

# Employee Retention Credit

September 2, 2021



ARIZONA  
SMALL  
BUSINESS  
BOOT CAMP &  
COLLECTIVE

RESPOND → PLAN → RETURN STRONGER



CariAnn J. Todd, CPA

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## Disclaimer

This presentation is based on relevant government guidance available as of September 1, 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 the content of this presentation.

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# Speaker

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# Outline

- Work Opportunity Credit
- Research & Development Tax Credits
- Retirement Plans Startup Costs Tax Credit
- Deferred Employer's Share of Social Security Taxes
- Employee Retention Credit



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# Work Opportunity Tax Credit

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## Work Opportunity Tax Credit (WOTC)

- The WOTC is a federal income tax credit available to employers for hiring individuals from certain targeted groups who traditionally face significant barriers to employment.
- The Consolidated Appropriations Act extended the WOTC until December 31, 2025

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# Work Opportunity Tax Credit (WOTC)

## Targeted Groups

Employers can hire eligible employees from the following target groups for WOTC.

<input type="checkbox"/> Qualified IV-A Recipient
<input type="checkbox"/> Qualified Veteran
<input type="checkbox"/> Ex-Felon
<input type="checkbox"/> Designated Community Resident (DCR)
<input type="checkbox"/> Vocational Rehabilitation Referral
<input type="checkbox"/> Summer Youth Employee
<input type="checkbox"/> Supplemental Nutrition Assistance Program (SNAP) Recipient
<input type="checkbox"/> Supplemental Security Income (SSI) Recipient
<input type="checkbox"/> Long-Term Family Assistance Recipient
<input type="checkbox"/> Qualified Long-Term Unemployment Recipient

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# Work Opportunity Tax Credit (WOTC)

- The IRS website provides details on each targeted group: <https://www.irs.gov/businesses/small-businesses-self-employed/work-opportunity-tax-credit>
- Employers have to certify that an individual is in a targeted group by filing Form 8850 with their respective state workforce agency within 28 days of the eligible worker's first day of work

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## Work Opportunity Tax Credit (WOTC)

- The amount of the WOTC depends on which targeted group the employee falls into.
- Range is \$1,200 - \$9,600 per employee
- The credit is taken on the annual federal income tax return for the company.
- As noted previously, can't use same wages for WOTC and ERC or PPP (or SVOG or RRF)

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## Work Opportunity Tax Credit (WOTC)

What about a tax-exempt employer?

### Tax-exempt Employers

Qualified tax-exempt organizations described in IRC Section 501(c) and exempt from taxation under IRC Section 501(a), may claim the credit for qualified veterans who began work for the organization after 2020 and before 2026. After the required certification (Form 8850) is secured, tax-exempt employers claim the credit against the employer Social Security tax by separately filing [Form 5884-C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans](#).

File Form 5884-C after filing the related employment tax return for the period that the credit is claimed. The IRS recommends that qualified tax-exempt employers do not reduce their required deposits in anticipation of any credit. The credit will not affect the employer's Social Security tax liability reported on the organization's employment tax return.

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# Research & Development Tax Credits

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## Research & Development Tax Credits

- The R&D federal (and Arizona) income tax credit is available to companies developing new or improved business technologies in the United States.
- The application of this definition is VERY BROAD.
- Could include a new product, new process, new software, etc. that results in the advancement of technologies.

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## Research & Development Tax Credits

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- The work you are doing to advance technologies does not need to be revolutionary.
- No company is too small to benefit
- The documentation standard is low, court cases have allowed the use of oral testimony (*as an auditor by trade this makes me cringe* 😊)

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## Research & Development Tax Credits

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- What if my start-up company doesn't owe any income tax? There is an option to take the R&D credit against payroll taxes for the first 5 years.
- What is the credit based on? Payroll, supplies and certain other costs that can be identifiable as directly related to the eligible R&D activities.

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## Research & Development Tax Credits



How do I figure out if I qualify and how much the credit might be?

Engage a CPA with significant experience with R&D tax credits. The rules and calculations are complex.

