-SS, line 11a; you must attach Form 8974)				See instructions
17. Nonrefundable portion of credit for qualified sick and family leave wages for leave taken before April 1, 2021 (Form 941 or 941-SS, line 11b)				See instructions
18a. Nonrefundable portion of employee retention credit (Form 941 or 941-SS, line 11c)				See instructions
18b. Nonrefundable portion of credit for qualified sick and family leave wages for leave taken after March 31, 2021 (Form 941 or 941-SS, line 11d)				See instructions
18c. Nonrefundable portion of COBRA premium assistance credit (Form 941 or 941-SS, line 11e)				See instructions
18d. Number of individuals provided COBRA premium assistance (Form 941 or 941-SS, line 11f)				
19. Special addition to wages for federal income tax				See instructions
20. Special addition to wages for social security taxes				See instructions
21. Special addition to wages for Medicare taxes				See instructions



Positive # Zero Positive # Negative #

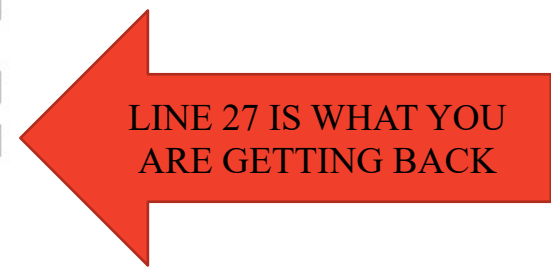
Part 3: Enter the corrections for this quarter. If any line doesn't apply, leave it blank. (continued)

	Column 1 Total corrected amount (for ALL employees)	Column 2 Amount originally reported or as previously corrected (for ALL employees)	Column 3 Difference (If this amount is a negative number, use a minus sign.)	Column 4 Tax correction
22. Special addition to wages for Additional Medicare Tax				
23. Combine the amounts on lines 7 through 22 of Column 4				
24. Deferred amount of social security tax* (Form 941 or 941-SS, line 13b)				
25. Refundable portion of credit for qualified sick and family leave wages for leave taken before April 1, 2021 (Form 941 or 941-SS, line 13c)				
26a. Refundable portion of employee retention credit (Form 941 or 941-SS, line 13d)				
26b. Refundable portion of credit for qualified sick and family leave wages for leave taken after March 31, 2021 (Form 941 or 941-SS, line 13e)				
26c. Refundable portion of COBRA premium assistance credit (Form 941 or 941-SS, line 13f)				
27. Total. Combine the amounts on lines 23 through 26c of Column 4				
<p>If line 27 is less than zero:</p> <ul style="list-style-type: none"> If you checked line 1, this is the amount you want applied as a credit to your Form 941 or 941-SS for the tax period in which you're filing this form. (If you're currently filing a Form 944, Employer's ANNUAL Federal Tax Return, see the instructions.) If you checked line 2, this is the amount you want refunded or abated. <p>If line 27 is more than zero, this is the amount you owe. Pay this amount by the time you file this return. For information on how to pay, see <i>Amount you owe</i> in the instructions.</p>				
28. Qualified health plan expenses allocable to qualified sick leave wages for leave taken before April 1, 2021 (Form 941 or 941-SS, line 19)				
29. Qualified health plan expenses allocable to qualified family leave wages for leave taken before April 1, 2021 (Form 941 or 941-SS, line 20)				
30. Qualified wages for the employee retention credit (Form 941 or 941-SS, line 21)				
31a. Qualified health plan expenses for the employee retention credit (Form 941 or 941-SS, line 22)				
31b. Check here if you're eligible for the employee retention credit in the third or fourth quarter of 2021 solely because your business is a recovery startup business				<input type="checkbox"/>
32. Credit from Form 5884-C, line 11, for this quarter* (Form 941 or 941-SS, line 23)				

JUST CARRYING THE AMOUNT DOWN FROM PAGE 2



Positive # ZERO Positive # Negative #





LINE 27 IS WHAT YOU ARE GETTING BACK



Positive # ZERO Positive #

Name (not your trade name)	Employer identification number (EIN)	Correcting quarter (1, 2, 3, 4)
		Correcting calendar year (YYYY)

Part 3: Enter the corrections for this quarter. If any line doesn't apply, leave it blank. (continued)

	Column 1 Total corrected amount (for ALL employees) <i>Positive #</i>	Column 2 Amount originally reported or as previously corrected (for ALL employees) <i>ZERO</i>	Column 3 Difference (If this amount is a negative number, use a minus sign.) <i>Positive #</i>
 33a. Qualified wages paid March 13 through March 31, 2020, for the employee retention credit* (Form 941 or 941-SS, line 24) <small>* Use line 33a to correct only the second quarter of 2020.</small>	<input type="text"/>	<input type="text"/>	<input type="text"/>
33b. Deferred amount of the employee share of social security tax included on Form 941 or 941-SS, line 13b* (Form 941 or 941-SS, line 24) <small>* Use line 33b to correct only the third and fourth quarters of 2020.</small>	<input type="text"/>	<input type="text"/>	<input type="text"/>
 34. Qualified health plan expenses allocable to wages reported on Form 941 or 941-SS, line 24* (Form 941 or 941-SS, line 25) <small>* Use line 34 to correct only the second quarter of 2020.</small>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Caution: Lines 35–40 apply only to quarters beginning after March 31, 2021.			
35. Qualified sick leave wages for leave taken after March 31, 2021 (Form 941 or 941-SS, line 23)	<input type="text"/>	<input type="text"/>	<input type="text"/>
36. Qualified health plan expenses allocable to qualified sick leave wages for leave taken after March 31, 2021 (Form 941 or 941-SS, line 24)	<input type="text"/>	<input type="text"/>	<input type="text"/>
37. Amounts under certain collectively bargained agreements allocable to qualified sick leave wages for leave taken after March 31, 2021 (Form 941 or 941-SS, line 25)	<input type="text"/>	<input type="text"/>	<input type="text"/>
38. Qualified family leave wages for leave taken after March 31, 2021 (Form 941 or 941-SS, line 26)	<input type="text"/>	<input type="text"/>	<input type="text"/>
39. Qualified health plan expenses allocable to qualified family leave wages for leave taken after March 31, 2021 (Form 941 or 941-SS, line 27)	<input type="text"/>	<input type="text"/>	<input type="text"/>
40. Amounts under certain collectively bargained agreements allocable to qualified family leave wages for leave taken after March 31, 2021 (Form 941 or 941-SS, line 28)	<input type="text"/>	<input type="text"/>	<input type="text"/>

Name (not your trade name)	Employer identification number (EIN)	Correcting quarter (1, 2, 3, 4)
		Correcting calendar year (YYYY)

Part 4: Explain your corrections for this quarter.

- 41. Check here if any corrections you entered on a line include both underreported and overreported amounts. Explain both your underreported and overreported amounts on line 43.
- 42. Check here if any corrections involve reclassified workers. Explain on line 43.
- 43. You must give us a detailed explanation of how you determined your corrections. See the instructions.



AMENDING RETURN TO REPORT EMPLOYEE RETENTION TAX CREDIT NOT PREVIOUSLY REPORTED.
PER FORM 941-X INSTRUCTIONS

Treasury regulations require you to explain in detail the grounds and facts relied upon to support each correction. You must describe the events that caused the overreported amounts. Simple statements are no longer acceptable, and may delay processing your Form 941-X because the IRS may need to ask for a more complete explanation. You may report the information in paragraph form.

Provide the following information in your explanation for each correction

Form 941-X line number(s) affected: _____

Date you discovered the error: _____

Difference (amount of the error): _____

Cause of the error: _____

EXAMPLE ONLY: YOU MUST PUT AN EXPLANATION THAT IS BASED ON "YOUR" CIRCUMSTANCES AND AMOUNTS
NOTE: IF YOU HAVE OTHER LINE ITEMS THAT CHANGED, LIST THOSE LINE ITEMS AND AMOUNTS. AGAIN, THIS IS AN EXAMPLE

The differences in column 3 of the following line items were discovered on 8/8/23 when it was learned this business qualified for the Employee Retention Credit. This applies to the differences on line 18a column 3 of \$11,649.56, line 26a column 3 of \$60,621.03 and line 30 column 3 of \$103,243.70. These corrections properly report the Employee Retention Credit the business qualifies for that were previously not reported.

(1) EXAMPLE EXPLANATION CONTINUED "IF" QUALIFIER IS BASED ON REDUCTION OF GROSS RECEIPTS:
This business qualifies for the Employee Retention Credit as the gross receipts for the quarter were down enough to qualify.

YOU WILL NOT LIST BOTH EXPLANATION (1) AND (2). YOU WILL LIST ONLY ONE OF THESE EXPLANATIONS (1) OR (2).

(2) EXAMPLE EXPLANATION CONTINUED "IF" QUALIFIER IS BASED ON A SHUT-DOWN DUE TO GOVERNMENTAL ORDER:
This business qualifies as it was closed due to governmental order from (list your dates) Example: January 18, 2021 to March 24, 2021

Part 5: Sign here. You must complete all five pages of this form and sign it.

Under penalties of perjury, I declare that I have filed an original Form 941 or Form 941-SS and that I have examined this adjusted return or claim, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.



X Sign your name here

Print your name here

Print your title here

Date / /

Best daytime phone



Paid Preparer Use Only

Check if you're self-employed

Preparer's name PTIN

Preparer's signature Date / /

Firm's name (or yours if self-employed) EIN

Address Phone

City State ZIP code





STEP BY STEP

- WORKSHEET 2
- WORKSHEET 4
- FORM 941-X

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

YOU WILL COMPLETE WORKSHEET 2 **OR** 4 BEFORE COMPLETING FORM 941-X

- WORKSHEET 2 IS FOR ALL QUARTERS IN 2020, AND QUARTERS 1 & 2 IN 2021
- WORKSHEET 4 IS FOR QUARTERS 3 & 4 IN 2021
- WORKSHEET 2 & 4 ARE "FOR YOUR RECORDS"
- THEY ARE THE LAST PAGES OF THE 941-X INSTRUCTIONS
- **YOU WILL NEED THE ORIGINAL FORM 941 FOR THE APPLICABLE QUARTER**
- **DO NOT MAIL EITHER OF THESE WORKSHEETS WITH THE FORM 941-X**

HAVE THESE PAGES HANDY
WHEN YOU ARE PREPARING THE
FORM TO FOLLOW THE STEPS
WITH YOUR NUMBERS

FILING DEADLINE FOR ERTC WITH FORM 941-X 3 YEARS FROM ORIGINAL FILING DUE DATE

The IRS states the original due date is considered April 15th of the succeeding year in which the Form 941 relates to.

