



COVID-19-Related Employee Retention Credits: General Information FAQs

This FAQ is not included in the Internal Revenue Bulletin, and therefore may not be relied upon as legal authority. This means that the information cannot be used to support a legal argument in a court case.

1. What is the Employee Retention Credit?

The Employee Retention Credit is a fully refundable tax credit for employers equal to 50 percent of qualified wages (including allocable qualified health plan expenses) that Eligible Employers pay their employees. This Employee Retention Credit applies to qualified wages paid after March 12, 2020, and before January 1, 2021. The maximum amount of qualified wages taken into account with respect to each employee for all calendar quarters is \$10,000, so that the maximum credit for an Eligible Employer for qualified wages paid to any employee is \$5,000.

2. Who is an Eligible Employer?

Eligible Employers for the purposes of the Employee Retention Credit are employers that carry on a trade or business during calendar year 2020, including tax-exempt organizations, that either:

- Fully or partially suspend operation during any calendar quarter in 2020 due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19; or
- Experience a significant decline in gross receipts during the calendar quarter.

Note: Governmental employers are not Eligible Employers for purposes of the Employee Retention Credit. However, tribes or tribal entities may be Eligible Employers if they operate a trade or business. See [If a tribe or tribal entity operates a trade or business, is the tribe or tribal entity eligible for the Employee Retention Credit?](#) Also, self-employed individuals are not eligible for this credit for their own self-employment earnings, though they may be able to claim the credit for wages paid to their employees.

For more information, see [Determining Which Employers are Eligible to Claim the Employee Retention Credit](#).

3. When is the operation of a trade or business partially suspended for the purposes of the Employee Retention Credit?

The operation of a trade or business is partially suspended if an appropriate governmental authority imposes restrictions on the employer's operations by limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19 such that the employer can still continue some, but not all

of its typical operations.

For more information, see [Determining When an Employer's Trade or Business Operations are Considered to be Fully or Partially Suspended Due to a Governmental Order](#).

4. What is a “significant decline in gross receipts”?

A significant decline in gross receipts begins with the first calendar quarter in 2020 in which an employer's gross receipts are less than 50 percent of its gross receipts for the same calendar quarter in 2019. The significant decline in gross receipts ends with the first calendar quarter that follows the first calendar quarter in which the employer's 2020 quarterly gross receipts are greater than 80 percent of its gross receipts for the same calendar quarter in 2019, or with the first calendar quarter of 2021.

For more information, see [Determining When an Employer is Considered to have a Significant Decline in Gross Receipts](#).

5. How is the maximum amount of the Employee Retention Credit available to Eligible Employers determined?

The Employee Retention Credit equals 50 percent of the qualified wages (including qualified health plan expenses) that an Eligible Employer pays in a calendar quarter. The maximum amount of qualified wages taken into account with respect to each employee for all calendar quarters is \$10,000, so that the maximum credit for qualified wages paid to any employee is \$5,000.

For more information and examples, see [Determining the Maximum Amount of an Eligible Employer's Employee Retention Credit](#).

6. What are “qualified wages”?

Qualified wages are wages (as defined in section 3121(a) of the Internal Revenue Code (the “Code”)) and compensation (as defined in section 3231(e) of the Code) paid by an Eligible Employer to some or all employees after March 12, 2020, and before January 1, 2021. Qualified wages include the Eligible Employer's qualified health plan expenses that are properly allocable to the wages.

The definition of qualified wages depends, in part, on the average number of full-time employees (as defined in section 4980H of the Code) employed by the Eligible Employer during 2019.

If the Eligible Employer averaged more than 100 full-time employees in 2019, qualified wages are the wages paid to an employee for time that the employee is **not providing services** due to an economic hardship, specifically, either (1) a full or partial suspension of operations by order of a governmental authority due to COVID-19, or (2) a significant decline in gross receipts. For these employers, qualified wages taken into account for an employee may not exceed what the employee would have been paid for working an equivalent duration during the 30 days immediately preceding the period of economic hardship described in (1) or (2) above.

If the Eligible Employer averaged 100 or fewer full-time employees in 2019, qualified wages are the wages paid to **any employee** during any period of economic hardship described in (1) or (2) above.

