**Internal Revenue Service**

**Frequently asked questions about the Employee Retention Credit**

The Employee Retention Credit (ERC) – sometimes called the Employee Retention Tax Credit or ERTC – is a refundable tax credit for businesses and tax-exempt organizations. The requirements are different depending on the time period for which you claim the credit.

These frequently asked questions (FAQs) provide general information about eligibility, claiming the credit, scams and more. For technical guidance, see notices, forms and instructions on the [Employee Retention Credit](https://www.irs.gov/coronavirus/employee-retention-credit) page.

* [Eligibility](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#eligibility)
* [Qualified wages](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#qualified)
* [Qualifying government orders](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#qualifying)
* [Decline in gross receipts](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#decline)
* [Claiming the ERC](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#claiming)
* [ERC scams](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#scams)
* [Recordkeeping](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#recordkeeping)
* [Timing](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#timing)

**Eligibility**

[**Q2. Who is eligible to claim the Employee Retention Credit? (updated September 14, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205956)

 A2. Some promoters tell taxpayers that every employer qualifies for ERC. This is not true. Eligibility for the ERC depends on your specific facts and circumstances. There are very specific eligibility requirements for claiming the ERC.

[Eligible employers](https://www.irs.gov/newsroom/employee-retention-credit-2020-vs-2021-comparison-chart) can claim the ERC on an amended employment tax return for qualified wages paid between March 13, 2020, and December 31, 2021. However, to be eligible, employers must have either:

* Sustained a full or partial suspension of operations [due to an order from an appropriate governmental authority](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#qualifying) limiting commerce, travel or group meetings because of COVID-19 during 2020 or the first three quarters of 2021, or
* Experienced a [significant decline in gross receipts during 2020 or a decline in gross receipts during the first three quarters of 2021](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#decline), or

Employers in U.S. territories are eligible to claim ERC if they meet other eligibility requirements. For information about qualified wages paid by employers, see [Notice 2021-20](https://www.irs.gov/irb/2021-11_IRB#NOT-2021-20), Section III.A, Question 4.

[**Q4. Does participating in the Paycheck Protection Program affect the amount of ERC I may be entitled to? (added September 14, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205951)

 A4. Participating in the PPP doesn't affect your eligibility. It affects the amount of qualified wages used to calculate the credit.

If your PPP loan was forgiven, you can't claim the ERC on wages that were reported as payroll costs to obtain Paycheck Protection Program loan forgiveness, however, you may still be eligible to claim ERC.

Payroll costs up to the amount that SBA forgave are ineligible for ERC. You may use the rest of your qualified wages to calculate your ERC.

Documents you may need to support your ERC claim may include:

* PPP loan forgiveness application
* Documentation from the Small Business Administration related to your loan forgiveness decision
* Calculations that show you did not claim the ERC on the same wages you reported as payroll costs
* Records that show the wages used as payroll costs for PPP and wages used to claim the ERC

**Qualified wages**

[**Q1. What is the definition of qualified wages for the ERC? (added September 14, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205939)

A1. Generally, qualified wages must be wages that are subject to Social Security and Medicare taxes. However, they may also include certain health care expenses you pay for your employees.

Not all wages that you pay to employees may be qualified wages for purposes of the ERC. Be wary of anyone who says you can use all wages when calculating your ERC.

Different dollar limits apply and the rules vary by the quarter for which you're claiming the ERC.

The amount of your qualified wages used to calculate your ERC will also depend on certain factors, including:

* The average number of employees you employed in 2019 (Under 100 or 500 employees);
* Whether the employees provided services for the wages you paid during the suspension of operations or the quarter in which there was the requisite decline in gross receipts;
* How the related individual rules apply to your situation;
* Whether the wages were used to claim other tax credits; and
* Whether the wages were used as payroll costs for other programs (Paycheck Protection Program, shuttered venue operators grant or restaurant revitalization grant)

For further discussion, see [Notice 2021-20](https://www.irs.gov/irb/2021-11_IRB#NOT-2021-20) (Section III.G, Questions 30 through 39), Notice 2021-23 (Section III.E), and Notice 2021-49 (Section III.E. and Section IV.A. through IV.D).

