



IRS ISSUES EMPLOYEE RETENTION CREDIT GUIDANCE

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In [Notice 2021-20](#), the IRS issued detailed guidance for employers claiming the employee retention credit for calendar quarters in 2020. The credit was created by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136, and amended by the Consolidated Appropriations Act, 2021, P.L. 116-260. The IRS says the guidance in the notice is similar to the information it posted in FAQs last year, but the notice clarifies and describes retroactive changes under the new law that apply to 2020, primarily relating to expanded eligibility for the credit for taxpayers who took Paycheck Protection Program (PPP) loans. The AICPA requested authoritative guidance on the 2020 and 2021 employee retention credits from the IRS in a [comment letter](#) sent on Feb. 25.

For 2020, the employee retention credit can be claimed by employers who paid qualified wages after March 12, 2020, and before Jan. 1, 2021, and who experienced a full or partial suspension of their operations or a significant decline in gross receipts. The credit is equal to 50% of qualified wages paid, including qualified health plan expenses, up to \$10,000 per employee in 2020, meaning the maximum credit available for each employee is \$5,000.

For 2020, eligible employers that received a PPP loan are permitted to claim the employee retention credit, although the same wages cannot be counted for both. Notice 2021-20 explains in detail when and how employers that received a PPP loan can claim the employee retention credit for 2020. In January, the [AICPA requested clarification](#) from the IRS on this topic and recommended that the filing of a PPP loan forgiveness application should not constitute an election to forgo the employee retention credit with respect to the amount of wages reported on the application exceeding the amount of wages necessary for loan forgiveness.

The notice explains (1) who are eligible employers; (2) what constitutes full or partial suspension of trade or business operations; (3) what is a significant decline in gross receipts; (4) what is the maximum amount of an eligible employer's employee retention credit; (5) qualified wages; (6) how an eligible employer claims the employee retention credit; and (7) how an eligible employer substantiates the claim for the credit.

Although the Consolidated Appropriations Act, 2021, also extended and modified the credit for the first two calendar quarters in 2021, the IRS says this notice addresses only the 2020 rules and that it plans to release additional guidance soon, addressing the 2021 changes.