

Employee Retention Tax Credit (ERTC)

Created Under The CARES Act • March 27, 2020

Amended Under The Consolidated Appropriations Act, 2021* • December 27, 2020

** Fun Fact - According to the Senate Historical Office, at 5,593 pages, the Consolidated Appropriations Act, 2021 is the longest bill ever passed by Congress.*

EMPLOYEE RETENTION TAX CREDIT

- What is the ERTC?

The Employee Retention Credit (ERTC) is a refundable tax credit against certain employment taxes. Eligible employers can get immediate access to the credit by reducing or eliminating employment tax deposits they would otherwise be required to make. *Generally, the ERTC is a credit that reduces an employers required Form 941 tax deposits.*

EMPLOYEE RETENTION TAX CREDIT

- Why Haven't We Heard Much About It?

The CARES Act (March, 2020) created the ERTC. For 2020, Eligible businesses could qualify for credit of up to \$5,000.00 per employee. However, businesses who received a forgivable PPP loan were not eligible to claim an ERTC. Most small businesses (understandably) opted for a forgivable PPP loan, so an ERTC wasn't an option for them.

The PPP restriction changed with the passage of CAA, 2021.

EMPLOYEE RETENTION TAX CREDIT

CAA, 2021, Title II, Section 206-207, ERTC Modifications, Pg. 4927

Section 206 – Recalled PPP as a disqualifier / technical corrections.

Section 207 – Beginning 1/01/21 through 6/30/21, changed the employer eligibility threshold and increased the amount of the credit available.

For the most part, there are two ERTC credits – ERTC ‘20 and ERTC ‘21. While the mechanics and effect are basically the same under both credits, the qualifiers and limits are different.

EMPLOYEE RETENTION TAX CREDIT

SEC. 206 & 207. EMPLOYEE RETENTION TAX CREDIT MODIFICATIONS:

The provision extends and expands the CARES Act employee retention tax credit (ERTC). It also contains technical corrections to the CARES Act.

Beginning on January 1, 2021 and through June 30, 2021, the provision:

- Increases the credit rate from 50 percent to 70 percent of qualified wages;
- Expands eligibility for the credit by reducing the required year-over-year gross receipts decline from 50 percent to 20 percent and provides a safe harbor allowing employers to use prior quarter gross receipts to determine eligibility;
- Increases the limit on per-employee creditable wages from \$10,000 for the year to \$10,000 for each quarter;
- Increases the 100-employee delineation for determining the relevant qualified wage base to employers with 500 or fewer employees;
- Allows certain public instrumentalities to claim the credit; and
- Provides rules to allow new employers who were not in existence for all or part of 2019 to be able to claim the credit.

Retroactive to the effective date included in section 2301 of the CARES Act, the provision:

- Provides that employers who receive Paycheck Protection Program (PPP) loans may still qualify for the ERTC with respect to wages that are not paid for with forgiven PPP proceeds;
- Clarifies the determination of gross receipts for certain tax exempt organizations; and
- Clarifies that group health plan expenses can be considered qualified wages even when no other wages are paid to the employee, consistent with IRS guidance.

EMPLOYEE RETENTION TAX CREDIT

EMPLOYERS WHO QUALIFY FOR AN ERTC (2020 CREDIT)

Employers, including tax-exempt organizations, are eligible for the credit if they operate a trade or business during calendar year 2020 and experience either:

- the *full or partial* suspension of the operation of their trade or business during any calendar quarter because of governmental orders limiting commerce, travel, or group meetings due to COVID-19, or
- a significant decline in gross receipts.
 - A significant decline in gross receipts begins:
 - on the first day of the first calendar quarter of 2020
 - for which an employer's gross receipts are **less than 50% of its gross receipts**
 - **for the same calendar quarter in 2019.**
 - The significant decline in gross receipts ends:
 - on the first day of the first calendar quarter following the calendar quarter
 - in which gross receipts are more than 80% of its gross receipts
 - for the same calendar quarter in 2019.

The credit applies to qualified wages (including certain health plan expenses) paid during this period or any calendar quarter in which operations were suspended.

EMPLOYEE RETENTION TAX CREDIT

What are Qualified Wages?

The definition of qualified wages depends on how many employees an eligible employer has.

