

Employee Retention Credit: 2020 vs. 2021

The Employee Retention (ERC) is one of the stimulus programs created as part of the CARES Act passed in March 2020. Since the ERC's inception, it has been expanded by two additional stimulus measures that were passed, so the credit now has different rules for 2020 and 2021.

The eligibility requirements for the 2020 version of the ERC are narrower than compared to the requirements for the more accessible 2021 version. Below are the specifications for both years:

2020	
Eligibility	<ul style="list-style-type: none"> All non-government entities Operations fully/partly suspended due to government-mandated shutdown/restriction, OR had 50% drop in gross receipts quarter-on-quarter 2019 vs 2020 Size limitation: <ul style="list-style-type: none"> If 2019 avg. number of full-time employees < 100 (not to be confused with full-time equivalents (FTEs)): <ul style="list-style-type: none"> Wages paid to all employees (working and not) during affected periods are eligible If 2019 avg. number of full-time employees > 100: <ul style="list-style-type: none"> Eligible expenses are ONLY wages paid to employees NOT performing services (working) during affected periods
Eligible Costs	<ul style="list-style-type: none"> Gross wages (those subject to social security taxes) + employer portion of group health insurance benefits between 3/13/20 – 12/31/20 during affected periods Max eligible costs = \$10k/employee for the year
Max Credit	<ul style="list-style-type: none"> \$5k/employee for the year (50%/employee)
Info to Complete Eligibility/Benefit Analysis	<ul style="list-style-type: none"> Proof of government shutdown and/or 50% gross revenue reductions Payroll registers (preferably in Excel) for 3/1/20 – 12/31/20 Group health care invoices, with per employee cost breakdown PPP loan forgiveness application (if applicable; NOTE: payroll costs applied to PPP cannot be counted toward ERC)
Application Deadline	<ul style="list-style-type: none"> The credit is applied for on Form 941, which has already been filed by you/your payroll processor, so applying for the 2020 ERC will require filing a 941-X for the relevant quarter(s). You have up to three years to file a 941-X, but we recommend filing for the ERC before finalizing your 2020 federal tax return in case the credit affects your federal return.

2021	
Eligibility	<ul style="list-style-type: none"> All non-government entities, colleges, universities, hospitals and medical care providers. Operations full/partly suspended due to government-mandated shutdown/restriction, OR had 20% drop in gross receipts quarter-on-quarter 2019 vs 2021, or in immediately preceding calendar quarter. Comparison examples below: <ul style="list-style-type: none"> <u>Q1 2021</u>: Compare Q1 2019 vs. Q1 2021, OR Q4 2020 vs. Q1 2021 (preceding quarter) <u>Q2 2021</u>: Compare Q2 2019 vs. Q2 2021, OR Q1 2021 vs. Q2 2021 (preceding quarter) Size limitation: <ul style="list-style-type: none"> If 2019 avg. number of full-time employees <500 (not to be confused with FTEs): <ul style="list-style-type: none"> Wages paid to all employees (working and not) during affected periods are eligible If 2019 avg. number of full-time employees >500: <ul style="list-style-type: none"> Eligible expenses are ONLY wages paid to employees NOT performing services (working) during affected periods
Eligible Costs	<ul style="list-style-type: none"> Gross wages (those subject to social security taxes) + employer portion of group health insurance benefits during affected quarters in 2021 Max eligible costs = \$10k/employee per quarter
Max Credit	<ul style="list-style-type: none"> 70% of eligible costs, which is \$7k/employee per quarter
Info to Complete Eligibility/Benefit Analysis	<ul style="list-style-type: none"> Proof of government shutdown and/or 20% gross revenue reductions Payroll registers (preferably in Excel) for 1/1/21 – 12/31/21 Group health care invoices, with per employee cost breakdown PPP loan forgiveness application (if applicable; NOTE: payroll costs applied to PPP cannot be counted toward ERC)
Application Deadline	<ul style="list-style-type: none"> The credit is applied for on Form 941, which has likely already initially been filed by your payroll processor, so applying for the 2021 ERC will require filing a 941-X for the relevant quarter(s). You have up to 3 years to file a 941-X, but we recommend filing for the ERC before finalizing your 2021 federal tax return in case the credit affects your federal return.

Future legislation may impact this and other related guidance. We will continue to monitor possible updates, and we recommend you also monitor possible updates. If you have questions or concerns related to the ERC, reach out to one of the members of PKF Texas' Business Advisory team:

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For more information related to COVID-19, visit our website's Resource Center at:

www.PKFTexas.com/COVID-19.