

Employee Retention Credit

The Employee Retention Credit is a fully refundable tax credit designed to encourage you to keep employees on the payroll. The credit covers 50% of up to \$10,000 in wages per employee paid by an eligible employer whose business has been financially impacted by COVID-19. Government and self-employed individuals that do not have employees **are not eligible**.

You may receive credits under both the Employee Retention Credit and Paid Sick and Family Leave Credits but **not** for the same wages.

For more information, see Section 2301 of the Coronavirus, Aid, Relief and Economic Security Act (CARES) Act.

What amount of credit can I claim?

You may claim 50% of up to \$10,000 of qualifying wages paid per employee after March 12, 2020 and before Jan. 1, 2021, for a total credit of \$5,000 per employee. Qualified wages include a portion of the cost of employer provided health care.

“Qualified Wages” are determined based on the **average** number of employees employed in 2019.

- 100 or Fewer Employees: Wages paid to all employees regardless of whether or not they are providing services.
- More than 100 employees: Only wages paid to employees when they were not providing services.

Qualified wages must be paid during a calendar quarter when an employer is considered an eligible employer. If an employer is eligible due to suspension of its operations, only wages paid during the suspension will be considered qualified wages.

Wages for which you received tax credits under the Family First Coronavirus Response Act are excluded.

What quarters can I claim credits?

Credits may only be claimed for calendar quarters where:

- Your operations are fully or partially suspended by government order; or,
- You have a “significant decline” in gross receipts, defined as the first quarter when your gross receipts fall below 50% of the gross receipts during the same calendar quarter in 2019. Credit eligibility ends after the end of the quarter in which gross receipts are greater than 80% of the same calendar quarter during 2019.

How and when do I apply for or claim credits?

You will claim the credit on your federal employment tax return (e.g., Form 941, *Employer's Quarterly Federal Tax Return*). The IRS will refund any credit amount that exceeds taxes owed.

This excess amount is treated as an overpayment and refunded to the employer under Sections 6402(a) and 6413(a) of the Internal Revenue Code (IRC).

You can benefit immediately by requesting advance payment of the tax credit and/or by reducing your federal employment tax deposits by the amount of the credit. Advance payment requests are made by submitting Form 7200. The IRS expects to process requests within two weeks.

Note that the option to reduce federal tax deposits by the amount of the credit applies to employment taxes. You **cannot** reduce payments of the employee portion of employment taxes (a.k.a. trust fund taxes).

What are my obligations to repay any funds withheld or refunded?

You don't have to repay tax credits. This is not a loan or deferral.

What are my obligations to repay excess employment tax credits?

Employers are required to reconcile any advance payments claimed on Form 7200 with total credits claimed and total taxes due on their employment tax returns. Any refund of these credits paid to a taxpayer that **exceeds the amount the taxpayer is allowed** is an erroneous refund for which the IRS must seek repayment.

Where can I find more information?

- [FAQs on Employee Retention Credit](#)
- [Small Business Administration \(SBA\) Paycheck Protection Program](#)
- [IRS Form 7200 and Instructions](#)
- [How to Avoid Errors on Form 7200](#)