- If an employer averaged 100 (*for 2020 credit, 500 for 2021 credit*) or fewer full-time employees during 2019, qualified wages are those wages, including health care costs, (up to \$10,000 per employee) paid to any employee during the period operations were suspended or the period of the decline in gross receipts, regardless of whether or not its employees are providing services.
- If an employer averaged more than 100 (*for 2020 credit, 500 for 2021 credit*) full-time employees during 2019, qualified wages are generally those wages, including certain health care costs, (up to \$10,000 per employee) paid to employees that are not providing services because operations were suspended or due to the decline in gross receipts. These employers can only count wages up to the amount that the employee would have been paid for working an equivalent duration during the 30 days immediately preceding the period of economic hardship.

**Note: Wages used to qualify for other payroll tax credits (qualified sick / family leave / work opportunity credits) do not qualify. No “double dipping” on credits.*

EMPLOYEE RETENTION TAX CREDIT

2020 v. 2021 ERTC SOME SIGNIFICANT DIFFERENCES		
	2020 CREDIT	2021 CREDIT
Beginning	3/13/2020	1/1/2021
Ending	12/31/2020	6/30/2021
Credit is Calculated	Per Calendar Quarter	Per Calendar Quarter
Maximum Credit Per Employee	\$5,000 for the year \$5,000	\$7,000 per quarter \$14,000
Employee Delineation	100 employees	500 employees
Wage base	\$10,000 Per Year	\$10,000 Per Quarter
Credit Rate	50% of Qualified Wages	70% of Qualified Wages
Credit "Triggers":		
Circumstance Trigger	Full or Partial Shutdown	Full or Partial Shutdown
Revenue Decline Trigger	50%	20%
Quarterly Revenue Compared To	2019	2019

Note: Qualifying Employers Can Take An ERTC for Qualified Wages in 2020 (\$5,000) and the First Two Quarters of 2021 (\$14,000), Resulting In a Total Credit Of Up To \$19,000.00 Per Employee

EMPLOYEE RETENTION TAX CREDIT

SOME ITEMS TO TAKE NOTE OF BEFORE WE SHOW THE CREDIT CALCULATION

1) CREDIT “TRIGGERS”:

- If you’re using the “Revenue Decline Trigger”, you must demonstrate either a 50% (2020 ERTC) or 20% (2021 ERTC) revenue decline by comparing the entire quarter of 2020 or 2021 to the same quarter in 2019. You cannot use a lesser period or a partial quarter.
- If you’re using the “Fully or Partial Shutdown Trigger”, you can only take the credit on wages and health benefits paid during the period of full or partial shutdown or restriction. For example, if your business was under a full or partial shutdown or operating restriction for the period 4/01/20 through 5/31/20 and then that shutdown or restriction was entirely lifted on 6/01/20, you can only claim the credit for wages paid from 4/01/20 through 5/31/20.

2) WAGES USED TOWARD PPP FORGIVENESS CANNOT BE USED IN THE CALCULATION OF THE CREDIT.

EMPLOYEE RETENTION TAX CREDIT

PPP LOAN CALCULATION (REMEMBER THIS?)

Number of employees	10
Salaries and wages	520,000
Group health insurance	84,000
Group retirement benefits	15,600
State unemployment taxes	3,200
	<u>622,800</u>
	/ 12
Average Monthly Payroll	51,900
	X 2.5
PPP LOAN RECEIVED	<u>129,750</u>

PPP FORGIVENESS PERIOD (24 WEEKS) 4/15/20 - 9/30/20

PPP FORGIVENESS CALCULATION

Payroll paid	240,000
Rent paid	12,000
Utility payments	6,000
Total	<u>258,000</u>

PPP FUNDS USED IN FORGIVENESS CALCULATION:

PPP Loan Forgiven	129,750
Less:	
Rent paid	(12,000)
Utility payments	(6,000)
PAYROLL USED TOWARDS FORGIVENESS OF PPP	<u>111,750</u>

Payroll Paid During Forgiveness Period	240,000
Payroll Used Towards Forgiveness Calculation	(111,750)
Payroll Available For Use In Calculating ERTC	<u>128,250</u>

EMPLOYEE RETENTION TAX CREDIT

Payroll Paid During Forgiveness Period	240,000
Payroll Used Towards Forgiveness Calculation	<u>(111,750)</u>
Payroll Available For Use In Calculating ERTC	<u>128,250</u>

