

Employee Retention Credit Guide

A Business Credit to Aid in Covid-19 Monetary Loss



GROSS RECEIPTS TEST

You could qualify if your business experienced revenue loss compared to 2019.

Determine gross profit for each quarter in 2019. Then compare to see if your business experienced the following:

50% decrease in 2020 or a
(or more)

20% decrease in 2021
(or more)



GOVERNMENT ORDER

Your business could also qualify if you experienced a full or partial suspension because of a **government order** that limited business due to Covid-19:

- Commerce
- Travel
- Group meetings

Note: No federal order during 2020 or 2021 would qualify businesses for the ERC, so review state and local orders.



SUPPLY CHAIN ISSUES

If your business experienced supply chain issues and all 3 of the following requirements were met, you may qualify:

- The supplier couldn't deliver critical goods due to a government order.
- Your business couldn't purchase those critical goods from another supplier.
- Your business experienced more than a nominal effect as a result.



MASK MANDATES

A business does not automatically qualify for ERC if employees & client had to wear a mask during the course of business.



STAY-AT-HOME

The IRS explicitly states if a business voluntarily adjusted operations because of a Stay-At-Home Order, this does NOT qualify for ERC.



FAMILY SALARIES

The salaries of majority owners & their family members can't be included in the ERC calculation. (Family attribution rules apply.)



PPP

If your business received PPP, you could still qualify, but you can't use the same wages (no double-dipping). You must also meet an ERC qualification listed above.

ERC-BASED AUDITS

An audit is not guaranteed just because you file an ERC claim, but the IRS is aware of the potential for abuse, so scrutiny of COVID-19 relief funds are high in general.

BEWARE OF PENALTIES

The amount of the penalty + interest on unpaid payroll taxes could be substantial, especially if the IRS imposes fraud and negligence penalties upon examination.



ERC CLAIM

Businesses can no longer pay wages to claim the ERC, but you can retroactively claim the credit by filing an amended tax return.

You have until April of 2024 to amend 2020 and until 2025 for 2021.



AMENDING = MORE AMENDING

If your business receives a 941-X refund from a 2021 quarter in 2022, you also need to amend your 2021 income tax return.

When a business return is amended, all partner returns will also have to be amended.

This is for 2020, not just 2021. If your business receives a refund for any quarter in 2020, the returns will have to be amended for both years.