Read Form 941-X instructions for additional information.

ANY QUARTER IN 2020: ORIGINAL DUE DATE 4/15/21

941-X DUE DATE 4/15/24

ANY QUARTER IN 2021: ORIGINAL DUE DATE 4/15/22

941-X DUE DATE 4/15/25

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

ITEMS TO NOTE

WORKSHEET 2 (Only Quarters 2, 3 & 4 for 2020 and Quarters 1 & 2 for 2021)

Step 1

If you are only filing Form 941-X for ERTC, and NOT filing for any other employer tax credits (and not correcting a previously filed Form 941-X)

- Line 1a is not applicable (enter zero)
- Line 1b is from the **original** Form 941, Part 1, line 5a, column 1
- Line 1c is for employers that report “tips” (like a restaurant), and if so, this is from Form 941, Part 1, line 5b, column 1
- Line 1d add lines 1b – 1c
- Line 1e multiply line 1b by 6.2% (0.062)
- Line 1g is not applicable (enter zero)
- Line 1h is not applicable (enter zero)
- Line 1i add lines 1e– 1h (this should be the same as line 1e)
- Line 1j is from original Form 941, part 3, line 23 (unless you previously reported the sick leave credit, this will be zero)
- Line 1k not applicable (enter zero)
- Line 1l not applicable (enter zero)
- Line 1m add lines 1j – 1l (this should be the same line 1j)
- Line 1n subtract line 1m from line 1i (most likely this is the same as line 1i)

HAVE THESE PAGES HANDY
WHEN YOU ARE PREPARING THE
FORM TO FOLLOW THE STEPS
WITH YOUR NUMBERS

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

ITEMS TO NOTE

WORKSHEET 2 (Only Quarters 2, 3 & 4 for 2020 and Quarters 1 & 2 for 2021)

Step 2

- Line 2a This is the amount of qualified wages that you have determined qualify for ERTC for the quarter
- Line 2b This is the amount of qualified health plan expenses for the quarter
 - For 2021:
 - For each employee, for the quarter, the total of 2a and 2b cannot be more than \$10,000 can be included
 - For 2020:
 - For each employee, for all of 2020, the total of 2a and 2b cannot be more than \$10,000 can be included
- Line 2c Only applies if filing for ERTC on qualified wages 3/13/2020 – 3/31/2020 (if not, enter zero)
- Line 2d Only applies if filing for ERTC on qualified health plan expenses 3/13/2020 – 3/31/2020 (if not, enter zero)
 - 2020 Only
 - For these amounts, they have to be taken into consideration when determining line 2a and 2b
- Line 2e add lines 2a – 2d
- Line 2f **CAREFUL WITH YOUR CALCULATION**
 - If calculating the credit for any quarters in 2020, multiply line 2e by 50%
 - If calculating the credit for quarters 1 & 2 in 2021, multiply line 2e by 70%
- You should easily be able to simply follow the instructions on the Worksheet, line by line

HAVE THESE PAGES HANDY
WHEN YOU ARE PREPARING THE
FORM TO FOLLOW THE STEPS
WITH YOUR NUMBERS

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

ITEMS TO NOTE

WORKSHEET 4 (Only Quarters 3 & 4 for 2021)

Step 1

- If you are only filing Form 941-X for ERTC, and NOT filing for any other employer tax credits (and not correcting a previously filed Form 941-X) Line 1a is not applicable (enter zero)
- Line 1b is from Form 941, Part 1, line 5c, column 1
- Line 1c multiply line 1b by 1.45% (0.0145)
- Line 1d is not applicable (enter zero)
- Line 1e is not applicable (enter zero)
- Line 1f is not applicable (enter zero)
- Line 1g is the same as line 1c

HAVE THESE PAGES HANDY
WHEN YOU ARE PREPARING THE
FORM TO FOLLOW THE STEPS
WITH YOUR NUMBERS

Step 2

- Line 2a This is the amount of qualified wages that you have determined qualify for ERTC
- Line 2b This is the amount of qualified health plan expenses
 - For each employee, for the quarter, the total of 2a and 2b cannot be more than \$10,000 can be included
- Line 2f not applicable (enter zero)
- You should easily be able to simply follow the instructions on the Worksheet, line by line

STEPS TO COMPLETE FORM 941-X (APRIL 2023 VERSION)

ALL STEPS LISTED ARE ONLY RELATED TO FILING FORM 941-X TO REPORT **ONLY** ERTC FOR THE APPLICABLE QUARTER

PAGE 1

- Fill in the required details on the page header, such as the EIN number, quarter, company name, and year.
- Find which payroll quarters in 2020 and 2021 your business was qualified for.
- For each quarter you prepare for, gather your original Form 941, payroll logs, and a blank 941-X.
- Share information about your company. From the form, choose (941), as well as the quarter and year.
- For the quarter, select the appropriate calendar year.
- Choose the date when you first detected the errors on your 941 Form.

PAGE 1, PART 1

- Choose
 1. Adjustment employment tax return: This applies the 941-X credit to a future Form 941 as a credit
 2. Claim: Requests a refund be mailed to you. Can only be a check sent to your business.

PAGE 1, PART 2

- Check box 3
 - If you checked option 1 in Part 1, check box 4c
 - If you checked option 2 in Part 1, check box 5d
 - **YOU COMPLETE EITHER QUESTION 4 OR 5 (NOT BOTH). DO NOT COMPLETE BOTH 4 & 5.**

HAVE THESE PAGES HANDY
WHEN YOU ARE PREPARING THE
FORM TO FOLLOW THE STEPS
WITH YOUR NUMBERS

NOTE: Under-reported employment tax credits are treated as “over-reported tax”

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

GENERAL NOTES FOR PAGES 2, 3 AND 4 OF FORM 941-X

- Only complete the lines that applicable to the ERTC
- You do NOT complete any lines where the amounts did NOT change from the original Form 941
- You must enter cents and not round amounts.
- If an amount is a negative, you enter a minus sign (unless software only uses parentheses)
- Omit dollar signs
- Staple all sheets together in upper-left corner
- The amounts will come from Worksheet 2 and Worksheet 4, both found with the 941-X instructions
- NOTE: Line 27 on Page 3 is the sum total of your ERTC, so don't forget to complete this.
- GET THIS RIGHT
 - Column 3 you enter as a positive amount
 - Column 4 you enter as a **negative** amount
 - If you do not show column 4 as a negative, the end result on line 27 will be you owing tax with Form 941-X

HAVE THESE PAGES HANDY
WHEN YOU ARE PREPARING THE
FORM TO FOLLOW THE STEPS
WITH YOUR NUMBERS

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

PAGES 2-4

- Complete all 4 columns (even the zero, must include 0.00)

- Column 1 amount comes from either

- Worksheet 2
- Worksheet 4

• IF YOU HAVE NEVER REPORTED ERTC BEFORE ON THE ORIGINAL FORM 941

- **Column 2 is zero** (enter as 0.00)

- **Column 3** you enter as a **positive amount** the same amount as column 1

- **Column 4** you enter as a **negative amount** the same amount as column 1

- If you do NOT properly do this, the result on line 27 will be incorrect, possibly resulting in you owing tax with Form 941-X

• CAUTION IF YOU PREVIOUSLY REPORTED ERTC ON THE ORIGINAL FORM 941

- FOR MOST OF YOU, YOU DID NOT DO THIS, IN WHICH CASE, THIS DOESN'T APPLY

- IF THIS IS THE FIRST TIME YOU ARE REPORTING ERTC, THIS DOES NOT APPLY

- If you actually, previously reported ERTC on the original Form 941, then column 2 is what you previously reported on Form 941, and you will have to do the math for columns 3 and 4.

- If you reported too much ERTC on the original Form 941, then column 3 would be a negative and column 4 would be a positive, and you will most likely OWE money with Form 941-X

HAVE THESE PAGES HANDY
WHEN YOU ARE PREPARING THE
FORM TO FOLLOW THE STEPS
WITH YOUR NUMBERS

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

THIS ASSUMES YOU HAVE NOT PREVIOUSLY REPORTED ERTC TO THE IRS FOR THE APPLICABLE QUARTER

PAGE 2, Part 3

- You only need to complete **Line 18a** (Nonrefundable portion of ERTC)
 - Complete all 4 columns (even the zero, must include 0.00)
- Column 1 amount comes from either
 - Worksheet 2, Step 2, line 2j
 - or
 - Worksheet 4, Step 2, line 2h
- **Column 2 is zero** (enter as 0.00)
- **Column 3** you enter as a **positive amount** the same amount as column 1
- **Column 4** you enter as a **negative amount** the same amount as column 1 (enter with a minus sign)

HAVE THESE PAGES HANDY
WHEN YOU ARE PREPARING THE
FORM TO FOLLOW THE STEPS
WITH YOUR NUMBERS

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

THIS ASSUMES YOU HAVE NOT PREVIOUSLY REPORTED ERTC TO THE IRS FOR THE APPLICABLE QUARTER

PAGE 3, Part 3

•Line 23

- Only column 4 is available to complete
- This will be the sums of lines 7 through 22
 - Which would be what is line 18a, column 4
 - Enter this a negative with a minus sign

•Line 26a (Refundable portion of ERTC)

- Complete all 4 columns (even the zero, must include 0.00)

•Column 1 amount comes from either

- Worksheet 2, Step 2, line 2k

or

- Worksheet 4, Step 2, line 2i

•Column 2 is zero (enter as 0.00)

•Column 3 you enter as a positive amount the same amount as column 1

•Column 4 you enter as a negative amount the same amount as column 1 (enter with a minus sign)

HAVE THESE PAGES HANDY
WHEN YOU ARE PREPARING THE
FORM TO FOLLOW THE STEPS
WITH YOUR NUMBERS

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

THIS ASSUMES YOU HAVE NOT PREVIOUSLY REPORTED ERTC TO THE IRS FOR THE APPLICABLE QUARTER

PAGE 3, Part 3

- **Line 27 (Total) THIS IS A NEGATIVE NUMBER WITH A MINUS SIGN**
 - Only column 4 is available to complete
 - This will be the sums of lines 23 through 26c
 - Which would be the total of line 18a and 26a, both from column 4
 - **Enter this total a negative with a minus sign**
 - This is what you are getting for the ERTC for the applicable quarter
 - This should match
 - Worksheet 2, Step 2, line 2f
- **or**
- Worksheet 4, Step 2, line 2d

HAVE THESE PAGES HANDY
WHEN YOU ARE PREPARING THE
FORM TO FOLLOW THE STEPS
WITH YOUR NUMBERS

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

THIS ASSUMES YOU HAVE NOT PREVIOUSLY REPORTED ERTC TO THE IRS FOR THE APPLICABLE QUARTER

PAGE 3, Part 3

HAVE THESE PAGES HANDY
WHEN YOU ARE PREPARING THE
FORM TO FOLLOW THE STEPS
WITH YOUR NUMBERS

- **Line 30** (Qualified Wages for ERTC)
 - Worksheet 2, Step 2, line 2a
 - or
 - Worksheet 4, Step 2, line 2a
- **Line 31a** (Qualified health plan expenses allocable to wages for ERTC)
 - Worksheet 2, Step 2, line 2b
 - or
 - Worksheet 4, Step 2, line 2a
- **Line 31b** RECOVERY START UP BUSINESS ONLY (DOES NOT APPLY TO MOST)
 - ONLY applies to business that are recovery start up business, and if so, check this box if filing Form 941-X for 3rd or 4th quarter 2021 (If you were in business before 2/15/2020, you cannot be a recovery start up business.) This limits the overall ERTC to \$50,000 for the quarter.

