

MAKING CENT\$\$ OF STIMULUS MONEY

Employee Retention Credit 2020

March 31, 2021

American Rescue Plan Act of 2021

- \$1.9 trillion stimulus package signed into law March 11, 2021
- Extends ERC through December 31, 2021
- Expanded eligibility
- Clarified exclusions when applying for other credits and/or stimulus money
- Added five-year statute of limitations for the IRS to assess a deficiency for claiming the credit

Employee Retention Credit for 2020

- Credit against employer share of Social Security tax equal to 50% of qualified wages paid to employees between March 13, 2020 and December 31, 2020
- Qualified wages are capped at \$10,000 per employee per year
- Maximum credit per employee is \$5,000 per year
- Eligible costs include employer paid group health insurance costs
- File for credit on Form 941-X – Adjusted Employer’s Quarterly Federal Tax Return
- Can claim the credit even if you received a PPP loan
 - Cannot use the same wages to apply for PPP loan forgiveness AND the credit – NO DOUBLE DIPPING!

Am I Eligible for the Credit in 2020?

Two ways to qualify

- Business operations are either fully or partially suspended due to a COVID-19 government mandated order
 - Qualified wages begin when the government order is put in place
 - Qualified wages end when government order is lifted
- Gross receipts in a calendar quarter are less than 50% of gross receipts in the same calendar quarter of 2019
 - Qualified wages begin the first day of the first quarter that you become eligible (except Q1 2020)
 - Qualified wages end on the last day of the calendar quarter for which gross receipts are greater than 80% of the gross receipts compared to the same calendar quarter in 2019
 - Can be eligible for multiple quarters

Large Employer vs. Small Employer

- Employer that averaged more than 100 full-time employees in 2019
 - Qualified wages are those paid to employees that are **not** providing services because operations were fully or partially suspended or due to meeting the gross receipts decline test
- Employer that averaged fewer than 100 full-time employees in 2019
 - Qualified wages are wages paid to **all** employees when operations are partially or fully suspended or gross receipts decline test is met

Aggregation rules apply!

Full-time employee for purposes of ERC means an employee who worked an average of at least 30 hours per week or 130 hours per month

Are Owners' Wages Eligible for ERC?

- Owners with greater than 50% ownership in a corporation may not claim ERC against their own wages
- Attribution rules apply – related parties to those owners with 50% or more ownership may not claim ERC against their wages
 - Spouse, children, grandchildren, parents

How Do I Claim the Credit?

- File Form 941-X for each quarter in which you can claim the credit in 2020

Form **941-X: Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund**
(Rev. October 2020) Department of the Treasury — Internal Revenue Service OMB No. 1545-0029

Employer identification number (EIN)	<input type="text"/>	-	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Name (not your trade name)	<input type="text"/>								
Trade name (if any)	<input type="text"/>								
Address	<input type="text"/>								
	Number	Street					Suite or room number		
	<input type="text"/>					<input type="text"/>	<input type="text"/>		
	City					State	ZIP code		
	<input type="text"/>				<input type="text"/>		<input type="text"/>		
	Foreign country name				Foreign province/county		Foreign postal code		

Read the separate instructions before completing this form. Use this form to correct errors you made on Form 941 or 941-SS. Use a separate Form 941-X for each quarter that needs correction. Type or print within the boxes. You MUST complete all four pages. Don't attach this form to Form 941 or 941-SS unless you're reclassifying workers; see the instructions for line 36.

Part 1: Select ONLY one process. See page 5 for additional guidance.

1. Adjusted employment tax return. Check this box if you underreported amounts. Also check this box if you overreported amounts and you would like to use the adjustment process to correct the errors. You must check this box if you're correcting both underreported and overreported amounts on this form. The amount shown on line 27, if less than zero, may only be applied as a credit to your Form 941, Form 941-SS, or Form 944 for the tax period in which you're filing this form.

2. Claim. Check this box if you overreported amounts only and you would like to use the claim process to ask for a refund or abatement of the amount shown on line 27. Don't check this box if you're correcting ANY underreported amounts on this form.

Return You're Correcting...
Check the type of return you're correcting.
 941
 941-SS

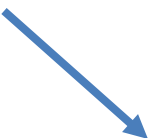
Check the ONE quarter you're correcting.
 1: January, February, March
 2: April, May, June
 3: July, August, September
 4: October, November, December

Enter the calendar year of the quarter you're correcting.
 (YYYY)

Enter the date you discovered errors.
 / /
(MM / DD / YYYY)

18.	Nonrefundable portion of employee retention credit (Form 941 or 941-SS, line 11c)	<input type="text"/>	-	<input type="text"/>	=	<input type="text"/>	See instructions	<input type="text"/>	
19.	Special addition to wages for federal income tax	<input type="text"/>	-	<input type="text"/>	=	<input type="text"/>	See instructions	<input type="text"/>	
20.	Special addition to wages for social security taxes	<input type="text"/>	-	<input type="text"/>	=	<input type="text"/>	See instructions	<input type="text"/>	
21.	Special addition to wages for Medicare taxes	<input type="text"/>	-	<input type="text"/>	=	<input type="text"/>	See instructions	<input type="text"/>	
22.	Special addition to wages for Additional Medicare Tax	<input type="text"/>	-	<input type="text"/>	=	<input type="text"/>	See instructions	<input type="text"/>	
23.	Combine the amounts on lines 7 through 22 of Column 4								<input type="text"/>
24.	Deferred amount of social security tax* (Form 941 or 941-SS, line 13b) <small>* Use this line to correct the employer deferral for the second quarter of 2020 and the employer and employee deferral for the third and fourth quarters of 2020.</small>	<input type="text"/>	-	<input type="text"/>	=	<input type="text"/>	See instructions	<input type="text"/>	
25.	Refundable portion of credit for qualified sick and family leave wages (Form 941 or 941-SS, line 13c)	<input type="text"/>	-	<input type="text"/>	=	<input type="text"/>	See instructions	<input type="text"/>	

