



# COVID-19 TAX CREDIT: TAKING ADVANTAGE OF THE EMPLOYEE RETENTION CREDIT

KRD - Kutchins, Robbins & Diamond, Ltd.

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Gene has been in public accounting for over 30 years

**Specialties:**

- Tax strategies, tax incentives and entitlements
- Business consulting and litigation support

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Paul has been in public accounting for over 30 years

**Specialties:**

- Small to medium-sized businesses, established companies, and start-ups
- Tax and business strategy and consulting

## Employee Retention Credit (ERC) – Purpose and Availability

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- The ERC is a refundable payroll tax credit aimed at assisting employers keeping their employees employed through COVID-19.
- The ERC was originally enacted in the CARES Act. It applies to qualified wages paid after 3/12/20 and before 1/1/21.
- The Consolidated Appropriations Act (“CAA”) expanded the credit to the first two quarters of 2021.
- The American Rescue Plan Act (“ARPA”) extended the credit all the way through the end of 2021.

# Employee Retention Credit - Amount

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- For 2020:
  - 50% of qualified wages paid to the employee, plus the cost to continue providing health benefits to the employee.
  - Maximum credit is \$10,000 in qualified wages x 50% tax credit rate = \$5,000 for whole year.
- For 2021:
  - 70% of qualified wages paid to the employee, plus the cost to continue providing health benefits to the employee.
  - Maximum credit is \$10,000 in qualified wages x 70% tax credit rate = \$7,000 *per quarter*.
  - Maximum potential credit for 2021 is \$28,000 per employee.

# Employee Retention Credit - Eligibility

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- Business operations that are either fully or partially suspended by a COVID-19 governmental order, OR
- For 2020: Gross receipts for any quarter are less than 50% of gross receipts for the same quarter in 2019.
- For 2021: Gross receipts for a quarter in 2021 are less than 80% of gross receipts for the same quarter in 2019. Employer may also choose to compare the immediately preceding quarter to the same quarter in 2019.
- Eligibility *continues* until the quarter following the quarter where gross receipts exceed 80% of gross receipts for the same quarter in 2019.

# Employee Retention Credit – Fully or Partially Suspended

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- Facts and circumstances test.
- Non-essential businesses may have been required to suspend operations.
- Even an essential business may qualify if more than a nominal portion of its business operations (greater than 10% of total gross receipts) are/were suspended by a governmental order.
- Can include if suppliers were not able to make deliveries of critical goods or materials due to governmental order causing them to suspend operations.
- Does not include customers not purchasing products or services.

# Employee Retention Credit – Governmental Order

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- Federal government or any state or local government.
- Must limit commerce, travel or group meetings (for commercial, social, religious or other purposes) due to COVID-19.
- Must relate to suspension of operations of trade or business.
- Statements from a government official, including comments made during press conferences or media interviews, do not rise to the level of a governmental order for purposes of ERC.



# Employee Retention Credit – “Qualified Wages”

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- If due to suspension of operations, only wages paid during the period of suspended operations are qualified.
- If due to gross receipts test, there is a large employer threshold:
  - For 2020 – 100 employees
  - For 2021 – 500 employees
  - If over the threshold, then only wages paid to employees who are not working are qualified wages.
  - If under or at the threshold, then all wages paid are qualified wages.
  - For 2021, all affiliated companies with more than 50% common ownership are aggregated in determining the 500 employee limit.

# Employee Retention Credit - Eligibility

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- Coordination with PPP:
  - Major change made by CAA.
  - Previously, companies that received PPP were not eligible for the credit.
  - CAA changed this, so that now a company can receive PPP and also take the credit.
  - Change is retroactive to 2020, so some companies may want to consider amending their payroll tax returns.
  - Wages counted toward PPP spending cannot be counted for ERC.
  - Essentially, if you have more payroll costs than needed for PPP, you may want to consider also taking the ERC.

# Employee Retention Credit - Eligibility

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- Coordination with PPP:
  - For 2021, consider holding off applying for PPP or using funds right away.
  - Keep PPP funds in a segregated account for easy identification.
  - For PPP forgiveness take advantage of the expanded covered and eligible use of PPP funds for non-payroll costs. Keep in mind that at least 60% of your PPP forgiveness must be used for payroll costs.

# Employee Retention Credit – Tax Considerations

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- Credit creates taxable income, by reducing deductible wage expense.
- ERC is claimed on Form 941. If the amount of the credit exceeds the tax deposit for any payroll, the company can use Form 7200 to get an advance payment from the IRS.
- Company can file 941-X to amend 2020 payroll tax returns to recover the credit.
- Coordination with your payroll provider is essential.