**Qualifying government orders**

[**Q1. What kind of government orders qualify my organization for the ERC? (added July 28, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205936)

 A1. To qualify for ERC, you need to have been subject to a qualifying government order related to COVID-19 that caused a full or partial suspension of your trade or business operations. The government order may be at the local, state or federal level.

Examples of governmental orders:

* An order from the city's mayor stating that all non-essential businesses must close for a specified time period;
* A state's emergency proclamation that residents must shelter in place for a specified period, except for essential workers;
* An order from a local official imposing a curfew on residents that impacted the operating hours of your trade or business for a specified time period;
* An order from a local health department mandating a workplace closure for cleaning and disinfecting.

[**Q2. Can I rely on a recommendation, bulletin or statement issued by a government authority to qualify for ERC? (updated September 14, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205935)

 A2. No. Recommendations or statements encouraging you to take certain actions are not orders.

To qualify for the ERC, you must have been subject to a government order that fully or partially suspended your trade or business.

If you use a third party to calculate or claim your ERC, you should ask them to give you a copy of the government orders – not a generic narrative about an order. Read the order carefully and make sure it applied to your business or organization.

[**Q3. Is being subject to a government order enough to make me eligible for ERC? (added July 28, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205933)

 A3. No. You need to demonstrate that the government order was related to COVID-19 and that it resulted in your trade or business being fully or partially suspended.

[**Q4. What does it mean to be fully or partially suspended? (updated September 14, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205932)

 A4. Whether your business or organization was fully or partially suspended depends on your specific situation. For examples, see [Notice 2021-20](https://www.irs.gov/irb/2021-11_IRB#NOT-2021-20), Section III.D.

Some examples of who **doesn't**qualify (business wasn’t considered suspended) under this eligibility factor:

* If all your employees were able to telework and your business continued to operate.
* If your customers were affected by a stay-at-home order, but no orders applied to your business.
* If you voluntarily closed your business or reduced hours of operation, but not ordered to suspend.

You could still qualify for ERC based on a decline in gross receipts even if you don't qualify under suspension of operations due to government order.

Remember: You need to be able to prove your claim with a specific government order and show how it suspended all or part of your operations.

[**Q5. What does “more than nominal” mean when considering whether my business or organization was partially suspended? (added September 14, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205929)

 A5. IRS will consider you to be partially suspended if more than a nominal part of your business was suspended by a governmental order.

The IRS considers "more than nominal" to be at least 10% of your business based on either the gross receipts from that part of the business or the total hours your employees spent working in that part of the business.

If all parts of your business could operate but you had to modify how it operated, then we will consider you to be partially suspended if you can show that the order had more than a nominal effect on your business. We consider "more than a nominal effect" to be at least a 10% reduction in your ability to provide goods or services in the normal course of your business.

If you changed business practices to alter behavior, such as making store aisles one-way or requiring customers or employees to wear masks, we won't consider that change to have had a more than a nominal effect on your business operations.

For more details and examples, see [Notice 2021-20](https://www.irs.gov/irb/2021-11_IRB#NOT-2021-20), Section III.D, Questions 11, 17 and 18.

[**Q6. If my business was suspended by a government order for only part of a quarter, am I an eligible employer for the entire quarter? (added September 14, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205926)

 A6: You are considered an eligible employer for the entire calendar quarter if your business operations were fully or partially suspended due to a governmental order during a portion of a calendar quarter.

However, you can claim the ERC only for wages paid during the suspension period, not the whole quarter.

For examples, see [Notice 2021-20](https://www.irs.gov/irb/2021-11_IRB#NOT-2021-20), Section III.D, Question 22.

**Decline in gross receipts**

[**Q1. How do I tell if I have the required decline in gross receipts to claim the ERC? (updated September 14, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205915)

 A1. You may qualify for ERC if your business or organization experienced a significant decline in gross receipts during 2020 or a decline in gross receipts during the first three quarters of 2021.

Generally, this test is met by comparing the gross receipts of the calendar quarter in which ERC is considered to the gross receipts of the same calendar quarter in 2019.

