



HOW TO CLAIM THE EMPLOYEE RETENTION CREDIT FOR THE FIRST HALF OF 2021

From the Journal of Accountancy by Sally P. Schreiber, J.D.

The IRS explained the changes to the employee retention credit (ERC) for the first two calendar quarters of 2021 in Notice 2021-23, which amplifies [Notice 2021-20](#). 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 changes addressed include:

- The increase in the maximum credit amount from 50% to 70%;
- The expansion of the category of employers that may be eligible to claim the credit to include colleges and universities and entities that provide hospital or medical care;
- A modification of the gross receipts test threshold to 80% and changes in how the decline in gross receipts is calculated;
- In the calculation of qualified wages, the revised definitions of small and large eligible employers are used; and
- New restrictions that limit the ability to request an advance payment of the credit to certain small eligible employers with not greater than 500 employees.

As a result of the changes made by the Consolidated Appropriations Act, eligible employers can claim a refundable tax credit against the employer share of Social Security tax equal to 70% of the qualified wages they pay to employees after Dec. 31, 2020, through June 30, 2021. Qualified wages are limited to \$10,000 per employee per calendar quarter in 2021. The maximum ERC available is \$7,000 per employee per calendar quarter, for a total of \$14,000 for the first two calendar quarters of 2021.

Employers can access the ERC for the first and second calendar quarters of 2021 before filing their employment tax returns by reducing employment tax deposits. Small eligible employers can request advance payment of the credit (subject to limits) on Form 7200, Advance Payment of Employer Credits Due to COVID-19, after first reducing their employment tax deposits. After the change in the law, advances are not available for employers with 500 or more employees in 2021.

Section 9651 of American Rescue Plan Act of 2021, P.L. 117-2, enacted March 11, 2021, made the ERC available to eligible employers for wages paid during the third and fourth quarters of 2021, in new Sec. 3134. The IRS said it will issue guidance on that provision at a later date.