# Employee Retention Credit – Claiming on Payroll Tax Returns

**Form 941 for 2021: Employer's QUARTERLY Federal Tax Return** 950121  
 (Rev. March 2021) Department of the Treasury - Internal Revenue Service OMB No. 1545-0045

Employer identification number (EIN) [ ] [ ] [ ] - [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]

Name (not your trade name) \_\_\_\_\_

Trade name (if any) \_\_\_\_\_

Address: Number \_\_\_\_\_ Street \_\_\_\_\_ Suite/room number \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ ZIP code \_\_\_\_\_  
 Foreign country name \_\_\_\_\_ Foreign postal code \_\_\_\_\_

**Report for this Quarter of 2021**  
 (Check one)  
 1: January, February, March  
 2: April, May, June  
 3: July, August, September  
 4: October, November, December  
 Go to [www.irs.gov/Form941](http://www.irs.gov/Form941) for instructions and the latest information.

Read the separate instructions before you complete Form 941. Type or print within the boxes.

**Part 1: Answer these questions for this quarter.**

1 Number of employees who received wages, tips, or other compensation for the pay period including: Mar. 12 (Quarter 1), June 12 (Quarter 2), Sept. 12 (Quarter 3), or Dec. 12 (Quarter 4) **1** \_\_\_\_\_

2 Wages, tips, and other compensation **2** \_\_\_\_\_

3 Federal income tax withheld from wages, tips, and other compensation **3** \_\_\_\_\_

4 If no wages, tips, and other compensation are subject to social security or Medicare tax  Check and go to line 6.

	Column 1	Column 2
5a Taxable social security wages	_____ × 0.124 = _____	_____
5a (i) Qualified sick leave wages	_____ × 0.062 = _____	_____
5a (ii) Qualified family leave wages	_____ × 0.062 = _____	_____
5b Taxable social security tips	_____ × 0.124 = _____	_____
5c Taxable Medicare wages & tips	_____ × 0.029 = _____	_____
5d Taxable wages & tips subject to Additional Medicare Tax withholding	_____ × 0.009 = _____	_____
5e Total social security and Medicare taxes. Add Column 2 from lines 5a, 5a(i), 5a(ii), 5b, 5c, and 5d	_____	_____
5f Section 3121(a) Notice and Demand—Tax due on unreported tips (see instructions)	_____	_____
6 Total taxes before adjustments. Add lines 3, 5e, and 5f	_____	_____
7 Current quarter's adjustment for fractions of cents	_____	_____
8 Current quarter's adjustment for sick pay	_____	_____
9 Current quarter's adjustments for tips and group-term life insurance	_____	_____
10 Total taxes after adjustments. Combine lines 6 through 9	_____	_____
11a Qualified small business payroll tax credit for increasing research activities. Attach Form 8874	_____	_____
11b Nonrefundable portion of credit for qualified sick and family leave wages from Worksheet 1	_____	_____
11c Nonrefundable portion of employee retention credit from Worksheet 1	_____	_____

**You MUST complete all three pages of Form 941 and SIGN it.** Next

For Privacy Act and Paperwork Reduction Act Notice, see the back of the Payment Voucher. Cat. No. 17001Z Form 941 (Rev. 3-2021)

**Worksheet 1. Credit for Qualified Sick and Family Leave Wages and the Employee Retention Credit** *Keep for Your Records*

Determine how you will complete this worksheet.  
 If you paid both qualified sick and family leave wages and qualified wages for purposes of the employee retention credit this quarter, complete Step 1, Step 2, and Step 3. If you paid qualified sick and family leave wages this quarter but you didn't pay any qualified wages for purposes of the employee retention credit this quarter, complete Step 1 and Step 2. If you paid qualified wages for purposes of the employee retention credit this quarter but you didn't pay any qualified sick and family leave wages this quarter, complete Step 1 and Step 3.

**Step 1. Determine the employer share of social security tax this quarter after it is reduced by any credit claimed on Form 8874 and any credits to be claimed on Form 5884-C and Form 5884-D**

1a Enter the amount of social security tax from Form 941, Part 1, line 5a, column 2 ..... 1a \_\_\_\_\_

1b Enter the amount of social security tax from Form 941, Part 1, line 5a, column 2 ..... 1b \_\_\_\_\_

1c Add lines 1a and 1b ..... 1c \_\_\_\_\_

1d Multiply line 1c by 50% (0.50) ..... 1d \_\_\_\_\_

1e If you're a third-party payer of sick pay that isn't an agent and you're claiming credits for amounts paid to your employees, enter the employer share of social security tax included on Form 941, Part 1, line 4 (enter as a positive number) ..... 1e \_\_\_\_\_

1f Subtract line 1e from line 1d ..... 1f \_\_\_\_\_

1g If you received a Section 3121(a) Notice and Demand during the quarter, enter the amount of the employer share of social security tax from the notice ..... 1g \_\_\_\_\_