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

THIS ASSUMES YOU HAVE NOT PREVIOUSLY REPORTED ERTC TO THE IRS FOR THE APPLICABLE QUARTER

PAGE 4, Part 3

ONLY APPLIES TO THOSE FILING 941-X FOR 2ND QUARTER 2020

AND ONLY APPLIES TO THOSE FILING FOR ERTC FOR QUALIFIED WAGES BETWEEN 3/13/2020 – 3/31/2020

- **Line 33a** (Qualified Wages for ERTC BETWEEN 3/13/2020 – 3/31/2020)
 - Worksheet 2, Step 2, line 2c
- **Line 34** (Qualified health plan expenses allocable to wages for ERTC BETWEEN 3/13/2020 – 3/31/2020)
 - Worksheet 2, Step 2, line 2d

HAVE THESE PAGES HANDY
WHEN YOU ARE PREPARING THE
FORM TO FOLLOW THE STEPS
WITH YOUR NUMBERS

STEPS TO COMPLETE FORM 941-X FOR ERTC (APRIL 2023 VERSION)

THIS ASSUMES YOU HAVE NOT PREVIOUSLY REPORTED ERTC TO THE IRS FOR THE APPLICABLE QUARTER

PAGE 5, Part 4

- Complete line 43 with a detailed explanation. SEE NEXT SLIDE FOR EXAMPLE & FURTHER INFORMATION
- Your refund check should be mailed to the contact shown on your account.
- As needed, read and complete Part 5, including signing and dating it the date you are signing it.
- **Mail Pages 1 – 5 of Form 941-X**
 - Staple in upper left corner
 - Where do you mail it? See page 6 of the 941-X instructions
 - Based on what state your business is in, mail to applicable address
 - If you are in multiple states, mail to the applicable address based on the state you report on Form 941

PAGE 6

- Don't worry about this

HAVE THESE PAGES HANDY
WHEN YOU ARE PREPARING THE
FORM TO FOLLOW THE STEPS
WITH YOUR NUMBERS

FORM 941-X
PAGE 5
LINE 43

AMENDING RETURN TO REPORT EMPLOYEE RETENTION TAX CREDIT NOT PREVIOUSLY REPORTED.

PER FORM 941-X INSTRUCTIONS

Treasury regulations require you to explain in detail the grounds and facts relied upon to support each correction.

You must describe the events that caused the overreported amounts. Simple statements are no longer acceptable.

and may delay processing your Form 941-X because the IRS may need to ask for a more complete explanation.

You may report the information in paragraph form.

Provide the following information in your explanation for each correction

Form 941-X line number(s) affected.

Date you discovered the error.

Difference (amount of the error).

Cause of the error.

EXAMPLE ONLY: YOU MUST PUT AN EXPLANATION THAT IS BASED ON "YOUR" CIRCUMSTANCES AND AMOUNTS

NOTE: IF YOU HAVE OTHER LINE ITEMS THAT CHANGED, LIST THOSE LINE ITEMS AND AMOUNTS. AGAIN, THIS IS AN EXAMPLE.

IN THE
EXAMPLE:

THE DATE,
LINES &
AMOUNTS
COME FROM
THE FORM 941-X
YOU ARE
ACTUALLY
FILING.

The differences in column 3 of the following line items were discovered on 8/8/23 when it was learned this business qualified for the Employee Retention Credit. This applies to the differences on line 18a column 3 of \$11,649.56, line 26a column 3 of \$60,621.03 and line 30 column 3 of \$103,243.70. These corrections properly report the Employee Retention Credit the business qualifies for that were previously not reported.

(1) EXAMPLE EXPLANATION CONTINUED "IF" QUALIFIER IS BASED ON REDUCTION OF GROSS RECEIPTS:

This business qualifies for the Employee Retention Credit as the gross receipts for the quarter were down enough to qualify.

YOU WILL NOT LIST BOTH EXPLANATION (1) AND (2). YOU WILL LIST ONLY ONE OF THESE EXPLANATIONS (1) OR (2).

(2) EXAMPLE EXPLANATION CONTINUED "IF" QUALIFIER IS BASED ON A SHUT-DOWN DUE TO GOVERNMENTAL ORDER:

This business qualifies as it was closed due to governmental order from (list your dates) Example: January 18, 2021 to March 24, 2021

VIDEO 20

ERTC &

**Paycheck Protection Program
Borrower Application Form**

Check One C-Corp S-Corp LLC
able self-employed individual
(9) veterans organization
(of Small Business Act) Other

Average Monthly Payroll: \$ _____

x 2.5 + EIDL, Net of
Advance (if Applicable)
Equals Loan Request:

Purpose of the loan
(check more than one): Payroll Lease / Mortgage Interest



TERMINOLOGY

PPP

VS.

ERTC

**“WAGES”
FOR ERTC PURPOSES**

**INCLUDE
PAYROLL**

AND

**QUALIFIED HEALTH INSURANCE
(NET OF ANY AMOUNT PAID BY THE
EMPLOYEE)**

**“WAGES”
FOR PPP PURPOSES**

**INCLUDE
PAYROLL**

PLUS

**QUALIFIED HEALTH INSURANCE,
DENTAL & VISION PAID BY THE
EMPLOYER (NET OF ANY AMOUNT
PAID BY THE EMPLOYEE)**

“MAXIMUM WAGES”
FOR ERTC PURPOSES
IS \$10,000.*
THIS INCLUDES BOTH
PAYROLL
&
HEALTH INSURANCE

*Per Annual in 2020

*Per Quarter in 2021 (1ST, 2ND & 3RD Only)

**“MAXIMUM WAGES”
FOR PPP PURPOSES
IS \$46,154*
PLUS
EMPLOYER PAID
HEALTH, DENTAL & VISION
INSURANCE****

*\$20,833 FOR 5% OR MORE OWNERS

**THESE INSURANCES ARE EXCLUDED FOR 5% OR MORE OWNERS OF S-CORPORATIONS

ERTC “WAGES”
ARE BASED ON
QUALIFYING PERIOD

PPP “WAGES”
ARE BASED ON
COVERED PERIOD

ERTC “WAGES”
ARE BASED ON
INCURRED
DURING THE QUALIFYING PERIOD

PPP “WAGES”
ARE BASED ON
PAID AND INCURRED
DURING THE QUALIFYING PERIOD

ERTC WAGES THAT QUALIFY ONLY INCLUDE “THE TIME PERIOD” OF QUALIFYING:

- 1) ONLY during the period of full or partial suspension of operations due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19. NOT FOR THE ENTIRE QUARTER IN WHICH THIS OCCURRED. **THE TIME PERIOD IS ONLY DURING SUSPENSION.**
- 2) Experience a significant decline in gross receipts during the calendar quarter. **QUALIFYING WAGES FOR THE ENTIRE QUARTER. THE TIME PERIOD IS THE ENTIRE QUARTER.**

PPP WAGES THAT QUALIFY ONLY INCLUDE THE COVERED PERIOD

THE COVERED PERIOD BEGINS WHEN THE PPP FUNDS ARE DISBURSED, AND LASTS UP TO 24 WEEKS (168 DAYS).

THIS IS NOT BASED ON A CALENDAR QUARTERS.

THE BEGINNING PERIOD CANNOT BE ALTERED

WAGES INCLUDED ARE PAID AND INCURRED



**BIGGEST
MISCONCEPTION**

**WHEN
CALCULATING
PPP LOAN
FORGIVENESS**

TOGETHER WITH

**EMPLOYEE
RETENTION TAX
CREDIT**

YOU HAVE TO USE UP PPP BEFORE YOU GET ERTC?

WRONG!

NOT CORRECT!

YOU CAN GET BOTH!

