



EMPLOYEE RETENTION CREDIT UPDATE

The Employee Retention Credit has become a hot topic for 2020 and into 2021. Below is general information regarding 2020 retroactive changes to the credit, as well as the credit's extension through 2nd quarter of this year.

The IRS has released [Notice 2021-20](#), as well issued a news release ([IR-2021-48](#)), containing guidance for employers claiming the employee retention credit under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), as modified by the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Relief Act), for calendar quarters in 2020. The new guidance includes clarifications of the Relief Act's rules for eligibility for the credit by Paycheck Protection Program (PPP) borrowers.

2020 RULES

For the period 3/12/2020 – 12/31/2020, a company qualifies for the credit if either:

- The company had a 50%-or-greater revenue decline comparing a 2020 quarter to the same quarter in 2019, or
- The company's operations were fully or partially suspended via government order

If a qualifying company had more than 100 employees (based on average monthly FTEs) in 2019, then only wages paid to people not to work either during a government-mandated shutdown or a revenue decline quarter qualify for the credit. For companies with 100 employees or less in 2019, all wages paid during a shutdown or revenue decline quarter qualify for the credit.

If a company has a 50% revenue decline in a quarter (again, comparing the 2020 quarter to the same quarter in 2019), then that quarter is a qualifying quarter for the ERC, as well as subsequent quarters, until the end of the quarter in which revenues are at least 80% of what they were for the same quarter in the prior year.

The credit is 50% of qualifying wages and health care costs paid to employees up to a max \$10,000 per employee during 2020 (so a max \$5,000 credit per employee could be claimed).

Any wages taken into account in computing the ERC cannot also create PPP loan forgiveness, nor can those wages be used in the computation of R&D credits (i.e. no double-dipping).

EXTENSION THROUGH Q2 2021 AND CHANGES

The ERC has also been extended for 1/1/2021 – 6/30/2021, with the following changes:

- 50% quarter-to-quarter revenue drop criteria lowered to 20% (comparing either the 1st or 2nd quarter of 2021 to the same quarter in 2019)
- For the 1st quarter and 2nd quarter of 2021, a company can analyze the previous quarter to determine a 20% revenue decline (e.g. for 1st quarter 2021, a company could compare 4th quarter 2020 to 4th quarter 2019)
- The 100-employee threshold for determining the qualified wage base is increased to 500 employees (i.e. companies qualifying for the credit in 2021 and not having more than 500 employees are not limited to basing the credit only on wages paid to employees to not work during a qualifying period)

- The credit amount is increased from 50% of wages paid to employees up to \$10,000 year (\$5,000 credit per employee max) to 70% of wages paid to employees up to \$10,000 per quarter (\$14,000 credit per employee max)

The ERC is generally claimed on Form 941 filings as a credit against payroll taxes. Given the 2020 retroactive change, any ERC claimed for last year may be claimed via amended 941 filings.

For further information on the ERC, see our [January 13, 2021 blog post](#). If you would like to discuss how the ERC relates to your specific business, please [contact us](#) or reach out to your SL Advisor.