1h Employer share of social security tax. Add lines 1f and 1g ..... 1h \_\_\_\_\_

1i Enter the amount from Form 941, Part 1, line 11a (credit from Form 8874) ..... 1i \_\_\_\_\_

1j Enter the amount to be claimed on Form 5884-C, line 11, for this quarter ..... 1j \_\_\_\_\_

1k Enter the amount to be claimed on Form 5884-D, line 12, for this quarter ..... 1k \_\_\_\_\_

1l Total nonrefundable credits already used against the employer share of social security tax. Add lines 1i, 1j, and 1k ..... 1l \_\_\_\_\_

1m Employer share of social security tax remaining. Subtract line 1l from line 1h ..... 1m \_\_\_\_\_

**Step 2. Figure the sick and family leave credit**

2a Qualified sick leave wages reported on Form 941, Part 1, line 5a(i), column 1 ..... 2a \_\_\_\_\_

2a(i) Qualified sick leave wages included on Form 941, Part 1, line 5a(i), column 1, but not included on Form 941, Part 1, line 5a(i), column 1, because the wages reported on that line were limited by the social security wage base ..... 2a(i) \_\_\_\_\_

2a(ii) Total qualified sick leave wages. Add lines 2a and 2a(i) ..... 2a(ii) \_\_\_\_\_

2a(iii) Qualified sick leave wages excluded from the definition of employment under section 3121(b) ..... 2a(iii) \_\_\_\_\_

2b Qualified health plan expenses allocable to qualified sick leave wages (Form 941, Part 3, line 3) ..... 2b \_\_\_\_\_

2c Employer share of Medicare tax on qualified sick leave wages. Multiply line 2a(ii) by 1.40% (0.014) ..... 2c \_\_\_\_\_

2d Credit for qualified sick leave wages. Add lines 2a(ii), 2b, and 2c ..... 2d \_\_\_\_\_

2e Qualified family leave wages reported on Form 941, Part 1, line 5a(ii), column 1 ..... 2e \_\_\_\_\_

2e(i) Qualified family leave wages included on Form 941, Part 1, line 5e, but not included on Form 941, Part 1, line 5a(ii), column 1, because the wages reported on that line were limited by the social security wage base ..... 2e(i) \_\_\_\_\_

2e(ii) Total qualified family leave wages. Add lines 2e and 2e(i) ..... 2e(ii) \_\_\_\_\_

2e(iii) Qualified family leave wages excluded from the definition of employment under section 3121(b) ..... 2e(iii) \_\_\_\_\_

2f Qualified health plan expenses allocable to qualified family leave wages (Form 941, Part 3, line 3) ..... 2f \_\_\_\_\_

2g Employer share of Medicare tax on qualified family leave wages. Multiply line 2e(ii) by 1.40% (0.014) ..... 2g \_\_\_\_\_

2h Credit for qualified family leave wages. Add lines 2e(ii), 2f, and 2g ..... 2h \_\_\_\_\_

2i Credit for qualified sick and family leave wages. Add lines 2d and 2h ..... 2i \_\_\_\_\_

2j Nonrefundable portion of credit for qualified sick and family leave wages. Enter the smaller of line 1i or line 2i. Enter this amount on Form 941, Part 1, line 11b ..... 2j \_\_\_\_\_

2k Refundable portion of credit for qualified sick and family leave wages. Subtract line 2j from line 2i and enter this amount on Form 941, Part 1, line 13c ..... 2k \_\_\_\_\_

**Step 3. Figure the employee retention credit**

3a Qualified wages (excluding qualified health plan expenses) for the employee retention credit (Form 941, Part 3, line 21) ..... 3a \_\_\_\_\_

3b Qualified health plan expenses allocable to qualified wages for the employee retention credit (Form 941, Part 3, line 22) ..... 3b \_\_\_\_\_

3c Add lines 3a and 3b ..... 3c \_\_\_\_\_

3d Retention credit. Multiply line 3c by 70% (0.70) ..... 3d \_\_\_\_\_

3e Enter the amount of the employer share of social security tax from Step 1, line 1m ..... 3e \_\_\_\_\_

3f Enter the amount of the nonrefundable portion of the credit for qualified sick and family leave wages from Step 2, line 2j ..... 3f \_\_\_\_\_

3g Subtract line 3f from line 3e ..... 3g \_\_\_\_\_

3h Nonrefundable portion of employee retention credit. Enter the smaller of line 3d or line 3g. Enter this amount on Form 941, Part 1, line 11c ..... 3h \_\_\_\_\_

3i Refundable portion of employee retention credit. Subtract line 3h from line 3d and enter this amount on Form 941, Part 1, line 13d ..... 3i \_\_\_\_\_



For a detailed tool that you can use to track your costs, plan your spending and calculate your ERC, contact us.

# Thank you for attending!

## Questions?



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