KEY: CAN'T GET BOTH ON THE SAME WAGES

HOW TO MAXIMIZE PPP LOAN FORGIVENESS AND ERTC

ACHIEVING FULL PPP LOAN FORGIVENESS IS MORE ECONOMICALLY VALUABLE

- PPP LOAN FORGIVENESS ONLY REQUIRES 60% BE USED FOR PAYROLL
 - HOW MUCH RENT, UTILITIES & QUALIFYING INTEREST IS THERE THAT CAN BE INCLUDED IN PPP LOAN FORGIVENESS?
 - DETERMINE HOW MUCH PAYROLL YOU ACTUALLY NEED TO GET PPP FORGIVENESS. MAXIMUM THAT CAN BE USED FOR PPP LOAN FORGIVENESS IS 40%
- QUALIFYING PAYROLL FOR PPP INCLUDES MORE PAYROLL RELATED COSTS
 - DENTAL & VISION INSURANCE PAID BY THE EMPLOYER, AND STATE UNEMPLOYMENT TAXES
- OWNERS WAGES CAN BE INCLUDED IN PPP, INCLUDED RELATED PARTIES
 - 5% OR MORE OWNERS LIMITED TO MAX \$20,833 WAGES. SPOUSES AND RELATED PARTIES NOT LIMITED TO \$20,833

HOW TO MAXIMIZE PPP LOAN FORGIVENESS AND ERTC

ACHIEVING FULL PPP LOAN FORGIVENESS IS MORE ECONOMICALLY VALUABLE

- PAYROLL COSTS INCLUDES WAGES PLUS EMPLOYER PAID HEALTH, DENTAL & VISION INSURANCE
 - MAX WAGES PER EMPLOYEE INCLUDED FOR PPP IS \$46,154 ($\$100,000 / 52 \text{ WEEKS} \times 24 \text{ WEEKS}$) WITH EMPLOYER PAID HEALTH, DENTAL & VISION IN ADDITION
 - OWNERS OF S CORPORATIONS DO NOT GET TO INCLUDE THE EMPLOYER PAID HEALTH INSURANCE ON THEMSELVES. ALSO SEE COMPENSATION LIMIT ABOVE ON 5% OR MORE OWNERS
 - ERTC IS \$10,000 MAX PER EMPLOYEE WHEN COMBINING WAGES AND EMPLOYER PAID HEALTH INSURANCE
- DEFINE YOUR PPP COVERED PERIOD AND YOUR ERTC QUALIFYING PERIOD
- IF ERTC PERIOD EXISTS OUTSIDE OF PPP COVERED PERIOD, CAPTURE THOSE WAGES & EMPLOYER PAID HEALTH INSURANCE FOR ERTC
- FOR THE PERIOD OF TIME WHERE THE ERTC QUALIFYING PERIOD OVERLAPS THE PPP COVERED PERIOD
 - FOR EMPLOYEES THAT TYPICALLY MAKE MORE THAN \$10,000 IN WAGES (PLUS EMPLOYER PAID HEALTH INSURANCE), WAGES & EMPLOYER PAID HEALTH INSURANCE ABOVE \$10,000 CAN BE INCLUDED IN PPP LOAN FORGIVENESS

ERTC vs. PPP

PPP

- DOES NOT REDUCE TAX DEDUCTIONS (NOT INCOME)
- COVERED PERIOD: 24 WEEKS
- \$46,154 MAX PER EMPLOYEE
- EMPLOYER PAID HEALTH INSURANCE IN ADDITION TO \$46,154 MAX WAGES PER EMPLOYEE (EXCEPT 5% OR MORE S CORPORATION OWNERS)
- \$20,833 MAX FOR 5% OR MORE OWNERS
- OWNERS INCLUDED
- WAGES TO OWNERS' RELATIVES CAN BE INCLUDED
- FAMILY ATTRIBUTION & 267c RULES DO NOT APPLY
- PAYROLL COSTS INCLUDE EMPLOYER PAID VISION/DENTAL
- PPP LOAN FORGIVENESS INCLUDES RENT, UTILITIES & INTEREST

ERTC

- DOES REDUCE PAYROLL TAX DEDUCTIONS (NOT INCOME)
- QUALIFYING PERIOD: GOV'T ORDERS or CALENDAR QTR
- \$10,000 MAX PER EMPLOYEE
- EMPLOYER PAID HEALTH INSURANCE IS NOT IN ADDITION TO THE \$10,000 MAX PER EMPLOYEE
- \$10,000 MAX WAGES FOR 50% OR LESS OWNERS
- OWNERS OVER 50% EXCLUDED (IRC SECTION 267c RULES APPLY)
- WAGES TO OWNERS' RELATIVES CANNOT BE INCLUDED FOR MORE THAN 50% OWNERS (IRC SECTION 267c RULES APPLY)
- IRC SECTION 267c RULES APPLY TO DETERMINE CONSTRUCTIVE OWNERSHIP
- PAYROLL COSTS DO NOT INCLUDE EMPLOYER PAID VISION/DENTAL
- ERTC DOES NOT INCLUDE ANYTHING EXCEPT QUALIFIED WAGES & EMPLOYER PAID HEALTH INSURANCE

COMMON QUESTIONS WHEN CALCULATING PPP LOAN FORGIVENESS AND ERTC

- CAN WAGES IN THE SAME PAY-PERIOD BE USED FOR BOTH ERTC & PPP?
 - **YES. THE SAME EXACT WAGES CANNOT.**
- CAN WAGES TO A SINGLE EMPLOYEE BE USED FOR BOTH ERTC & PPP IN THE SAME PAY-PERIOD?
 - **YES. BUT NOT THE SAME EXACT WAGES.**
- WHAT DOES “EXACT WAGES” MEAN WHEN TRYING TO MAXIMIZE PPP LOAN FORGIVENESS & ERTC?
 - **IF WE WERE TO BREAK AN EMPLOYEE’S WAGES DOWN TO TIME IN THE DAY, THE SAME “TIME” CANNOT BE USED FOR BOTH.**
 - EXAMPLE WOULD BE TO BREAK AN EMPLOYEE’S PAY INTO 15 MINUTE INCREMENTS (EVEN IF SALARIED):
 - FOR AN 8 HOUR WORK-DAY, 6 HOURS & 45 MINUTES COULD BE USED FOR ERTC... AND 1 HOUR & 15 MINUTES COULD BE USED FOR PPP

COMMON QUESTIONS WHEN CALCULATING PPP LOAN FORGIVENESS AND ERTC

- HEALTH INSURANCE NEED TO FOLLOW HOW WAGES ARE APPLIED TO EITHER?
 - **NO. ERTC COULD BE NOTHING BUT WAGES FOR A PARTICULAR EMPLOYEE**
 - **AND ALL THE EMPLOYER PAID HEALTH INSURANCE COULD BE USED FOR PPP LOAN FORGIVENESS PURPOSES**
 - **THE KEY IS THAT THE HEALTH INSURANCE “AMOUNT” CAN ONLY BE USED FOR ERTC OR PPP.**
 - **YES, SOME OF THE HEALTH INSURANCE CAN BE USED FOR ERTC, AND THE OTHER FOR PPP.**
- WHAT IF WAGES WERE INCURRED IN QUARTER 1, BUT PAID IN QUARTER 2, WHEN DOES IT COUNT FOR ERTC PURPOSES?
 - **WHEN INCURRED.**
- WHAT IF WAGES WERE INCURRED IN QUARTER 1, BUT PAID IN QUARTER 2, WHEN DOES IT COUNT FOR PPP PURPOSES?
 - **IRRELEVANT BECAUSE FOR PPP IT IS BASED ON THE COVERED PERIOD, NOT BY QUARTER. FURTHERMORE, IT IS WAGES PAID AND INCURRED.**

10/19/23



**MAXIMIZING
ERTC &
PPP LOAN FORGIVENESS**

MAXIMIZING ERTC OR PPP LOAN FORGIVENESS? WHAT'S BETTER?

- TYPICALLY, PPP LOAN FORGIVENESS IS MORE VALUABLE ECONOMICALLY THAN THE ERTC
- LET'S DO THE MATH, SHALL WE...

MAXIMIZING ERTC OR PPP? WHAT'S BETTER?

- PPP LOAN FORGIVENESS IS
 - FREE MONEY DOLLAR FOR DOLLAR OF QUALIFYING PAYROLL COSTS
 - NOT GROSS INCOME
 - DOES NOT REDUCE DEDUCTIONS (WHICH INCREASES THE TAX SAVINGS)
 - TAX-FREE INCOME THAT IS TAX-DEDUCTIBLE
 - FURTHER INCREASES THE ECONOMIC BENEFIT AS EACH DOLLAR SAVES TAXES AS WELL (AT TAX RATE)
 - \$10,000 IN QUALIFYING PAYROLL COSTS (EXCLUDING DENTAL, VISION & GROUP LIFE)
 - THE BUSINESS DID NOT USE ITS OWN DOLLARS FOR THIS DEDUCTION*
 - SAVES UP TO 37% IN FEDERAL TAXES (MORE IF STATE INCOME TAX EXISTS)
 - AT 37% TAX RATE, SAVES \$3,700 IN TAXES
 - ECONOMIC BENEFIT IS $\$10,000 + \$3,700 - 0^* = \$13,700$

MAXIMIZING ERTC OR PPP? WHAT'S BETTER?

ERTC IS

- FREE MONEY BUT ONLY 70% IN 2021 (50% IN 2020) OF EACH DOLLAR OF QUALIFYING PAYROLL COSTS
- NOT GROSS INCOME
- BUT DOES REDUCE DEDUCTIONS
 - THE TAX CREDIT REDUCES DOWN THE WAGES DEDUCTION ON THE INCOME TAX RETURN FOR THE BUSINESS
- \$10,000 IN QUALIFYING PAYROLL COSTS
- **IN 2021**, NET OF \$7,000 TAX CREDIT = \$3,000 TAX DEDUCTION (AT 37% TAX RATE, SAVES \$1,110 IN TAXES)
 - BUSINESS HAD TO SPEND A NET \$3,000 IN PAYROLL COSTS FROM BUSINESSES OWN MONEY
 - **COMPARED TO PPP**: ECONOMIC BENEFIT IS \$7,000 ERTC + \$1,110 TAX SAVINGS – \$3,000 NET SPENT = \$5,110
 - **NOT COMPARED TO PPP**: \$7,000 ERTC SAVED BUSINESS \$7,000, BUT THE REDUCTION OF EXPENSES COSTS \$2,590 IN TAX SAVINGS LOST, WHICH NETS THE ERTC TO \$4,410
- **IN 2020**, NET OF \$5,000 TAX CREDIT = \$5,000 TAX DEDUCTION (AT 37% TAX RATE, SAVES \$1,850 IN TAXES)
 - BUSINESS HAD TO SPEND A NET \$5,000 IN PAYROLL COSTS FROM BUSINESSES OWN MONEY
 - **COMPARED TO PPP**: ECONOMIC BENEFIT IS \$5,000 ERTC + \$1,850 TAX SAVINGS – \$5,000 NET SPENT = \$1,850
 - **NOT COMPARED TO PPP**: \$5,000 ERTC SAVED BUSINESS \$5,000, BUT THE REDUCTION OF EXPENSES COSTS \$1,850 IN TAX SAVINGS LOST, WHICH NETS THE ERTC TO \$3,150

PPP IS MORE ECONOMICALLY VALUABLE

- BASED ON \$10,000
 - THE MATH WOULD WORK THE SAME EVEN IF A LARGER OR SMALLER AMOUNT
 - BEING A LOWER TAX BRACKET WILL NOT CHANGE THE OVERALL RESULT OF PPP LOAN FORGIVENESS BEING MORE VALUABLE FOR THE SIMPLE FACT THAT THE AMOUNT USED FROM FORGIVEN PPP FUNDS DOES NOT REDUCE DOWN THE DEDUCTION AND PROVIDES FOR A DEDUCTION IN ADDITION TO THAT FOR A DOUBLE BENEFIT
- PPP
 - ECONOMIC BENEFIT IS \$13,700
- ERTC
 - IN 2021, COMPARED TO PPP: \$5,110
 - IN 2020, COMPARED TO PPP: \$1,850