Applies only to 2nd quarter amendment



Next

Name (not your trade name)	Employer identification number (EIN)	Correcting quarter (1, 2, 3, 4)
		Correcting calendar year (YYYY)

Part 3: Enter the corrections for this quarter. If any line doesn't apply, leave it blank. (continued)

	Column 1 <i>Total corrected amount (for ALL employees)</i>	Column 2 <i>Amount originally reported or as previously corrected (for ALL employees)</i>	Column 3 <i>Difference (If this amount is a negative number, use a minus sign.)</i>	Column 4 <i>Tax correction</i>
26. Refundable portion of employee retention credit (Form 941 or 941-SS, line 13d)	<input type="text"/>	<input type="text"/>	<input type="text"/> See instructions	<input type="text"/>

30.	Qualified wages for the employee retention credit (Form 941 or 941-SS, line 21)	<input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/> - <input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/> = <input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/>
31.	Qualified health plan expenses allocable to wages reported on Form 941 or 941-SS, line 21 (Form 941 or 941-SS, line 22)	<input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/> - <input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/> = <input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/>
32.	Credit from Form 5884-C, line 11, for this quarter (Form 941 or 941-SS, line 23)	<input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/> - <input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/> = <input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/>
33a.	Qualified wages paid March 13 through March 31, 2020, for the employee retention credit (use this line to correct only the second quarter of 2020) (Form 941 or 941-SS, line 24)	<input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/> - <input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/> = <input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/>
33b.	Deferred amount of the employee share of social security tax included on Form 941 or 941-SS, line 13b (use this line to correct only the third and fourth quarters of 2020) (Form 941 or 941-SS, line 24)	<input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/> - <input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/> = <input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/>
34.	Qualified health plan expenses allocable to wages reported on Form 941 or 941-SS, line 24 (use this line to correct only the second quarter of 2020) (Form 941 or 941-SS, line 25)	<input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/> - <input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/> = <input style="width: 80px; height: 25px; border: 1px solid black;" type="text"/>

Name (not your trade name)	Employer identification number (EIN)	Correcting quarter (1, 2, 3, 4)
		Correcting calendar year (YYYY)

Part 4: Explain your corrections for this quarter.

- 35. Check here if any corrections you entered on a line include both underreported and overreported amounts. Explain both your underreported and overreported amounts on line 37.
- 36. Check here if any corrections involve reclassified workers. Explain on line 37.
- 37. You must give us a detailed explanation of how you determined your corrections. See the instructions.

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How to Prepare

- Determine if you meet one of the two qualifying tests for 2020
- Determine which wages can be used for the credit
 - Wages paid under FFCRA are not eligible
 - Wages used for PPP loan received in 2020 are not eligible
 - Wages used to obtain any of the following credits are not eligible:
 - Credit for increasing research activities
 - Indian employment credit
 - Employer wage credit for employees who are active-duty
 - Work opportunity tax credit
 - Empowerment zone employment credit
- File Form 941-X for each quarter in which your organization had qualified wages

What if I Filed for PPP Forgiveness Already?

- If only wage costs were used to apply for forgiveness, the amount of wage costs that are equal to the forgiven PPP loan are not eligible for ERC

Example: PPP loan of \$100,000 received April 10th, 2020. Borrower was eligible for ERC for all of 2020. Applied for and received full forgiveness on October 25th, 2020. Borrower reported \$100,000 of payroll costs on loan forgiveness application all attributable to wages. The \$100,000 of wages reported on the loan forgiveness application cannot be used to claim the ERC.

What if I Filed for PPP Forgiveness Already?

- If payroll costs reported on loan forgiveness application were in excess of total loan amount and included eligible non-wage payroll costs.

Example: PPP loan of \$100,000 received April 10th, 2020. Borrower was eligible for ERC for all of 2020. Applied for and received full forgiveness on October 25th, 2020. Borrower reported \$200,000 of payroll costs on loan forgiveness application which included employer's share of retirement contributions and state/local unemployment tax. The borrower may claim ERC on \$100,000 of the reported payroll costs.

What if I Filed for PPP Forgiveness Already?

- If payroll costs reported on loan forgiveness application were in excess of total loan amount and included eligible non-wage payroll costs. Eligible non-payroll costs were also reported on the loan forgiveness application

Example: PPP loan of \$100,000 received April 10th, 2020. Borrower was eligible for ERC for all of 2020. Applied for and received full forgiveness on October 25th, 2020. Borrower reported \$200,000 of payroll costs on loan forgiveness application which included employer's share of retirement contributions and state/local unemployment tax and \$50,000 of eligible non-payroll costs. At least 60% of the PPP loan must be used on eligible payroll costs, the other 40% can be used for eligible non-payroll costs. In this example, the borrower needed to use at least \$60,000 on eligible payroll costs and \$40,000 on eligible non-payroll costs. Since they reported \$200,000 of payroll costs and \$50,000 of non-payroll costs, they can use the overreported payroll amount of \$140,000 to claim the ERC.

Resources

- COVID-19 Resource Center

<https://www.wegnercpas.com/wegner-resources/covid-19/>

- IRS

<https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act>

<https://www.irs.gov/newsroom/new-law-extends-covid-tax-credit-for-employers-who-keep-workers-on-payroll>

<https://www.irs.gov/pub/irs-drop/n-21-20.pdf>

Thank You!

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