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## Retirement Plans Startup Costs Tax Credit

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## Retirement Plans Startup Costs Tax Credit

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- Eligible employers may be able to claim a federal income tax credit of up to \$5,000 for 3 years to cover the costs of starting a new retirement plan.
- SEP, SIMPLE IRA, 401(k), etc.
- Company must have less than 100 employees

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## Retirement Plans Startup Costs Tax Credit

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- Credit is 50% of eligible startup costs, up to the greater of:
  - \$500, OR
  - Lesser of:
    - ~ \$250 times the number of eligible NHCEs
    - ~ \$5,000
- Add \$500 if you include an auto-enroll feature

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# Deferred Employer's Share of Social Security Taxes

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## Deferred Employer's share of SS Tax

- The CARES Act included a provision that allowed employers to defer the deposit and payment of the employer's share of Social Security taxes (6.2%)
- The deferral period was March 27, 2020 – December 31, 2020
- Payments required: 50% by December 31, 2021  
50% by December 31, 2022

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## Deferred Employer's share of SS Tax

### How to repay the deferred taxes

Employers can make the deferral payments through the [Electronic Federal Tax Payment System](#) or by [credit or debit card](#), [money order](#) or [with a check](#). These payments must be separate from other tax payments to ensure they applied to the deferred payroll tax balance. IRS systems won't recognize the payment if it is with other tax payments or sent as a deposit.

EFTPS will soon have a new option to select **deferral payment**. The employer selects **deferral payment** and then changes the date to the applicable tax period for the payment. Employers can visit [EFTPS.gov](#), or call [800-555-4477](#) or [800-733-4829](#) for details.

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## Deferred Employer's share of SS Tax

- The IRS has extensive FAQs on this topic:  
<https://www.irs.gov/newsroom/deferral-of-employment-tax-deposits-and-payments-through-december-31-2020#what-are-applicable-dates-by-which-deferred-deposits-employers-share-social-security-tax-must-be-deposited>
- <https://www.irs.gov/newsroom/what-employers-need-to-know-about-repayment-of-deferred-payroll-taxes>

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## Deferred Employer's share of SS Tax

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What happens if you miss the first deadline OR the second deadline?

The employer will be liable for penalties for failure to deposit payroll taxes timely on the ENTIRE DEFERRAL, not just the part that was paid late.

The penalty is 10% of the total amount deferred.

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## Deferred Employer's share of SS Tax

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What happens if you miss BOTH deadlines or you pay less than is due for the first deadline?

The employer will be liable for penalties for failure to deposit payroll taxes timely on the ENTIRE DEFERRAL, not just the part that was paid late.

The IRS is authorized to increase the penalty to 15% if payment is not made within 10 days of an IRS demand for payment.

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## Deferred Employer's share of SS Tax



Takeaway: PAY IT EARLY 😊

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## Employee Retention Credit

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## Employee Retention Credit (ERC)



The ERC was established by the CARES Act.

Under the CARES Act, if a company got a PPP loan they could not take advantage of the ERC.

The ERC was viewed as a comparable benefit for companies that were ineligible for PPP, or were unable to get PPP funding.

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## 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

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## Employee Retention Credit (ERC)



The American Rescue Plan Act of 2021 (ARPA), which was passed in March 2021 did few more things:

- Added a 3<sup>rd</sup> category of eligible businesses: Recovery Start Up Businesses (RSB)
- Added a special rule for those employers who are considered severely financially distressed (gross receipts are down more than 90%)
- Extended the ERC through December 31, 2021
- Extended the statute of limitations for IRS assessment from 3 to 5 years

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## Employee Retention Credit (ERC)



What is a Recovery Startup Business?

- Business that started after February 15, 2020
- Average annual gross receipts of \$1,000,000 or less
- Does not otherwise qualify (partial shutdown or gross receipts tests)
- Can claim ERC for Q3 and Q4 of 2021

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## Employee Retention Credit (ERC)



IRS Notice 2021-49 (Aug 2021) clarified several things :

- Tips are eligible wages
- Wages paid to >50% owners and their spouses are ineligible
- The wage deduction reduction on the company tax return is tied to the year the wages were paid
- For the gross receipts test, PPP, SVOG and RRF are excluded

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## Employee Retention Credit (ERC)



Current legislation – “The Infrastructure Bill”

- Current package includes a sunset provision on the ERC and it would no longer be available for Q4 of 2021
- No indication that the ability to file a retroactive claim will be affected by the legislation

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## 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)

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## Eligibility



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

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# 2020

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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.


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## ERC 2020 - Eligibility

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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.

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## 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
- Partial shutdown – nonessential operations must represent more than 10% of revenue in the same period in 2019
- Only wages and allocable health costs during the shut down period are eligible for the ERC

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## ERC 2020 - Eligibility



### Partial Shutdown Example #1:

A restaurant that is primarily a dine-in operation is limited by an Executive Order from the Arizona Governor to only take out orders on March 20, 2020. On May 11, 2020, a subsequent Executive Order allows dine-in operations to resume at 50% capacity through December 31, 2020.