ANALYSIS OF THE ECONOMIC VALUE OF PPP vs. ERTC

\$10,000 IN QUALIFYING PAYROLL COSTS (EXCLUDING DENTAL, VISION & GROUP LIFE)
 ASSUMED 37% TAX RATE APPLIES

PPP FUNDS RECEIVED/FORGIVEN	\$ 10,000	
MONEY SPENT FROM BUSINESSES FUNDS	\$ -	
TAX DEDUCTION SAVINGS AT 37%	\$ 3,700	
TOTAL ECONOMIC VALUE OF PPP	\$ 13,700	
ERTC TAX CREDIT RECEIVED: 2021	\$ 7,000	
NET MONEY SPENT FROM BUSINESSES FUNDS	\$ (3,000)	
TAX DEDUCTION OF NET \$3,000 AT 37%	\$ 1,110	
TOTAL ECONOMIC VALUE OF ERTC	\$ 5,110	COMPARED TO PPP
ERTC TAX CREDIT RECEIVED: 2020	\$ 5,000	
NET MONEY SPENT FROM BUSINESSES FUNDS	\$ (5,000)	
TAX DEDUCTION OF NET \$5,000 AT 37%	\$ 1,850	
TOTAL ECONOMIC VALUE OF ERTC	\$ 1,850	COMPARED TO PPP

BECAUSE PPP FUNDS ARE NOT MONIES FROM THE BUSINESSES FUNDS, AND IT CREATES A TAX DEDUCTION, THE FINAL ANALYSIS IS...

PPP FUNDS ARE MORE VALUABLE THAN THE ERTC

THE ERTC IS STILL VALUABLE, FOR ANY AMOUNT ABOVE THE PPP FUNDS FORGIVEN (SEE BELOW)

**WITHOUT COMPARING TO PPP (PPP IS FREE MONEY THAT IS DEDUCTIBLE)
 ERTC REDUCES DOWN THE DEDUCTION OF WAGES**

ERTC TAX CREDIT RECEIVED: 2021	\$ 7,000
REDUCTION OF \$7,000 TAX DEDUCTION AT 37% COST	\$ (2,590)
TOTAL ECONOMIC VALUE OF ERTC	\$ 4,410
ERTC TAX CREDIT RECEIVED: 2020	\$ 5,000
REDUCTION OF \$5,000 TAX DEDUCTION AT 37% COST	\$ (1,850)
TOTAL ECONOMIC VALUE OF ERTC	\$ 3,150

PPP vs. ERTC: ECONOMIC VALUE CALC (pdf)

PPP vs. ERTC ECONOMIC VALUE

BECAUSE PPP FUNDS ARE NOT MONIES FROM THE BUSINESSES FUNDS, AND IT CREATES A TAX DEDUCTION, THE FINAL ANALYSIS IS...

PPP FUNDS ARE MORE VALUABLE THAN THE ERTC

THE ERTC IS STILL VALUABLE, FOR ANY AMOUNT ABOVE THE PPP FUNDS FORGIVEN

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FINAL ANALYSIS: CHOOSING PPP vs. ERTC

PRESERVE PPP LOAN FORGIVENESS

OVER MAXIMIZING THE ERTC!

MEANING, IF YOU HAVE CHOOSE WHAT PAYROLL GETS APPLIED TO,

CHOOSE PPP LOAN FORGIVENESS PURPOSES

NOW YOU KNOW THE PRIORITY BETWEEN PPP & THE ERTC

ERTC INTERACTION WITH PPP

EITHER ROUND, EITHER DRAW



REMEMBER WE DID THE FINAL ANALYSIS: CHOOSING PPP vs. ERTC



PRESERVE PPP LOAN FORGIVENESS

OVER MAXIMIZING THE ERTC!

MEANING, IF YOU HAVE CHOOSE WHAT PAYROLL GETS APPLIED TO,

CHOOSE PPP LOAN FORGIVENESS PURPOSES

NOW YOU KNOW THE PRIORITY BETWEEN PPP & THE ERTC

ERTC INTERACTION WITH PPP EITHER ROUND, EITHER DRAW

PER THE



PER THE SBA: EXCLUDE WAGES USED FOR ERTC FROM PPP FORGIVENESS PAYROLL COSTS

FORM 3508-S (PAGE 4) CASH COMPENSATION: “Do not include qualified wages taken into account in determining the Employer Retention Credit”

Cash Compensation: The sum of gross salary, gross wages, gross tips, gross commissions, paid leave (vacation, family, medical or sick leave, not including leave covered by the Families First Coronavirus Response Act), and allowances for dismissal or separation paid or incurred during the Covered Period. Do not include qualified wages taken into account in determining the Employer Retention Credit. For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the Covered Period. For example, for an 8-week Covered Period, the maximum is \$15,385; for a 24-week Covered Period, the maximum is \$46,154. You can only include compensation of employees who were employed by the Borrower at any point during the Covered Period and whose principal place of residence is in the United States.

FORM 3508-EZ (PAGE 6) CASH COMPENSATION: Same language as above

FORM 3508 (PAGE 10) CASH COMPENSATION: Same language as above

SBA IFR: Paycheck Protection Program (PPP) as Amended by the Economic Aid Act **Effective 1/6/21**
(PAGES 58-59): Payroll costs that are qualified wages taken into account in determining the Employer Retention Credit are not eligible for loan forgiveness.

ERTC INTERACTION WITH PPP
EITHER ROUND, EITHER DRAW

PER THE



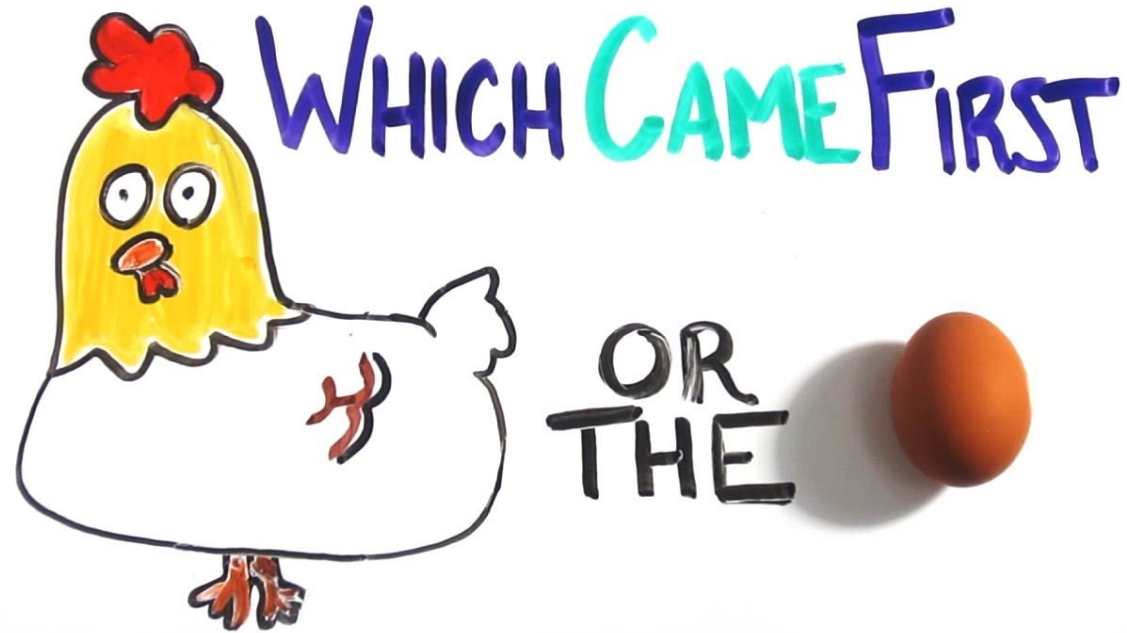
PER THE IRS: AFTER THE APPROPRIATIONS ACT

IRS RELEASE OF CHANGES (1/22/2021):

“Under section 206(c) of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, an employer that is eligible for the employee retention credit (ERC) can claim the ERC even if the employer has received a Small Business Interruption Loan under the Paycheck Protection Program (PPP).

The eligible employer can claim the ERC on any qualified wages that are not counted as payroll costs in obtaining PPP loan forgiveness.

Any wages that could count toward eligibility for the ERC **or** PPP loan forgiveness can be **applied to either** of these two programs, but **not** both.”



BEST PRACTICE

1. GET ERTC
2. GET PPP LOAN FORGIVENESS

BEST PRACTICE:

REPORT TO IRS,
FILE WITH IRS
& RECEIVE ERTC FROM IRS

THEN FILE FOR
PPP LOAN FORGIVENESS
WITH WAGES NOT USED FOR ERTC

THIS CONFIRMS YOU DID NOT USE
ERTC WAGES FOR PPP WAGES

WHY?

ONCE YOU FILE FOR PPP LOAN FORGIVENESS,
YOU LOCK (FOREVER) THOSE WAGES TO PPP.
WITH THE ERTC,
YOU CAN AMEND WITH THE IRS TO MAKE CORRECTIONS
(BUT NOT AFTER PPP FORGIVENESS, *WITH PPP WAGES*)

CONCLUSION: PPP LOAN FORGIVENESS NOT APPLIED FOR/NOT RECEIVED

BY REPORTING WAGES TO THE IRS FOR ERTC PURPOSES,
YOU HAVE ELECTED SUCH WAGES OUT OF PPP FORGIVENESS

THIS WOULD REQUIRE ACTUALLY REPORTING SUCH WAGES TO THE IRS
BEFORE FILING FOR FORGIVENESS

FOR MY CLIENTS,
WE WILL STILL WAIT TO FILE FOR PPP FORGIVENESS
UNTIL AFTER THE ERTC IS ACTUALLY RECEIVED
(i.e. APPROVED BY IRS)



ALREADY
FILED FOR PPP
LOAN
FORGIVENSS

WHAT IF YOU ALREADY FILED FOR PPP LOAN FORGIVENESS, WHAT WAGES QUALIFY FOR ERTC?

ANSWER: WHATEVER WAGES WEREN'T USED TO ACHIEVE PPP LOAN FORGIVENESS.

