

# Employee Retention Tax Credit

Provision	Original Law	New Law
Period	The ERTC could be applied to offset qualified wages paid between March 12, 2020, and January 1, 2021.	The end date for availability of the ERTC has been extended to July 1, 2021, encompassing the first two quarters of 2021.
Amount of ERTC	50% of the qualified wages paid to the employee, plus the cost to continue providing health benefits to the employee.	Effective Jan. 1, 2021, the credit amount is increased to 70% of qualified wages, as well as the cost of health benefits.
Maximum ERTC Amount	The credit was capped at \$5,000 for all qualified wages paid during 2020. This was calculated as 50% of qualified wages up to a maximum of \$10,000 in qualified wages.	Effective Jan. 1, 2021, the credit cap is increased to \$7,000 for each of the first two quarters of 2021 (70% of a maximum \$10,000 in qualified wages), so the maximum credit for 2021 will be \$14,000. This aggregate \$14,000 per employee maximum credit for the first two quarters of 2021 is available even if the employer received the \$5,000 maximum credit for wages paid to such employee(s) in 2020.
Eligibility	Business owners qualified for the ERTC if their operations were either fully or partially suspended by a COVID-19 lockdown order; or, for any quarter in 2020, if gross receipts were less than 50% of gross receipts for the same quarter in 2019.	Effective Jan. 1, 2021, business operations that are either fully or partially suspended by a COVID-19 lockdown order, or for a quarter in 2021, if gross receipts are less than 80% of gross receipts for the same quarter in 2019. More businesses will qualify for ERTC as they will only have to demonstrate a 20% drop in gross receipts for a quarter, as opposed to 50%, compared with the same quarter in 2019.
Eligibility, Continued	A company with 100 employees or less was eligible for the credit, even if the employee was working. However, for a company with between 101 and 300 employees, no credit was available for wages paid to an employee performing services for an employer.	A company with between 1 and 500 employees is eligible for the credit, even if the employee is working, effective January 1, 2021. The credit is only available for the first two quarters of 2021 and is not retroactive to 2020. Note that in calculating this 500-employee threshold, the employees of all affiliated companies sharing more than 50% common ownership are aggregated.
PPP Loan Eligibility	A company that received a Paycheck Protection Program (PPP) loan was not eligible for the employee retention credit. This disallowance rule extended to all affiliated companies that shared common ownership, so that if one company received a PPP loan, any other company with more than 50% common ownership was ineligible to claim the credit.	A company that receives a PPP loan is no longer prohibited from claiming the employee retention tax credit; however, a credit may not be claimed for wages paid with the proceeds of a PPP loan that have been forgiven (no double dipping). This change is retroactive to the effective date under the original law (for wages paid after March 12, 2020). In other words, a company that received a PPP loan in 2020 and paid qualified wages in excess of the amount of the forgiven PPP loan used to pay wages, and is otherwise eligible to claim the credit, should be able to file amended employment tax returns to claim the credit. Furthermore, companies related to a PPP borrower that did not claim the credit because an affiliated company that shares common ownership received a PPP loan should also be able to file amended employment tax returns to claim the credit, if they were otherwise eligible to do so. Companies that did not claim the credit due to a PPP loan should review the credit requirements to determine if they might be eligible to claim the credit for qualified wages paid after March 12, 2020.

## Employee Retention Tax Credit, Cont.

Advance Payments	The original law had no provision to realize the payment of the tax credit before qualified wages were paid.	The Treasury Department will issue guidance allowing an advance payment of the credit for companies with 500 or fewer employees, based on 70% of average quarterly payroll for the same quarter in 2019. In other words, companies may collect the funds from the tax credit before the wages are paid. If the amount of the actual credit determined at the end of the quarter is less than the amount of the advance payment, the company will need to repay the excess to the government.
Disallowance of Credit for Governmental Entities	The employee retention credit was not available to any federal, state, or local governmental entity.	Effective Jan. 1, 2021, an exception will allow the credit for state or local run colleges, universities, organizations providing medical or hospital care, and certain organizations chartered by Congress (which includes organizations such as Fannie Mae, FDIC, Federal Home Loan Banks and Federal Credit Unions).
Limitation on Increase in Pay Rate	No credit for pay rate increases.	This disallowance of the credit for pay rate increases is repealed, now allowing the credit for hazardous duty pay increases, among others.

To learn more about the Employee Retention Tax Credit (ERTC), visit [www.AdamsBrownCPA.com](http://www.AdamsBrownCPA.com) or [contact your Adams Brown advisor](#).