This restaurant is deemed to have essential (take out) and nonessential (dine-in) operations. The nonessential operations that are restricted by government order (dine-in) represented more than 10% of revenues in 2019. This restaurant has experienced an eligible partial shutdown for the period March 20, 2020 through December 31, 2020.

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## ERC 2020 - Eligibility

### Partial Shutdown Example #2:

A traditional dentist is limited by an Executive Order from the Arizona Governor to only perform emergency services beginning March 21, 2020. A subsequent Executive Order allows all dental services to resume as long as proper PPE, cleaning and social distancing measures are put into place. During the 1<sup>st</sup> and 2<sup>nd</sup> quarter of 2019, non-emergency services (cleanings and preventive care) represented over 40% of the dentist's revenues.

This dentist is deemed to have essential (emergency) and nonessential (routine) operations. The nonessential operations that are restricted by government order (routine) represented more than 10% of revenues in 2019. This dentist has experienced an eligible partial shutdown for the period March 21, 2020 through April 30, 2020.

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## 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

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## 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	

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## ERC 2020 – Compute the Credit

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

Only include EEs who average more than 30 hrs/wk or 130 hrs/month

Formula:

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

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## ERC 2020 – Compute the Credit

How do you determine whether an employee is a full-time employee in a given month? 130 hours/month test

	A	B	C	D	E	F	G
1	Last Name	First Name	Hours	Check Date	Total Hrs	Full-time employees	
2	Ant	Adam	74.3	1/3/2019			
3	Ant	Adam	65.8	1/16/2019			
4	Ant	Adam	75.5	1/30/2019	215.6	1	Formula: If E4>130, then "1", if not "0"
5	Brown	Marco	72.7	1/3/2019			
6	Brown	Marco	56.4	1/16/2019			
7	Brown	Marco	49.4	1/30/2019	178.5	1	Formula: If E7>130, then "1", if not "0"
8	Castro	Ruby	30.15	1/3/2019			
9	Castro	Ruby	32.65	1/16/2019			
10	Castro	Ruby	23.2	1/30/2019	86	0	Formula: If E10>130, then "1", if not "0"

In Excel, the formula looks like this: =IF(E4>130,1,0)

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## ERC 2020 – Compute the Credit

How do you determine whether an employee is a full-time employee in a given month? 30 hours/week test

	A	B	C	D	E	F	G	H
1	Last Name	First Name	Hours	Check Date	Hours per week	Month average	Full-time employees	
2	Ant	Adam	74.3	1/3/2019	37.15			
3	Ant	Adam	65.8	1/16/2019	32.9			
4	Ant	Adam	75.5	1/30/2019	37.75	35.93	1	Formula: If F4>30, then "1", if not "0"
5	Brown	Marco	72.7	1/3/2019	36.35			
6	Brown	Marco	56.4	1/16/2019	28.2			
7	Brown	Marco	49.4	1/30/2019	24.7	29.75	0	Formula: If F7>30, then "1", if not "0"
8	Castro	Ruby	30.15	1/3/2019	15.075			
9	Castro	Ruby	32.65	1/16/2019	16.325			
10	Castro	Ruby	23.2	1/30/2019	11.6	14.33	0	Formula: If F10>30, then "1", if not "0"

In Excel, the formula looks like this: =IF(F4>30,1,0)

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## ERC 2020 – Compute the Credit

Compile the number of full-time employees by month and compute the average. If you have multiple locations/businesses they must be aggregated:

	Location A
January	25
February	23
March	23
April	28
May	24
June	25
July	29
August	23
September	20
October	18
November	19
December	28
	285
Average	23.8

	Location A	Location B	Location C	Location D	Total
January	25	20	21	6	72
February	23	12	14	6	55
March	23	13	15	6	57
April	28	11	12	4	55
May	24	11	11	4	50
June	25	10	11	3	49
July	29	21	22	5	77
August	23	10	10	4	47
September	20	8	8	4	40
October	18	7	8	4	37
November	19	13	8	4	44
December	28	17	19	5	69
					652
					Average full-time employees in 2019 54.3

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## 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).

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## ERC 2020 – Compute the Credit

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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

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## ERC 2020 – Compute the Credit

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Important restriction #1:

Wages used for the following cannot also be used as wages for ERC:

- Family and/or sick leave provisions of FFCRA
- Wages claimed under the Work Opportunity Credit
- Wages used for SVOG reporting
- Wages used for RRF reporting

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## 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.