For more information, see [Determining Qualified Wages](#).

7. What are “qualified health plan expenses”?

Qualified health plan expenses are amounts paid or incurred by an Eligible Employer that are properly allocable to employees’ qualified wages to provide and maintain a group health plan, but only to the extent that these amounts are excluded from the employees’ gross income.

For more information, see [Determining the Amount of Allocable Qualified Health Plan Expenses](#).

8. Is an Employer required to pay qualified wages to its employees under the CARES Act?

No. The CARES Act does not require employers to pay qualified wages. In addition, Eligible Employers may elect to not claim the Employee Retention Credit.

9. Can Eligible Employers claim the Employee Retention Credit for qualified wages paid in March 2020?

Eligible Employers may claim the Employee Retention Credit for qualified wages that they pay after March 12, 2020, and before January 1, 2021. Therefore, an Eligible Employer may be able to claim the credit for qualified wages paid as early as March 13, 2020.

10. May an Eligible Employer receive the Employee Retention Credit for wages paid after December 31, 2020?

No. The Employee Retention Credit is only available with respect to wages paid after March 12, 2020, and before January 1, 2021.

11. Against what employment taxes does the Employee Retention Credit apply?

The credit is allowed against the employer’s share of social security taxes under section 3111(a) of the Internal Revenue Code (the “Code”), and the portion of taxes imposed on railroad employers under section 3221(a) of the Railroad Retirement Tax Act (RRTA) that corresponds to the social security taxes under section 3111(a) of the Code.

12. What makes the Employee Retention Credit “fully refundable”?

The credit is fully refundable because the Eligible Employer may get a refund if the amount of the credit is more than certain federal employment taxes the Eligible Employer owes. That is, if for any calendar quarter the amount of the credit the Eligible Employer is entitled to exceeds the employer’s share of the social security tax on all wages (or on all compensation for employers subject to RRTA) paid to all employees, then the excess is treated as an overpayment and refunded to the employer under sections 6402(a) and 6413(a) of the Internal Revenue Code (the “Code”). Consistent with its treatment as an overpayment, the excess will be applied to offset any remaining tax liability on the employment tax return and the amount of any remaining excess will be reflected as an overpayment on the return. Like other overpayments of federal taxes, the overpayment will be subject to offset under section 6402(a) of the Code prior to being refunded to the employer.

For more information on the reduction in deposits for the credit and deferral of payment and deposit of the employer's share of social security taxes due before January 1, 2021 under section 2302 of the CARES Act, see [Deferral of employment tax deposits and payments through December 31, 2020](#).

For more information on the claiming the refundable Employee Retention Credit, see [How to Claim the Employee Retention Credit](#).

13. Are Eligible Employers required to withhold federal employment taxes on qualified wages paid to employees?

Yes. Qualified wages are wages subject to withholding of federal income tax and both the employer's and employee's shares of social security and Medicare taxes. (See [How to Claim the Employee Retention Credit](#) for information regarding an Eligible Employer's ability to retain the federal income tax withholding and the employees share of social security and Medicare taxes in an amount equal to the Employee Retention Credit.) Qualified wages are also considered wages for purposes of other benefits that the employer provides, such as contributions to 401(k) plans.

14. May an Eligible Employer receive both the tax credit for qualified leave wages under the FFCRA and the Employee Retention Credit under the CARES Act?

Yes, but not for the same wages. The amount of qualified wages for which an Eligible Employer may claim the Employee Retention Credit does not include the amount of qualified sick and family leave wages for which the employer receives tax credits under the FFCRA.

For more information, see [Interaction with Other Credit and Relief Provisions](#).

15. May an Eligible Employer receive both the Employee Retention Credit and a Paycheck Protection Program (PPP) loan that is authorized under the CARES Act?

No. An Eligible Employer may not receive the Employee Retention Credit if the Eligible Employer receives a PPP loan that is authorized under the CARES Act. An Eligible Employer that receives a PPP loan should not claim Employee Retention Credits.

For more information, see [Interaction with Other Credit and Relief Provisions](#).

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