

Does Your Business Qualify for New Tax Credit?

PUBLISHED ON

April 9, 2021

As businesses sift through the many items of interest included in March's American Rescue Plan Act, they may have glossed over some of the extensions of valuable items that already had been in effect, but were extended with the latest COVID-19 regulation.

One of those items is the employee retention credit (ERC), a fully refundable tax credit originally included in the CARES Act in 2020, but has been [significantly expanded in the American Rescue Plan](#).

The ERC had been slated to end at the end of 2020, but with the COVID-19 pandemic still in full swing at the end of the year, has now been extended through the first two quarters of 2021 for qualifying companies. The credit, once only able to be taken fully by businesses with less than 100 employees, can now be taken by companies with less than 500 employees.

This month, the IRS also [released guidance](#) on the ERC for businesses to follow.

Through changes in various regulations, the somewhat complicated credit is for employers who have either:

- Fully or partially suspended operations due to a COVID-19 government order while the order was being enforced
- Experienced more than 20% drop in gross receipts in a quarter compared to the same quarter in 2019
- Started a businesses after February 15, 2020, with annual gross receipts of up to \$1 million
- Experienced revenue decline of 90% or more compared to the previous calendar year

The tax credit is put toward your Social Security tax liability. A business can claim a 70% credit up to \$10,000 of an employee's qualifying wages per quarter. The maximum credit per employee per quarter is \$7,000.

There is no specific application for an ERC, but most businesses can claim it on their taxes in Form 941, the Employer's Quarterly Federal Tax Return. Some businesses, however, will have to make the claim on Form 944 (Employer's Annual Federal Tax Return), or Form 943 (Employer's Annual Federal Tax Return for Agricultural Employees).

The amount of the credit that can be taken also depends on the number of employees a business has. While the CARES Act set the limit at fewer than 100 full-time equivalent employees for a business to claim the ERC on all wages paid to employees, the American Rescue Plan increased that number to fewer than 500 employees in 2019 that can claim the ERC for 2021 both for working and nonworking periods.

A company with more than 500 full-time equivalent employees in 2019 can only claim the credit for employee wages paid while that employee is not performing services for the employer.

If a business owner already had submitted their 2020 tax forms before the passage of the American Rescue Plan Act on March 11, but now qualify for the ERC under the new regulations when it might not have previously, the business is permitted to file an amended tax return.

With the various changes in the timing and size of the ERC, it's understandable how business owners and financial professionals at a business may be confused about the ever-changing regulations concerning taxes spurred by different COVID-19-related alterations. If your business has any questions about the new regulations, or how it can claim the ERC it is entitled to, please [contact me](#) or anyone in the [Barley Snyder Tax Practice Group](#) to discuss options.

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