IF YOU DID NOT LIST RENT, UTILITIES AND/OR INTEREST ON YOUR PPP LOAN FORGIVENESS APPLICATION, YOU CANNOT AMEND YOUR PPP LOAN FORGIVENESS APPLICATION, AND THUS, WHATEVER WAGES YOU LISTED FOR PPP LOAN FORGIVENESS YOU ARE STUCK WITH.

IF YOU LISTED MORE PAYROLL THAN THE PPP LOAN, ONLY THE AMOUNT UP TO THE PPP LOAN AMOUNT IS DEEMED USED FOR PPP LOAN FORGIVENESS PURPOSES.

REMEMBER:

- WHEN FILING FOR PPP LOAN FORGIVENESS, ONLY THE WAGE TOTAL IS REPORTED TO THE SBA.
- YOU CAN USE WAGES ANYTIME DURING THE 24 WEEK COVERED PERIOD (NOT JUST THE BEGINNING).
- ONLY \$10,000 OF WAGES PER EMPLOYEE COUNT TOWARD ERTC, IN A QUARTER IN 2021; WHEREAS, YOU CAN GET UP TO \$46,154 OF WAGES PER EMPLOYEE FOR PPP LOAN FORGIVENESS (\$20,833 5% OR MORE OWNERS).
- OWNERS, SPOUSES AND FAMILY WAGES COUNT FOR PPP LOAN FORGIVENESS, THAT MAY NOT QUALIFY FOR ERTC.

EMPLOYERS THAT HAVE RECEIVED PPP FORGIVENESS

WE ARE ALLOWED TO GO BACK TO THE PPP LOAN FORGIVENESS APPLICATION AND PULL OUT PAYROLL INCLUDED THAT IS IN EXCESS OF PAYROLL COSTS NEEDED TO ACHIEVE PPP LOAN FORGIVENESS. THEREFORE, FOR EXAMPLE:

PPP LOAN WAS \$100,000

TO ACHIEVE FULL FORGIVENESS, ONLY 60% IN PAYROLL COSTS IS NEEDED or \$60,000

THE BORROWER ALSO LISTED \$40,000 IN RENT, UTILITIES & INTEREST

ON THE PPP LOAN FORGIVENESS APPLICATION \$180,000 WAS LISTED AS PAYROLL COSTS

BECAUSE ONLY \$60,000 WAS REQUIRED TO ACHIEVE FULL FORGIVENESS, THE AMOUNT OF PAYROLL COSTS NOT NEEDED TO ACHIEVE FULL PPP LOAN FORGIVENESS CAN BE ELIGIBLE FOR ERTC PURPOSES

THIS DOES NOT REQUIRE AN AMENDED PPP LOAN FORGIVENESS APPLICATION BE FILED (WHICH PRESENTLY IS NOT POSSIBLE FOR THESE PURPOSES)

EXAMPLE 1: PPP LOAN FORGIVENESS APPLICATION FILED

PPP Loan Amount	100,000
Payroll Reported on PPP Loan Forgiveness Application	180,000
Rent, Utilities & Interest on PPP Loan Forgiveness Application	40,000
PPP Loan Forgiveness Amount	100,000
How much payroll was used for PPP Loan Forgiveness?	60,000
How much payroll is then available for ERTC?	120,000
HOW?	
PPP Allows for up to 40% for Rent, Utilities & Interest	40,000
Therefore, Only \$60,000 is needed to achieve full forgiveness	60,000
Total Used for PPP Loan Forgiveness	100,000
So, remaining payroll is available for ERTC	120,000
\$180,000 Total Payroll Less Amount Actually Needed	

Again, there is no "ordering" and so you can then choose the \$60,000 actually used anytime during the 24 weeks, and thus, any payroll then not deemed for PPP can be used for ERTC during the 24 weeks, for the time in which the business qualifies for ERTC

EXAMPLE 2: PPP LOAN FORGIVENESS APPLICATION FILED

PPP Loan Amount	100,000
Payroll Reported on PPP Loan Forgiveness Application	180,000
Rent, Utilities & Interest on PPP Loan Forgiveness Application	20,000
PPP Loan Forgiveness Amount	100,000
How much payroll was used for PPP Loan Forgiveness?	80,000
How much payroll is then available for ERTC?	100,000
HOW?	
PPP Allows for up to 40% for Rent, Utilities & Interest (But Only \$20,000 Listed)	20,000
Therefore, Only \$80,000 is needed to achieve full forgiveness	80,000
Total Used for PPP Loan Forgiveness	100,000
So, remaining payroll is available for ERTC	100,000
\$180,000 Total Payroll Less Amount Actually Needed	

Again, there is no "ordering" and so you can then choose the \$80,000 actually used anytime during the 24 weeks, and thus, any payroll then not deemed for PPP can be used for ERTC during the 24 weeks, for the time in which the business qualifies for ERTC

EXAMPLE 3: PPP LOAN FORGIVENESS APPLICATION FILED

PPP Loan Amount	100,000
Payroll Reported on PPP Loan Forgiveness Application	180,000
Rent, Utilities & Interest on PPP Loan Forgiveness Application	NONE
PPP Loan Forgiveness Amount	100,000
How much payroll was used for PPP Loan Forgiveness?	100,000
How much payroll is then available for ERTC?	80,000
HOW?	
PPP Allows for up to 40% for Rent, Utilities & Interest (But NONE Listed)	NONE
Therefore, Only \$100,000 is needed to achieve full forgiveness	100,000
Total Used for PPP Loan Forgiveness	100,000
So, remaining payroll is available for ERTC	80,000
\$180,000 Total Payroll Less Amount Actually Needed	

Again, there is no "ordering" and so you can then choose the \$100,000 actually used anytime during the 24 weeks, and thus, any payroll then not deemed for PPP can be used for ERTC during the 24 weeks, for the time in which the business qualifies for ERTC

ERTC vs. PPP Periods	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
ERTC PERIOD IF QUALIFY BY REDUCTION IN GROSS RECEIPTS	Yellow	Yellow	Yellow	Red	Red	Red	Green	Green	Green	Blue	Blue	Blue
ERTC PERIOD IF QUALIFY BY GOVERNMENTAL PARTIAL/FULL SHUTDOWN												
Assumption: March 16 - April 14			Purple	Purple								
Assumption: March 13 - October 18			Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue		
PPP Covered Period 24 Weeks from Date of PPP Distribution												
Assumption: Distribution Feb 13 Covered Period March 15 - Aug 30			Yellow	Yellow	Yellow	Yellow	Yellow	Yellow				

TIME PERIODS WAGES QUALIFY ON CALENDAR

THE Mechanics of the ERTC & PPP



THE MECHANICS OF ERTC w/ PPP (Expanded)

- DETERMINE TIME PERIODS FOR BOTH
 - ERTC QUALIFYING
 - PPP COVERED PERIOD (24 WEEKS)
- GATHER PAYROLL RECORDS FOR ALL PERIODS
- LIST EMPLOYEES PAID DURING ANY OF THE TIME PERIODS ABOVE
 - IF APPLICABLE, DETERMINE EMPLOYEES THAT AREN'T EMPLOYED DURING BOTH PERIODS
 - IDENTIFY OWNERS
- LIST EMPLOYEE'S COMPENSATION
 - LIST ANNUALIZED WAGES BY EMPLOYEE
 - LIST WAGES PER PAYROLL PERIOD (AVERAGE IF VARIES) BY EMPLOYEE
 - LIST WAGES PER DAY BY EMPLOYEE
 - LIST WAGES PER HOUR BY EMPLOYEE
- LIST EMPLOYEE'S HEALTH INSURANCE PAID BY THE BUSINESS (NOTE: PPP INCLUDES DENTAL, VISION & GROUP LIFE)
 - LIST HEALTH INSURANCE PER MONTH PER EMPLOYEE
 - LIST HEALTH INSURANCE PER PAYROLL PERIOD PER EMPLOYEE
 - LIST HEALTH INSURANCE PER DAY PER EMPLOYEE
- DETERMINE PPP FORGIVENESS REQUIREMENTS
 - DETERMINE 60% OF PPP FOR MINIMUM AMOUNT NEEDED TO ACHIEVE PPP FORGIVENESS
 - DETERMINE AMOUNT OF RENT, UTILITIES, INTEREST AND OTHER ALLOWABLE COSTS DURING COVERED PERIOD
 - IDENTITY PAYROLL WHEN PAYROLL ACTUALLY "PAID" DURING THE COVERED PERIOD
 - IDENTITY EMPLOYEE'S WITH COMPENSATION IN EXCESS OF \$46,153 ANNUALLY ($\$100,000 / 52 \text{ WEEKS} \times 24 \text{ WEEKS} = \$46,154$)
 - IDENTITY EMPLOYEE'S RELATED HEALTH INSURANCE COSTS (EXCLUDING DENTAL, VISION AND GROUP LIFE)

THE MECHANICS OF ERTC w/ PPP (Expanded)

- IDENTIFY THE APPLICABLE WAGES & HEALTH INSURANCE
 - IDENTIFY WAGES & HEALTH INSURANCE FOR THE ERTC
 - IDENTIFY WAGES & HEALTH INSURANCE FOR PPP FORGIVENESS
 - NOTE: PPP PAYROLL COSTS FOR PPP FORGIVENESS ALSO INCLUDE DENTAL, VISION & GROUP LIFE
- DETERMINE THE MINIMUM AMOUNT OF PAYROLL COSTS NEEDED TO ACHIEVE PPP LOAN FORGIVENESS
 - 60% OF THE PPP LOAN (ASSUMING AT LEAST 40% IN RENT, UTILITIES, INTEREST & OTHER ALLOWED EXPENSES)
- THE ANALYSIS BEGINS
- FIRST, BECAUSE LESS WAGES QUALIFY FOR ERTC: \$10,000 PER EMPLOYEE IN 2020 AND \$10,000 PER QUARTER IN 2021
 - FIRST IDENTIFY THE WAGES AVAILABLE FOR ERTC PURPOSES
- THE REMAINING IDENTIFIES THE WAGES THAT REMAIN FOR PPP LOAN FORGIVENESS PURPOSES
 - DETERMINE IF THIS IS ENOUGH (WITH DENTAL, VISION & GROUP LIFE ADDED) TO ACHIEVE PPP FORGIVENESS
 - ENSURE THAT YOU ARE PULLING WAGES FOR THE ERTC PERIOD, NOT THE JUST THE COVERED PERIOD
 - ENSURE THAT THE WAGES USED FOR PPP LOAN FORGIVENESS ARE ONLY IN THE COVERED PERIOD
- IF THERE IS NOT ENOUGH WAGES TO MAXIMIZE THE ERTC AND ACHIEVE PPP LOAN FORGIVENESS, GO OPPOSITE
 - IDENTIFY THE WAGES AVAILABLE FOR PPP LOAN FORGIVENESS
 - ENSURE YOU ARE ADDING TO PAYROLL COSTS THE DENTAL, VISION & GROUP LIFE COSTS
 - ENSURE YOU ARE TAKING INTO ACCOUNT THE OPPORTUNITY OF USING “PAID AND INCURRED”
 - THIS MAY PULL PAYROLLS INTO PPP FORGIVENESS OUTSIDE THE TIME FRAME FOR ERTC PURPOSES
- THE REMAINING WAGES IDENTIFY THE WAGES THAT REMAIN FOR ERTC PURPOSES

THE MECHANICS OF ERTC w/ PPP (Expanded)

JJ, WHAT DID THAT ALL MEAN IN THE PRIOR SLIDE?