See question #59: <https://www.irs.gov/newsroom/covid-19-related-employee-retention-credits-determining-qualified-wages-faqs>

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## ERC 2020 – Compute the Credit



### 59. Are wages paid by an employer to employees who are related individuals considered qualified wages?

No. Wages paid to related individuals, as defined by section 51(i)(1) of the Internal Revenue Code (the "Code"), are not taken into account for purposes of the Employee Retention Credit. A related individual is any employee who has of any of the following relationships to the employee's employer who is an individual:

- A child or a descendant of a child;
- A brother, sister, stepbrother, or stepsister;
- The father or mother, or an ancestor of either;
- A stepfather or stepmother;
- A niece or nephew;
- An aunt or uncle;
- A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

In addition, if the Eligible Employer is a corporation, then a related individual is any person that bears a relationship described above with an individual owning, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation.

If the Eligible Employer is an entity other than a corporation, then a related individual is any person that bears a relationship described above with an individual owning, directly or indirectly, more than 50 percent of the capital and profits interests in the entity.

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## ERC 2020 – Compute the Credit

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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 when you have already filed for forgiveness.*

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## ERC 2020 – Compute the Credit

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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 number of employees, whether there is a full or partial shutdown as well as measuring the decline in gross receipts.

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# 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.

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	A	B	C	D	E	F	G	H	I	J	K
1		Sample Company - Restaurant									
2		Employee Retention Credit									
3		Calendar Year 2020									
4											
5											
6											
7											
8											
9											
10											
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25											

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## ERC 2020 – Claim the Credit

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- Claim the credit on Form 941-X
- Complete a Form 941-X for each quarter:  
<https://www.irs.gov/pub/irs-pdf/f941x.pdf>
- Must complete the 941 worksheet to determine the proper amounts to report on the 941-X. It can be found on pages 22-23 of the Instructions:  
<https://www.irs.gov/pub/irs-pdf/i941x.pdf>

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## ERC 2020 – Claim the Credit

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- The worksheet computes a “refundable portion” and “nonrefundable portion” of the ERC
- When you are filing a 941-X, for a quarter where all taxes have been previously paid, the entire ERC will be refunded to you, even though the worksheet requires the computation of both a refundable and nonrefundable portion

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## ERC 2020 – Claim the Credit



- The nonrefundable portion only comes into play if you are claiming the ERC currently (on an original 941) in 2021, and have reduced cash payroll tax deposits in anticipation of ERC credits.

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## 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 ERC:

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

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# 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.

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## ERC 2021 - Eligibility

Three different ways to be eligible for the 2021 credit:

- Business had operations that were fully or partially suspended 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 in 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, OR**
- A Recovery start-up business (RSB).

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## ERC 2021 - Eligibility

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- For the first bullet, the company should document the specific government orders that caused them to be fully or partially shut down
- Partial shutdown – nonessential operations are typically more than 10% of revenue
- Only wages and allocable health costs during the shut down period are eligible for the ERC

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## ERC 2021 - Eligibility

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- 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

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## ERC 2021 - Eligibility

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- For the third bullet point – What is a Recovery Start-up Business
  - Began operations after February 15, 2020
  - Average annual gross receipts less than \$1 million
  - Not otherwise eligible for the credit under the first two bullet points
  - An RSB may treat wages up to the \$10,000 limitation as qualified ERC wages
  - Maximum credit is \$50,000 per quarter
  - Effective for wages paid between July 1, 2021 and December 31, 2021
  - Aggregation rules do apply – may disqualify the business if there is common ownership with an existing business

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## ERC 2021 - Eligibility

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Additionally – ARPA enabled Severely Financially Distressed Employers (SFDE) to be able to claim a larger credit by including all wages to calculate the ERC

- What is a Severely Financially Distressed Employer(SFDE)
  - A business with a decline in gross receipts of more than 90% compared to the same calendar quarter of 2019 even if the business is a large employer (more than 500 FTE's)
  - An SFDE may treat all wages up to the \$10,000 limitation as qualified ERC wages
  - Regardless if employees are performing services or not
  - Effective for wages paid between July 1, 2021 and December 31, 2021

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## 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 2021	Q2 2021	
70%	75%	75%	90%	75%	
Eligible Qtr	Eligible Qtr		Eligible Qtr	Eligible Qtr	

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## ERC 2021 – Compute the Credit

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

Only include EEs who average more than 30 hrs/wk or 130 hrs/month

Formula:

$$\frac{\text{Number of full-time EEs in each calendar month in 2019}}{12}$$

*Same formula, same answer as the 2020 slide.*

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## ERC 2021 – Compute the Credit

How do you determine whether an employee is a full-time employee in a given month? 130 hours/month test