* For 2020, you begin qualifying in the quarter when your gross receipts are less than 50% of the gross receipts for the same quarter in 2019. You no longer qualify in the quarter after the quarter in which your gross receipts are more than 80% of the same quarter in 2019.
* For 2021, the gross receipts for the quarter must be less than 80% of the gross receipts for the s me quarter in 2019.
* For calendar quarters in 2021, you can also use the alternative quarter election rule, which gives employers the ability to look at the prior calendar quarter and compare to the same calendar quarter in 2019 to determine whether there was a decline in gross receipts.

[**Q2. What types of income do I need to include in gross receipts? (added September 14, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205913)

 A2. Gross receipts for purposes of the ERC are defined by reference to existing law. Learn more about the specific rules in Notice 2021-20, Section III.E, Questions 24 and 25. **For an employer that is a tax-exempt organization,** gross receipts means the gross amount received by the organization from all sources without reduction for any costs or expenses.

For example, gross receipts for an employer that is a tax-exempt organization may include gross sales or receipts from business activities (including business activities unrelated to the purpose for which the organization qualifies for exemption) and the gross amount received:

* As contributions, gifts, grants and similar amounts (without reduction for the related expenses),
* From the sale of assets without reduction for cost or other basis and expenses of sale,
* As investment income, such as interest, dividends, rents and royalties.

**Claiming the ERC**

[**Q2. Is there a deadline to claim the ERC? (added July 27, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205900)

**A2. Generally, for 2020 tax periods, the deadline is April 15, 2024. For 2021 tax periods, the deadline is April 15, 2025.**

**ERC scams**

[**Q1. How do I know if I’m being scammed by an ERC promoter? (updated September 14, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205882)

 A1. Scam promoters use several different tactics to mislead people who have no chance of meeting the requirements for the ERC while charging them excessive fees – often thousands of dollars. Unscrupulous promoters may lie about eligibility requirements, including refusing to provide detailed documents supporting their computations of the ERC. The IRS continues to see a variety of ways that promoters can lure businesses, tax-exempt groups and others into applying for the credit.

* **Aggressive marketing**. This can be seen in countless places, including radio, television and online as well as phone calls and text messages.
* **Direct mailing**. Some ERC mills are sending out fake letters to taxpayers from non-existent groups like the "Department of Employee Retention Credit." These letters can be made to look official.
* **Leaving out key details**. Third-party promoters of the ERC often don't accurately explain eligibility requirements or how the credit is computed.

[**Q2. How can I protect myself from ERC scam promoters? (updated September 14, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205880)

 A2. The IRS reminds businesses, tax-exempt groups and others being approached by these promoters that they can take simple steps to protect themselves from making an improper ERC claim.

* Work with a [trusted tax professional](https://www.irs.gov/tax-professionals/choosing-a-tax-professional) if you're an eligible employer who needs help claiming the credit; the IRS urges people not to rely on the advice of those soliciting these credits.
* Request a detailed worksheet explaining ERC eligibility and the computations used to determine the ERC amount.
* Don’t accept a generic document about a government order from a third party. If they say you qualify for ERC based on a government order, ask for a copy of the government order. Review it carefully to make sure it applied to your business or organization.
* Don't apply for this credit unless you believe you are legitimately qualified.

For more information on warning signs of ERC scams and how to report fraud, see the [Employee Retention Credit](https://www.irs.gov/coronavirus/employee-retention-credit) page.

**Recordkeeping**

[**Q1. What records do I need to support my eligibility for the Employee Retention Credit? (updated September 14, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205867)

 A1. In general, you need to have the records you relied on to show:

* Your business operations were suspended, including the specific government order;
* You experienced the required decline in gross receipts;
* Which employees received qualified wages and in what amounts;
* you paid qualified wages only to employees who were not providing services, if you are a large eligible employer;
* How you allocated qualified health plan expenses;
* How Paycheck Protection Program loan forgiveness affects your ERC claim (see question regarding PPP in the Eligibility section);

**Timing**

[**Q1. How long will it take to get my Employee Retention Credit? (updated September 14, 2023)**](https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit#collapseCollapsible1694719205860)

Processing of returns that involve the ERC has slowed due to the complexity of the amended returns and the increase in aggressive and misleading marketing campaigns luring taxpayers into claiming the ERC when they are not eligible for it. There are very specific eligibility requirements for claiming the ERC, so all claims must be reviewed by an IRS employee.