1. DETERMINE THE AMOUNT OF PAYROLL COSTS NEEDED TO ACHIEVE FULL PPP LOAN FORGIVENESS
2. CALCULATE WAGES PER EMPLOYEE
3. CALCULATE ERTC TO DETERMINE WAGES USED DURING QUALIFIED PERIOD OF TIME FOR ERTC
4. CALCULATE PPP LOAN FORGIVENESS WITH REMAINING WAGES IN COVERED PERIOD TO DETERMINE IF ENOUGH WAGES LEFT TO ACHIEVE FULL-FORGIVENESS
5. IF NOT ENOUGH PAYROLL COSTS TO ACHIEVE FULL PPP FORGIVENESS, STRATEGICALLY PULL WAGES FROM ERTC

WHY CALCULATE ERTC BEFORE PPP FORGIVENESS?

WHY CALCULATE ERTC FIRST?

LESS WAGES ARE POTENTIALLY ELIGIBLE (\$10,000 PER EMPLOYEE PER PERIOD ALLOWED)
& IN 2021 POTENTIALLY LESS TIME PERIOD TO USE WAGES (PER QUARTER OR GOV'T SHUTDOWN)

WHY CALCULATE PPP LOAN FORGIVENESS AFTER ERTC?

MORE WAGES ARE ALLOWED FOR PPP ($\$100,000 / 52 \text{ WEEKS} \times 24 \text{ WEEKS} = \$46,154$)
& OWNERS, SPOUSES & RELATED INDIVIDUALS ARE INCLUDED
& PAYROLL COSTS INCLUDE DENTAL, VISION & GROUP LIFE, AS WELL AS STATE UNEMPLOYMENT TAX
& ONLY 60% OF PPP LOAN FORGIVENESS NEEDS TO BE PAYROLL COSTS
(ASSUMING THERE IS AT LEAST 40% IN RENT, UTILITIES, INTEREST & OTHER ALLOWED EXPENSES)

WHAT IF I RUN SHORT ON ACHIEVING FULL PPP LOAN FORGIVENESS?

IF ERTC USES TOO MUCH PAYROLL COSTS, THEN GO BACK AND PULL PAYROLL COSTS FROM ERTC TO APPLY TO PPP LOAN FORGIVENESS

ERTC & PPP LOAN FORGIVENESS



**ERTC PURPOSES TO DETERMINE
HOW MUCH PAYROLL COST IS NEEDED
TO ACHIEVE FULL PPP LOAN FORGIVENESS
AND MAXIMIZE ERTC**

SIMPLE BREAK-DOWN OF PPP	
PPP LOAN AMOUNT	148,000
60% FOR PAYROLL	88,800
40% FOR RENT, ETC.	59,200

ANALYSIS: MAX ERTC & PPP LOAN FORGIVENESS (EXCEL)

**ERTC PURPOSES TO DETERMINE
HOW MUCH PAYROLL COST IS NEEDED
TO ACHIEVE FULL PPP LOAN FORGIVENESS
AND MAXIMIZE ERTC**

SIMPLE BREAK-DOWN OF PPP	
PPP LOAN AMOUNT	148,000
60% FOR PAYROLL	88,800
40% FOR RENT, ETC.	59,200

FOR PPP LOAN FORGIVENESS PURPOSES IN 24 WEEK COVERED PERIOD		
GROSS WAGES	327,876	*
HEALTH INSURANCE	29,508	*
DENTAL INSURANCE	8,853	
VISION INSURANCE	1,771	
STATE UNEMPLOYMENT TAX	778	
TOTAL PAYROLL COSTS FOR PPP	368,786	
RENT	55,300	
UTILITIES	9,884	
INTEREST	4,922	
OTHER ALLOWABLE	1,487	
TOTAL OTHER PPP COSTS	71,593	
GRAND TOTAL AVAILABLE FOR PPP FORGIVENESS	440,379	

FOR PPP LOAN FORGIVENESS PURPOSES	
IN 24 WEEK COVERED PERIOD	
GROSS WAGES	327,876 *
HEALTH INSURANCE	29,508 *
DENTAL INSURANCE	8,853
VISION INSURANCE	1,771
STATE UNEMPLOYMENT TAX	778
TOTAL PAYROLL COSTS FOR PPP	368,786
RENT	55,300
UTILITIES	9,884
INTEREST	4,922
OTHER ALLOWABLE	1,487
TOTAL OTHER PPP COSTS	71,593
GRAND TOTAL AVAILABLE FOR PPP FORGIVENESS	440,379

FOR ERTC PURPOSES	
<i>THIS DOESN'T MEAN ALL THIS PAYROLL COUNTS.</i>	
<i>SHOWING THE DIFFERENCE BETWEEN PPP & ERTC.</i>	
GROSS WAGES	327,876 *
HEALTH INSURANCE	29,508 *
TOTAL "WAGES" FOR ERTC	357,384

2020 THE ANALYSIS (SIMPLISTIC)		
<i>ASSUME ERTC PERIOD IS INSIDE THE COVERED PERIOD</i>		
THESE NUMBERS ARE MADE UP, FOR EXAMPLE PURPOSES		
ASSUME 10 EMPLOYEES ELIGIBLE FOR ERTC		
GROSS WAGES 10 EMPLOYEES	90,000	**
HEALTH INSURANCE ALLOCATED	10,000	**
TOTAL "WAGES" FOR ERTC (MAX \$10,000 PER EE)	100,000	

2020 THE ANALYSIS (SIMPLISTIC)		
<i>ASSUME ERTC PERIOD IS INSIDE THE COVERED PERIOD</i>		
THESE NUMBERS ARE MADE UP, FOR EXAMPLE PURPOSES		
ASSUME 10 EMPLOYEES ELIGIBLE FOR ERTC		
GROSS WAGES 10 EMPLOYEES	90,000	**
HEALTH INSURANCE ALLOCATED	10,000	**
TOTAL "WAGES" FOR ERTC (MAX \$10,000 PER EE)	100,000	

PAYROLL COSTS FOR PPP		
LESS ERTC USED IN 24 WEEK COVERED PERIOD (ABOVE)		
GROSS WAGES (REDUCED FOR ERTC WAGES USED)	237,876	**
HEALTH INSURANCE (REDUCED FOR ERTC USE)	19,508	**
DENTAL INSURANCE	8,853	
VISION INSURANCE	1,771	
STATE UNEMPLOYMENT TAX	778	
TOTAL PAYROLL COSTS FOR PPP	268,786	
ONLY 60% PAYROLL NEEDED FOR PPP PURPOSES		
SEE ABOVE. 60% OF PPP LOAN	88,800	

AGAIN, WHY CALCULATE ERTC BEFORE PPP FORGIVENESS?

PPP LOAN FORGIVENESS ALLOWS FOR

MORE PAYROLL PER EMPLOYEE

EXCLUDES LESS EMPLOYEES

INCLUDES ADDITIONAL EXPENSES IN THE PAYROLL COSTS

60% REQUIREMENT

MORE WAGES ARE ALLOWED FOR PPP ($\$100,000 / 52 \text{ WEEKS} \times 24 \text{ WEEKS} = \$46,154$)

& OWNERS, SPOUSES & RELATED INDIVIDUALS ARE INCLUDED

& PAYROLL COSTS INCLUDE DENTAL, VISION & GROUP LIFE, AS WELL AS STATE UNEMPLOYMENT TAX

& ONLY 60% OF PPP LOAN FORGIVENESS NEEDS TO BE PAYROLL COSTS

(ASSUMING THERE IS AT LEAST 40% IN RENT, UTILITIES, INTEREST & OTHER ALLOWED EXPENSES)

FOR ALL THE INFORMATION ON PPP
GO TO

www.SBA.gov/PPP

Link on the seminar webpage



VIDEO 21

**Withdrawing a Previously
Filed ERC Claim (Form 941-X)**

FILING DEADLINE FOR ERTC WITH FORM 941-X 3 YEARS FROM ORIGINAL FILING DUE DATE

The IRS states the original due date is considered April 15th of the succeeding year in which the Form 941 relates to. Read Form 941-X instructions for additional information.

Any quarter in **2020**: ORIGINAL DUE DATE 4/15/21

941-X DUE DATE 4/15/24

Any quarter in **2021**: ORIGINAL DUE DATE 4/15/22

941-X DUE DATE 4/15/25

IRS TEMPORARILY PAUSES PROCESSING ERC CLAIMS, TO RESUME 1/1/24

The IRS announced September 15, 2023 it will stop processing new ERC claims (Form 941-X) received between 9/15/23 and 12/31/23. They will continue to process ERC claims already received at the time of the announcement. The IRS will resume processing ERC claims in 2024 that were previously set aside.

The IRS pause in processing does NOT extend the above due dates.

IRS ANNOUNCES WITHDRAWAL PROCESS FOR ERC

The IRS announced the details of a special withdrawal process to help those who filed an Employee Retention Credit (ERC) claim and are concerned about its accuracy.

This new withdrawal option allows certain employers that filed an ERC claim but have not yet received a refund to withdraw their submission and avoid future repayment, interest and penalties. Employers that submitted an ERC claim that's still being processed can withdraw their claim and avoid the possibility of getting a refund for which they're ineligible.

The IRS created the withdrawal option to help small business owners and others who were pressured or misled by ERC marketers or promoters into filing ineligible claims. Claims that are withdrawn will be treated as if they were never filed. The IRS will not impose penalties or interest. Those who willfully filed a fraudulent claim, or those who assisted or conspired in such conduct, should be aware that withdrawing a fraudulent claim will not exempt them from potential criminal investigation and prosecution.