ADJUSTMENT TO QUALIFYING WAGES FOR WAGES USED IN PPP FORGIVENESS

	<u>Q2-20</u>	<u>Q3-20</u>	<u>TOTAL</u>
Payroll Paid During Forgiveness Period	110,000	130,000	240,000
PPP Funds Used Towards Forgiveness Calculation	-	(111,750)	(111,750)
Available For Calculation of Credit	<u>110,000</u>	<u>18,250</u>	<u>128,250</u>

CALCULATION OF CREDIT (SECOND QUARTER)

	<u>Total Payroll</u>	<u>Available For Credit</u>	<u>Maximum Wage Base</u>	<u>Resulting Credit (50%)</u>
Employee 1	13,000	11,000	10,000	5,000
Employee 2	13,000	11,000	10,000	5,000
Employee 3	13,000	11,000	10,000	5,000
Employee 4	13,000	11,000	10,000	5,000
Employee 5	13,000	11,000	10,000	5,000
Employee 6	13,000	11,000	10,000	5,000
Employee 7	13,000	11,000	10,000	5,000
Employee 8	13,000	11,000	10,000	5,000
Employee 9	13,000	11,000	10,000	5,000
Employee 10	13,000	11,000	10,000	5,000
TOTALS	<u>130,000</u>	<u>110,000</u>	<u>100,000</u>	<u>50,000</u>

EMPLOYEE RETENTION TAX CREDIT

Complete 941, Worksheet 1 To Determine The Refundable / Non-Refundable Credits

	(Form 941, Part 3, line 20)		
2g	Employer share of Medicare tax on qualified family leave wages. Multiply line 2e(ii) by 1.45% (0.0145)	2g	_____
2h	Credit for qualified family leave wages. Add lines 2e(ii), 2f, and 2g	2h	_____
2i	Credit for qualified sick and family leave wages. Add lines 2d and 2h	2i	_____
2j	Nonrefundable portion of credit for qualified sick and family leave wages. Enter the smaller of line 1l or line 2i. Enter this amount on Form 941, Part 1, line 11b	2j	_____
2k	Refundable portion of credit for qualified sick and family leave wages. Subtract line 2j from line 2i and enter this amount on Form 941, Part 1, line 13c	2k	_____
Step 3.	Figure the employee retention credit		
3a	Qualified wages (excluding qualified health plan expenses) for the employee retention credit (Form 941, Part 3, line 21)	3a	100,000
3b	Qualified health plan expenses allocable to qualified wages for the employee retention credit (Form 941, Part 3, line 22)	3b	0
3c	Add lines 3a and 3b	3c	100,000
3d	Retention credit. Multiply line 3c by 50% (0.50)	3d	50,000
3e	Enter the amount of the employer share of social security tax from Step 1, line 1l	3e	8,060
3f	Enter the amount of the nonrefundable portion of the credit for qualified sick and family leave wages from Step 2, line 2j	3f	0
3g	Subtract line 3f from line 3e	3g	8,060
3h	Nonrefundable portion of employee retention credit. Enter the smaller of line 3d or line 3g. Enter this amount on Form 941, Part 1, line 11c	3h	8,060
3i	Refundable portion of employee retention credit. Subtract line 3h from line 3d and enter this amount on Form 941, Part 1, line 13d	3i	41,940

EMPLOYEE RETENTION TAX CREDIT

Complete 941 To Claim Your Refund
(Page 1)

Read the separate instructions before you complete Form 941. Type or print within the boxes.

Part 1: Answer these questions for this quarter.

