

Employee Retention Credit

January 20, 2021



ARIZONA
SMALL
BUSINESS
BOOT CAMP &
COLLECTIVE

RESPOND → PLAN → RETURN STRONGER



BeachFleischman
collaborate forward

CariAnn J. Todd, CPA

1

Disclaimer

This presentation is based on relevant government guidance available as of January 19, 2021. Detailed transition guidance is not yet available for companies who have already filed for or received forgiveness. We anticipate additional guidance from the IRS/SBA in the coming weeks. This presentation includes our best interpretation of the guidance available today.

The information provided here today is high level. Consult with your CPA for more detailed information on claiming the ERC.

BeachFleischman

2

This presentation is based on relevant government guidance available as of January 19, 2021. This presentation includes our best interpretation of the guidance available today. -- The information provided here today is high level. Consult with your CPA for more detailed information on claiming the ERC.

Employee Retention Credit

BeachFleischman

3

Employee Retention Credit (ERC)

The Consolidated Appropriations Act 2021 (CAA), which was passed in late 2020 did two things:

- Removed the prohibition against companies who receive a PPP loan from taking the ERC
- Extended the ERC through June 30, 2021 with some modifications to the rules for 2021

BeachFleischman

4

This presentation is based on relevant government guidance available as of January 19, 2021. This presentation includes our best interpretation of the guidance available today. -- The information provided here today is high level. Consult with your CPA for more detailed information on claiming the ERC.

Employee Retention Credit (ERC)



The ERC is computed using eligible wages and allocable health care costs:

- Eligible wages are generally gross wages paid during the relevant period
- Allocable health care costs are costs for insurance that are related to the relevant period (could be paid earlier or later)

BeachFleischman

5

Eligibility



- The credit is available for March 12, 2020 – December 31, 2020 as well as January 1, 2021 – June 30, 2021
- The eligibility and credit computations are different for 2020 and 2021
- We will address each year individually

BeachFleischman

6

This presentation is based on relevant government guidance available as of January 19, 2021. This presentation includes our best interpretation of the guidance available today. -- The information provided here today is high level. Consult with your CPA for more detailed information on claiming the ERC.

2020

The following slides are related to the ERC for 2020, and 2020 only.

Before we start talking about 2021, you will see another blue slide like this.


Do not confuse the rules for each year.

BeachFleischman

7

ERC 2020 - Eligibility

Two different ways to be eligible for the 2020 credit:

- Business had operations that were fully or partially suspended during any calendar quarter in 2020 due to government COVID-related orders. The credit only applies to wages paid during the portion of the quarter that the business is suspended, not the entire quarter, **OR** 
- Business experienced a significant decline in gross receipts during any quarter in 2020. An employer is considered to have a significant decline in gross receipts for the period beginning with the first quarter in 2020 for which its gross receipts are less than 50 percent of gross receipts from the same quarter in 2019 and ending with the earlier of January 1, 2021 or the first quarter after the quarter for which gross receipts are greater than 80 percent of gross receipts for the same quarter in 2019.

BeachFleischman

8

This presentation is based on relevant government guidance available as of January 19, 2021. This presentation includes our best interpretation of the guidance available today. -- The information provided here today is high level. Consult with your CPA for more detailed information on claiming the ERC.

ERC 2020 - Eligibility

- For the first bullet, the company should document the specific government orders that caused them to be fully or partially shut down
- Only wages and allocable health costs during the shut down period are eligible for the ERC

BeachFleischman

9

ERC 2020 - Eligibility

- For the second bullet, the company will have to look at 2020 and 2019 gross receipts
- Use the accounting method that the company uses for internal accounting or their income tax method of accounting
- If a company does not maintain quarterly records, they can compute annual gross receipts to meet the 50% test

BeachFleischman

10

ERC 2020 - Eligibility

| EXAMPLE 1 | | | | | EXAMPLE 2 | | | | |
|------------------------------|--------------|--------------|--------------|---------|------------------------------|--------------|--------------|--------------|---------|
| 2019 | | | | | 2019 | | | | |
| Q1 | Q2 | Q3 | Q4 | Total | Q1 | Q2 | Q3 | Q4 | Total |
| 50,000 | 60,000 | 70,000 | 80,000 | 260,000 | 50,000 | 60,000 | 70,000 | 80,000 | 260,000 |
| 2020 | | | | | 2020 | | | | |
| Q1 | Q2 | Q3 | Q4 | Total | Q1 | Q2 | Q3 | Q4 | Total |
| 75,000 | 25,000 | 35,000 | 60,000 | 195,000 | 75,000 | 25,000 | 58,000 | 75,000 | 233,000 |
| Relationship of 2020 to 2019 | | | | | Relationship of 2020 to 2019 | | | | |
| Q1 | Q2 | Q3 | Q4 | Total | Q1 | Q2 | Q3 | Q4 | Total |
| 150% | 42% | 50% | 75% | 75% | 150% | 42% | 83% | 94% | 90% |
| NOT ELIGIBLE | Eligible Qtr | Eligible Qtr | Eligible Qtr | | NOT ELIGIBLE | Eligible Qtr | Eligible Qtr | NOT ELIGIBLE | |

