

The following are steps that we believe a business should use to evaluate, by year, if they can claim an Employee Retention Credit (ERC) in 2020 and/or 2021.

2020 Employee Retention Credit

Step 1 - Determining if the business had a qualifying quarter

The first step of determining eligibility is met one of two ways:

- 1) Business was fully or partially suspended 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).
- 2) Business had a precipitous drop in gross receipts for the quarter, relative to the same quarter in 2019.

The IRS has issued guidance on determining when a business has been considered fully or partially suspended. [View here.](#)

Due to the facts and circumstances analysis needed to meet the first test, let's turn our focus and explore the second test. If the second test is met, a business does not need to worry about the first test. For any quarter in 2020, the gross receipts must be less than 50% of what they were for the same quarter in 2019. Once this occurs, every quarter thereafter is an eligible quarter until the end of the quarter in which gross receipts return to at least 80% of the comparable 2019 quarter.

Example

Gross Receipts Test	Quarter 1	Quarter 2	Quarter 3	Quarter 4
2019 Gross Receipts	\$100,000	\$120,000	\$150,000	\$120,000
2020 Gross Receipts	\$40,000	\$50,000	\$125,000	\$90,000
2020 Compared to 2019	40%	42%	83%	75%
Eligible Quarter?	Yes	Yes	Yes	No

Step 2 - Determining qualified wages

Once you've determined an eligible quarter, the next step is determining qualified wages for the eligible quarter. Employers will fall into one of two categories:

- 1) Business had MORE THAN 100 average monthly full-time equivalent employees during 2019.
 - a. Only wages paid to an employee (PLUS amounts paid for qualified health plan expenses) during an eligible quarter to not provide services are eligible for the credit (i.e., furloughed employee).
- 2) Business had LESS THAN 100 average monthly full-time equivalent employees during 2019.
 - a. All wages paid to an employee (PLUS amounts paid for qualified health plan expenses) during an eligible quarter are eligible for the credit, regardless if they are working or not.

Step 3 - Determining wages available for the credit

Employers who received PPP funding are now eligible for the credit. However, if PPP forgiveness was applied for, wages claimed on the application are ineligible for the credit. So consult your advisor if qualifying wages needed for the ERC have been used for the PPP loan forgiveness application.

2021 Employee Retention Credit

The Consolidated Appropriations Act (CCA) extended the ERC window to June 30, 2021. The maximum credit increased from 50% of qualified wages for 2020 to **70%** of qualified wages per quarter. The maximum amount of the credit for 2021 is \$14,000 per employee. \$7,000 for the first quarter and \$7,000 for the second quarter.

The 2021 tests, however, are slightly different than those for 2020. Let's take a look at the same 3 steps with the 2021 rules.

Step 1 - Determining if the business had a qualifying quarter

The first step of determining eligibility is met one of two ways:

- 1) Business was fully or partially suspended 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).
- 2) Business had a precipitous drop in gross receipts for the quarter, relative to the same quarter in 2019.

While on the surface these two tests appear the same, the gross receipts test for 2021 has been modified. For any quarter in 2021, the gross receipts must be less than **80%** of what they were for the same quarter in 2019. This is a reduction in the gross receipts requirement from 2020 while continuing to compare to 2019 quarterly gross receipts.

A business could also satisfy the gross receipts test by looking at the previous quarter and comparing that quarter to 2019. For instance, if a business failed to meet the 80% test by comparing Quarter 1 2021 receipts to Quarter 1 2019 receipts, they could elect to use Quarter 4 2020 receipts compared to Quarter 4 2019 receipts. If the gross receipts are 80% less in Q4 2020 than they were in Q4 2019, Q1 2021 would be an eligible quarter.

Example

Gross Receipts Test	Quarter 1	Quarter 2	Quarter 3	Quarter 4
2019 Gross Receipts	\$100,000	\$120,000	\$150,000	\$120,000
2020 Gross Receipts	\$40,000	\$50,000	\$125,000	\$90,000
2021 Gross Receipts	\$90,000	\$80,000		
<i>Methodology 1</i> 2021 Compared to 2019	90%	67%		
Eligible Quarter?	No	Yes		
<i>Methodology 2</i> Preceding Quarter Compared to Corresponding 2019 Quarter	(2020 Q4 / 2019 Q4)			
	75%			
Eligible Quarter?	Yes	N/A		

Step 2 - Determining qualified wages

Once you've determined an eligible quarter, the next step is determining qualified wages for the eligible quarter. The 2021 rules present two significant changes. One, the employee threshold for certain wages paid increases from 100 to 500. Two, an employer may issue a bonus to an employee to achieve the maximum \$10,000 wage limit in a quarter. Employers will fall into one of two categories:

- 1) Business had **MORE THAN 500** average monthly full-time equivalent employees during 2019.
 - a. Only wages paid to an employee (PLUS amounts paid for qualified health plan expenses) during an eligible quarter to not provide services are eligible for the credit (i.e., furloughed employee).
- 2) Business had **LESS THAN 500** average monthly full-time equivalent employees during 2019.
 - a. All wages paid to an employee (PLUS amounts paid for qualified health plan expenses) during an eligible quarter are eligible for the credit, regardless if they are working or not.

Step 3 - Determining wages available for the credit

The same rules apply for 2021 as they do for 2020, meaning an employer cannot claim wages on PPP loan forgiveness while also using those same wages to calculate the ERC. For 2021, this could create some problems so please contact your advisor to explore this limitation further.

How SVA Can Help

As you can see, determining the best way to use the Employee Retention Credit is complex. SVA's team works with our clients on all the new legislation including PPP loans and ERC. Give us a call and we can help you navigate the best opportunities for your business.