	A	B	C	D	E	F	G
1	Last Name	First Name	Hours	Check Date	Total Hrs	Full-time employees	
2	Ant	Adam	74.3	1/3/2019			
3	Ant	Adam	65.8	1/16/2019			
4	Ant	Adam	75.5	1/30/2019	215.6	1	Formula: If E4>130, then "1", if not "0"
5	Brown	Marco	72.7	1/3/2019			
6	Brown	Marco	56.4	1/16/2019			
7	Brown	Marco	49.4	1/30/2019	178.5	1	Formula: If E7>130, then "1", if not "0"
8	Castro	Ruby	30.15	1/3/2019			
9	Castro	Ruby	32.65	1/16/2019			
10	Castro	Ruby	23.2	1/30/2019	86	0	Formula: If E10>130, then "1", if not "0"

In Excel, the formula looks like this: =IF(E4>130,1,0)

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## ERC 2021 – Compute the Credit

How do you determine whether an employee is a full-time employee in a given month? 30 hours/week test

	A	B	C	D	E	F	G	H
1	Last Name	First Name	Hours	Check Date	Hours per week	Month average	Full-time employees	
2	Ant	Adam	74.3	1/3/2019	37.15			
3	Ant	Adam	65.8	1/16/2019	32.9			
4	Ant	Adam	75.5	1/30/2019	37.75	35.93	1	Formula: If F4>30, then "1", if not "0"
5	Brown	Marco	72.7	1/3/2019	36.35			
6	Brown	Marco	56.4	1/16/2019	28.2			
7	Brown	Marco	49.4	1/30/2019	24.7	29.75	0	Formula: If F7>30, then "1", if not "0"
8	Castro	Ruby	30.15	1/3/2019	15.075			
9	Castro	Ruby	32.65	1/16/2019	16.325			
10	Castro	Ruby	23.2	1/30/2019	11.6	14.33	0	Formula: If F10>30, then "1", if not "0"

In Excel, the formula looks like this: =IF(F4>30,1,0)

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## ERC 2021 – Compute the Credit

Compile the number of full-time employees by month and compute the average. If you have multiple locations/businesses they must be aggregated:

	Location A
January	25
February	23
March	23
April	28
May	24
June	25
July	29
August	23
September	20
October	18
November	19
December	28
	285
Average	23.8

	Location A	Location B	Location C	Location D	Total
January	25	20	21	6	72
February	23	12	14	6	55
March	23	13	15	6	57
April	28	11	12	4	55
May	24	11	11	4	50
June	25	10	11	3	49
July	29	21	22	5	77
August	23	10	10	4	47
September	20	8	8	4	40
October	18	7	8	4	37
November	19	13	8	4	44
December	28	17	19	5	69
					652
					Average full-time employees in 2019 54.3

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## 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).

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## ERC 2021 – Compute the Credit

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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 all quarters of 2021

Maximum credit for 2021 is \$28,000 per employee

*Note: if the infrastructure bill passes in its current form this will be reduced to \$21,000.*

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## ERC 2021 – Compute the Credit

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Important restriction #1:

Wages used for the following cannot also be used as wages for ERC:

- Family and/or sick leave provisions of FFCRA
- Wages claimed under the Work Opportunity Credit
- Wages used for SVOG reporting
- Wages used for RRF reporting

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## ERC 2021 – Compute the Credit

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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.

See question #59: <https://www.irs.gov/newsroom/covid-19-related-employee-retention-credits-determining-qualified-wages-faqs>

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## ERC 2021 – Compute the Credit

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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 received a PPP2 loan, they have time to plan and allocate wages between FFCRA, ERC and PPP. DO NOT FILE FOR FORGIVENESS UNTIL AFTER YOU CALC THE 2021 ERC – MAXIMIZE!!!*

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# 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 employee count, whether there is a full or partial shutdown as well as measuring the decline in gross receipts.

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	A	B	C	D	E	F	G	H	I	J	K
1		Sample Company - Restaurant									
2		Employee Retention Credit									
3		Calendar Year 2021									
4											
5											
6											
7											
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This presentation is based on relevant government guidance available as of September 1, 2021, and includes our best interpretation of the available guidance. We recommend consulting with your CPA for guidance specific to your business.

## ERC 2021 – Claim the Credit

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- Claim the credit on the quarterly Form 941
- Or file amended 941s to claim retroactively (see the 2020 slides)

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

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## ERC 2021 – Claim the Credit

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- The worksheet computes a “refundable portion” and “nonrefundable portion” of the ERC
- Regardless of whether you are filing an original 941 or 941-X, for a quarter where all taxes have been paid, the entire ERC will be refunded to you, even though the worksheet requires the computation of both a refundable and nonrefundable portion.

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# Questions?

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Gary Larson speaks for everyone at this point in the webinar:



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