1	Number of employees who received wages, tips, or other compensation for the pay period including: Sept. 12 (Quarter 3) or Dec. 12 (Quarter 4)	1	10
2	Wages, tips, and other compensation	2	130000
3	Federal income tax withheld from wages, tips, and other compensation	3	13000
4	If no wages, tips, and other compensation are subject to social security or Medicare tax	<input type="checkbox"/> Check and go to line 6.	
		Column 1	Column 2
5a	Taxable social security wages	130000	$\times 0.124 = 16120$
5a (i)	Qualified sick leave wages		$\times 0.062 =$
5a (ii)	Qualified family leave wages		$\times 0.062 =$
5b	Taxable social security tips		$\times 0.124 =$
5c	Taxable Medicare wages & tips	130000	$\times 0.029 = 3770$
5d	Taxable wages & tips subject to Additional Medicare Tax withholding		$\times 0.009 =$
5e	Total social security and Medicare taxes. Add Column 2 from lines 5a, 5a(i), 5a(ii), 5b, 5c, and 5d	5e	19890
5f	Section 3121(q) Notice and Demand—Tax due on unreported tips (see instructions)	5f	
6	Total taxes before adjustments. Add lines 3, 5e, and 5f	6	32890
7	Current quarter's adjustment for fractions of cents	7	
8	Current quarter's adjustment for sick pay	8	
9	Current quarter's adjustments for tips and group-term life insurance	9	
10	Total taxes after adjustments. Combine lines 6 through 9	10	32890
11a	Qualified small business payroll tax credit for increasing research activities. Attach Form 8974	11a	
11b	Nonrefundable portion of credit for qualified sick and family leave wages from Worksheet 1	11b	0
11c	Nonrefundable portion of employee retention credit from Worksheet 1	11c	8060

► You MUST complete all three pages of Form 941 and SIGN it.

For Privacy Act and Paperwork Reduction Act Notice, see the back of the Payment Voucher.

Cat. No. 17001Z

Form 941 (Rev. 7-2020)

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EMPLOYEE RETENTION TAX CREDIT

Complete 941 To Claim Your Refund
(Page 2)

		950220
Name (not your trade name)		Employer identification number (EIN)
The Vermont Company, Inc.		03-1111111
Part 1: Answer these questions for this quarter. (continued)		
11d	Total nonrefundable credits. Add lines 11a, 11b, and 11c	11d 8060
12	Total taxes after adjustments and nonrefundable credits. Subtract line 11d from line 10	12 24830
13a	Total deposits for this quarter, including overpayment applied from a prior quarter and overpayments applied from Form 941-X, 941-X (PR), 944-X, or 944-X (SP) filed in the current quarter	13a 32890
13b	Deferred amount of social security tax	13b 0
13c	Refundable portion of credit for qualified sick and family leave wages from Worksheet 1	13c 41940
13d	Refundable portion of employee retention credit from Worksheet 1	13d
13e	Total deposits, deferrals, and refundable credits. Add lines 13a, 13b, 13c, and 13d	13e 74830
13f	Total advances received from filing Form(s) 7200 for the quarter	13f 0
13g	Total deposits, deferrals, and refundable credits less advances. Subtract line 13f from line 13e	13g 74830
14	Balance due. If line 12 is more than line 13g, enter the difference and see instructions	14
15	Overpayment. If line 13g is more than line 12, enter the difference	50000
		Check one: <input type="checkbox"/> Apply to next return. <input checked="" type="checkbox"/> Send a refund.
Part 2: Tell us about your deposit schedule and tax liability for this quarter.		
If you're unsure about whether you're a monthly schedule depositor or a semiweekly schedule depositor, see section 11 of Pub. 15.		
16	Check one: <input type="checkbox"/> Line 12 on this return is less than \$2,500 or line 12 on the return for the prior quarter was less than \$2,500, and you didn't incur a \$100,000 next-day deposit obligation during the current quarter. If line 12 for the prior quarter was less than \$2,500 but line 12 on this return is \$100,000 or more, you must provide a record of your federal tax liability. If you're a monthly schedule depositor, complete the deposit schedule below; if you're a semiweekly schedule depositor, attach Schedule B (Form 941). Go to Part 3.	
	<input type="checkbox"/> You were a monthly schedule depositor for the entire quarter. Enter your tax liability for each month and total	

EMPLOYEE RETENTION TAX CREDIT

FINAL TAKEAWAYS

RE-VISIT 2020 IN CASE YOU QUALIFY FOR AN ERTC (\$5k per employee)

PAY ATTENTION IN 2021 (Up to \$14k per employee)

We're expecting Interim Guidance to be issued by the IRS on or about January 13, 2020.

The Interim Guidance Should Include (Among Other Things):

- *How To Claim Previous Quarter Credits On Quarter 4 Return (which is due 1/31/2021)*
 - *Calculation Clarification*

QUESTIONS?