BeachFleischman

11

ERC 2020 – Compute the Credit

Wages/costs eligible for the credit is dependent on how many employees (EEs) you had in 2019.

Compute the number of full-time EEs you had in 2019.

Only include EEs who average more than 30 hrs/wk

Formula:

Number of full-time EEs in each calendar month in 2019

12

BeachFleischman

12

This presentation is based on relevant government guidance available as of January 19, 2021. This presentation includes our best interpretation of the guidance available today. -- The information provided here today is high level. Consult with your CPA for more detailed information on claiming the ERC.

ERC 2020 – Compute the Credit

For more information on computing the number of employees, you can read the IRS FAQ:

<https://www.irs.gov/newsroom/covid-19-related-employee-retention-credits-determining-qualified-wages-faqs>

BeachFleischman

13

ERC 2020 – Compute the Credit

- Employers with 100 or fewer full-time EEs in 2019 can use all wages (including health care costs) paid: during the affected period/quarter and after March 12, 2020, minus any FFCRA wages.
- Employers with more than 100 employees can only take the credit on wages and health care costs paid to/for employees who were not working (literally paid while staying home and not providing services).

BeachFleischman

14

ERC 2020 – Compute the Credit

The credit is the first 50% of the first \$10,000 in wages and allocable health care costs paid during the affected period/quarter to each eligible employee

Maximum credit for 2020 is \$5,000 per employee

BeachFleischman

15

ERC 2020 – Compute the Credit

Important restriction #1:

Wages do not include wages paid under the family and/or sick leave provisions of FFCRA, the Families First Coronavirus Response Act. In addition, wages claimed for employees under the Work Opportunity Credit do not qualify as wages that may increase this credit.

BeachFleischman

16

ERC 2020 – Compute the Credit

Important restriction #2:

Wages paid to relatives or family members generally do not qualify. With entities, one applies these relationship rules depending on a particular level of ownership.

BeachFleischman

17

ERC 2020 – Compute the Credit

Important restriction #3:

Any wages used in the computation of the ERC are not eligible covered costs on the application for forgiveness of a PPP loan.

You can see how retroactively claiming the credit for 2020 gets interesting if you have already filed for or received forgiveness.

BeachFleischman

18

ERC 2020 – Compute the Credit

Important restriction #4:

There are aggregation rules that can affect parent-subsidiary or brother-sister groups, or a combined group of corporations. These complex rules can also reach partnerships, trusts and estates. Aggregation can affect qualification in such areas as to whether there is a full or partial shutdown as well as measuring the decline in gross receipts.

BeachFleischman

19

ERC 2020 – Claim the Credit

- Claim the credit on the quarterly Form 941
- For credits in excess of the quarterly employment tax deposits, you can request an advanced payment from the IRS on Form 7200

<https://www.irs.gov/newsroom/how-to-claim-the-credits>

BeachFleischman

20

ERC 2020

- For more details on the ERC 2020, there is an article on our website:

<https://beachfleischman.com/tax-bites/2020/04/employee-retention-credit/>

- The IRS also has extensive FAQs on the 2020 ERC:

<https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act>

BeachFleischman

21

SWITCHING GEARS TO 2021

Please note that the slides from this point forward are related to the ERC for 2021.

Do not confuse the rules for each year.


BeachFleischman

22

This presentation is based on relevant government guidance available as of January 19, 2021. This presentation includes our best interpretation of the guidance available today. -- The information provided here today is high level. Consult with your CPA for more detailed information on claiming the ERC.

ERC 2021 - Eligibility

Two different ways to be eligible for the 2020 credit:

- Business had operations that were fully or partially suspended during the 1st or 2nd quarter in 2021 due to government COVID-related orders. The credit only applies to wages paid during the portion of the quarter that the business is suspended, not the entire quarter, **OR** 
- Business experienced a significant decline in gross receipts during the 1st or 2nd quarter of 2021. An employer is considered to have a significant decline in gross receipts only for the quarters for which its gross receipts are less than 80 percent of gross receipts from the same quarter **in 2019**.