WHO CAN ASK TO WITHDRAW AN ERC CLAIM

Who can ask to withdraw an ERC claim

Employers can use the ERC claim withdrawal process if **all** of the following apply:

- They made the claim on an **adjusted employment return** (Forms 941-X, 943-X, 944-X, CT-1X).
- They filed the adjusted return only to claim the ERC, and they made **no other adjustments**.
- They want to withdraw **the entire amount** of their ERC claim.
- The IRS **has not paid** their claim, or the IRS has paid the claim, but they haven't cashed or deposited the refund check.

Taxpayers who are not eligible to use the withdrawal process can reduce or eliminate their ERC claim by filing an amended return. For details, see the Correcting an ERC claim – Amending a return section of the frequently asked questions about the ERC.

HOW TO WITHDRAW AN ERC CLAIM

How to withdraw an ERC claim

To take advantage of the claim withdrawal procedure, taxpayers should carefully follow the special instructions at [IRS.gov/withdrawmyerc](https://www.irs.gov/withdrawmyerc) (linked on private webpage where Form 941-X is linked), summarized below.

- Taxpayers whose professional payroll company filed their ERC claim should consult with the payroll company. The payroll company may need to submit the withdrawal request for the taxpayer, depending on whether the taxpayer's ERC claim was filed individually or batched.
- Taxpayers who filed their ERC claims themselves, haven't received, cashed or deposited a refund check and have not been notified their claim is under audit should fax withdrawal requests to the IRS using computer or mobile device. The IRS has set up a special fax line to receive withdrawal requests. This enables the agency to stop processing before the refund is approved. Taxpayers who are unable to fax their withdrawal using a computer or mobile device can mail their request, but this will take longer for the IRS to receive.

HOW TO WITHDRAW AN ERC CLAIM

How to withdraw an ERC claim (continued)

- Employers who have been notified they are under audit can send the withdrawal request to the assigned examiner or respond to the audit notice if no examiner has been assigned.

Those who received a refund check, but haven't cashed or deposited it, can still withdraw their claim. They should mail the voided check with their withdrawal request using the instructions at [IRS.gov/withdrawmyerc](https://www.irs.gov/withdrawmyerc) (linked on private webpage where Form 941-X is linked).

DETAILED TO WITHDRAW AN ERC CLAIM

If you filed a claim requesting a refund for an ERC and would now like to withdraw your claim, this page will tell you whether you can do so and, if so, how to withdraw your claim.

If you need help figuring out if you're eligible to claim the ERC, use the “[ERC Checklist](#).” (I placed a link on the private webpage you have access to. It is where you find links to [Form 941-X](#).) If you request to withdraw your claim, you'll be asking the IRS **not** to process your **entire adjusted employment tax return** (Form 941-X, 943-X, 944-X, CT-1X) for the tax period that included your ERC claim. Claims that are withdrawn will be treated as if they were never filed. The IRS will not impose penalties or interest.

If you made any other changes on the adjusted employment tax return or you only need to reduce your ERC claim (not withdraw it entirely), you can't use the withdrawal process. Instead, you need to amend your return. For more information on these situations, see the [Correcting an ERC claim – Amending a return](#) section of the frequently asked questions about the ERC.

DETAILS TO WITHDRAW AN ERC CLAIM

If you filed a claim requesting a refund for an ERC and would now like to withdraw your claim, this page will tell you whether you can do so and, if so, how to withdraw your claim.

If you need help figuring out if you're eligible to claim the ERC, use the “ERC Checklist.” If you request to withdraw your claim, you'll be asking the IRS **not to** process your **entire adjusted employment tax return** (Form 941-X, 943-X, 944-X, CT-1X) for the tax period that included your ERC claim. Claims that are withdrawn will be treated as if they were never filed. The IRS will not impose penalties or interest.

If you made any other changes on the adjusted employment tax return or you only need to reduce your ERC claim (not withdraw it entirely), you can't use the withdrawal process. Instead, you need to amend your return. For more information on these situations, see the Correcting an ERC claim – Amending a return section of the frequently asked questions about the ERC.

HOW TO REQUEST TO WITHDRAW AN ERC CLAIM

How to request an ERC claim withdrawal

You will follow different steps depending on your situation.

- You haven't received a refund and haven't been notified your claim is under audit
- You haven't received a refund and you've been notified your claim is under audit
- You received a refund check but haven't cashed or deposited it

If you use a professional payroll company and they filed your ERC claim for you, you should consult with them if you want to withdraw your ERC claim. Depending on how the company filed your claim – individually or batched with others – you may need to have them submit your withdrawal request.

HOW TO REQUEST TO WITHDRAW AN ERC CLAIM IF YOU HAVEN'T RECEIVED A REFUND OR NOTICE

Section A: You haven't received a refund and haven't been notified your claim is under audit

If you filed an adjusted return (Form 941-X, 943-X, 944-X, CT-1X) to claim the ERC and you would like to withdraw your entire claim, use the process below. If you filed adjusted returns for more than one quarter, you must follow the steps below **for each tax period** for which you are requesting a withdrawal.

HOW TO REQUEST TO WITHDRAW AN ERC CLAIM IF YOU HAVEN'T RECEIVED A REFUND OR NOTICE

To request a withdrawal, follow these steps:

- If you can't fax your withdrawal request, you can mail it to the address in the instructions for the adjusted return that applies to your business. Before doing so you should make a copy of the signed and dated first page to keep for your records. It will take longer for the IRS to receive your request if you mail it. Track your package to confirm delivery.
1. Make a **copy** of the adjusted return with the claim you wish to withdraw.
 2. In the left margin of the first page, write “**Withdrawn.**”
 3. In the right margin of the first page:
 1. Have an authorized person **sign** and **date** it.
 2. Write their **name** and **title** next to their signature.
 4. **Fax the signed copy** of your return to the IRS's ERC claim withdrawal fax line at 855-738-7609. This is your withdrawal request. Keep your copy with your tax records.

HOW TO REQUEST TO WITHDRAW AN ERC CLAIM IF YOU HAVEN'T RECEIVED A REFUND OR NOTICE

Form 941-X: Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund

Form (Rev. April 2023)

Department of the Treasury — Internal Revenue Service

OMB No. 1545-0029

Employer identification number (EIN) -

Name (not your trade name)

Trade name (if any)

Address

City State ZIP code

Foreign country name Foreign province/county Foreign postal code

Withdrawn

Read the separate instructions before completing this form. Use this form to correct errors you made on Form 941 or 941-SS. Use a separate Form 941-X for each quarter that needs correction. If you are correcting more than one quarter, you must check the appropriate box. You MUST complete all five pages. Don't attach this form to Form 941 or 941-SS unless you're reclassifying workers; see the instructions for line 42.

Part 1: Select ONLY one box.

- 1. Adjustment. Check this box if you are adjusting underreported tax amounts only. You must check this box if you're correcting both underreported and overreported tax amounts on this form. The amount shown on line 27, if less than zero, may only be applied as a credit to your Form 941, Form 941-SS, or Form 944 for the tax period in which you're filing this form.
- 2. Claim. Check this box if you overreported tax amounts and you want to start the claim process to ask for a refund or abatement. Don't check this box if you're correcting ANY underreported tax amounts.

Write "Withdrawn" in left margin of form

Part 2: Complete the certifications.

- 3. I certify that I've filed or will file Forms W-2 as required.

Note: If you're correcting underreported tax amounts only, go to Part 3 on page 2 and skip lines 4 and 5. If you're correcting overreported tax amounts, for purposes of the certifications on lines 4 and 5, Medicare tax doesn't include Additional Medicare Tax. Form 941-X can't be used to correct overreported amounts of Additional Medicare Tax unless the amounts weren't withheld from employee wages or an adjustment is being made for the current year.

- 4. If you checked line 1 because you're adjusting overreported federal income tax, social security tax, Medicare tax, or Additional Medicare Tax, check all that apply. You must check at least one box. I certify that:

Return You're Correcting...

- Check the type of return you're correcting.
- 941
 - 941-SS

- Check the ONE quarter you're correcting.
- 1: January, February, March
 - 2: April, May, June
 - 3: July, August, September
 - 4: October, November, December

Enter the calendar year of the quarter you're correcting. (YYYY)

Enter the date you discovered errors

/ /
(MM / DD / YYYY)

Write your name, position in the company or organization, signature and date in the right margin of form

John Doe, President, John Doe, Date (MM/DD/YYYY)

HOW TO REQUEST TO WITHDRAW AN ERC CLAIM IF YOU HAVEN'T RECEIVED A REFUND AND CLAIM IS UNDER AUDITOR NOTICE

Section B: You haven't received a refund and you've been notified your claim is under audit

If you've been notified that the IRS is auditing the adjusted return that includes your ERC claim, prepare your withdrawal request using the steps in Section A, but don't fax to the withdrawal fax line or mail it using the address below. Instead:

- If you've been assigned an examiner, communicate with your examiner about how to fax or mail your withdrawal request directly to them.
- If you haven't been assigned an examiner, respond to your audit notice with your withdrawal request, using the instructions in the notice for responding.

HOW TO REQUEST TO WITHDRAW AN ERC CLAIM YOU HAVED A CHECK BUT HAVEN'T CASH IT

Section C: You received a refund check but haven't cashed or deposited it

1. Prepare the **claim withdrawal request** using the steps in Section A, but don't fax the request.
2. Write "**Void**" in the endorsement section on the back of the refund check.
3. Include a **note** that says, "ERC Withdrawal" and briefly explain the reason for returning the refund check.
4. Make **copies for your tax records** of the front and back of the voided check, the explanation notes and the signed and dated withdrawal request page.
5. Don't staple, bend or paper clip the voided check; include it with your claim withdrawal request and **mail it** to the IRS at *(track your package to confirm delivery)*:

Cincinnati Refund Inquiry Unit

PO Box 145500

Mail Stop 536G

Cincinnati, OH 45250

WHAT HAPPENS NEXT IN THE WITHDRAWAL PROCESS

What happens next

The IRS will send you a letter telling you whether your withdrawal request was accepted or rejected. Your approved request is not effective until you have your acceptance letter from the IRS.

If your withdrawal is accepted, you may need to amend your income tax return. If you need help, seek out a trusted tax professional.

CHECK OUT MY CHANNEL



“JJ THE CPA”

JJ's YOUTUBE PLAYLIST ON ERTC



THANK YOU SO MUCH!

*HOPE TO SEE
YOU AT ANOTHER
SEMINAR SOON!*

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