BeachFleischman

23

ERC 2021 - Eligibility

- For the first bullet, the company should document the specific government orders that caused them to be fully or partially shut down
- Only wages and allocable health costs during the shut down period are eligible for the ERC

BeachFleischman

24

ERC 2021 - Eligibility

- For the second bullet, the company will have to look at 2021, 2020 and 2019 gross receipts
- Use the accounting method that the company uses for internal accounting or their income tax method of accounting
- There is a lookback rule, that says if you don't meet the test for a quarter you can look at the immediately preceding quarter

BeachFleischman

25

ERC 2021 - Eligibility

| EXAMPLE 1 | | The example at right is a demonstration of the allowable lookback rule. | EXAMPLE 2 | | |
|------------------------------|--------------|---|---------------|--------------|--------------|
| 2019 | | | | 2019 | |
| Q1 | Q2 | | Q4 2019 | Q1 2019 | Q2 2019 |
| 50,000 | 60,000 | | 80,000 | 50,000 | 60,000 |
| 2021 | | | 2020 | 2021 | 2021 |
| Q1 | Q2 | | Q4 2020 | Q1 2021 | Q2 2021 |
| 35,000 | 45,000 | | 60,000 | 45,000 | 45,000 |
| Relationship of 2021 to 2019 | | | Relationships | | |
| Q1 | Q2 | | Q4 | Q1 | Q2 |
| 70% | 75% | | 75% | 90% | 75% |
| Eligible Qtr | Eligible Qtr | | | Eligible Qtr | Eligible Qtr |

BeachFleischman

26

This presentation is based on relevant government guidance available as of January 19, 2021. This presentation includes our best interpretation of the guidance available today. -- The information provided here today is high level. Consult with your CPA for more detailed information on claiming the ERC.

ERC 2021 – Compute the Credit

Wages/costs eligible for the credit is dependent on how many employees (EEs) you had in 2019.

Compute the number of full-time EEs you had in 2019.

Only include EEs who average more than 30 hrs/wk

Formula:

Number of full-time EEs in each calendar month in 2019

12

BeachFleischman

27

ERC 2021 – Compute the Credit

- Employers with **500** or fewer full-time EEs in 2019 can use all wages (including health care costs) paid: during the affected period/quarter, minus any FFCRA wages.
- Employers with more than 500 employees can only take the credit on wages and health care costs paid to/for employees who were not working (literally paid while staying home and not providing services).

BeachFleischman

28

ERC 2021 – Compute the Credit

The credit is the first 70% of the first \$10,000 in wages and allocable health care costs paid during the affected period/quarter to each eligible employee

Credit is computed independently for Q1 and Q2 of 2021

Maximum credit for 2021 is \$14,000 per employee

BeachFleischman

29

ERC 2021 – Compute the Credit

Important restriction #1:

Wages do not include wages paid under the family and/or sick leave provisions of FFCRA, the Families First Coronavirus Response Act. In addition, wages claimed for employees under the Work Opportunity Credit do not qualify as wages that may increase this credit.

BeachFleischman

30

ERC 2021 – Compute the Credit

Important restriction #2:

Wages paid to relatives or family members generally do not qualify. With entities, one applies these relationship rules depending on a particular level of ownership.

BeachFleischman

31

ERC 2021 – Compute the Credit

Important restriction #3:

Any wages used in the computation of the ERC are not eligible covered costs on the application for forgiveness of a PPP loan.

For entities who are applying for a PPP2 loan, they have time to plan and allocate wages between FFCRA, ERC and PPP.

BeachFleischman

32

ERC 2021 – Compute the Credit

Important restriction #4:

There are aggregation rules that can affect parent-subsidary or brother-sister groups, or a combined group of corporations. These complex rules can also reach partnerships, trusts and estates. Aggregation can affect qualification in such areas as to whether there is a full or partial shutdown as well as measuring the decline in gross receipts.

BeachFleischman

33

ERC 2021 – Claim the Credit

- Claim the credit on the quarterly Form 941
- For credits in excess of the quarterly employment tax deposits, you can request an advanced payment from the IRS on Form 7200

<https://www.irs.gov/newsroom/how-to-claim-the-credits>

BeachFleischman

34

Q&A

BeachFleischman

35

This presentation is based on relevant government guidance available as of January 19, 2021. This presentation includes our best interpretation of the guidance available today. -- The information provided here today is high level. Consult with your CPA for more detailed information on claiming the ERC.