

SMALL BUSINESS ASSOCIATION OF MICHIGAN

# UNDERSTANDING THE EMPLOYEE RETENTION TAX CREDIT

What you need to know about the Employee Retention Tax Credit (ERTC) including eligibility and additional provisions

This document was made in collaboration with the Michigan Association of CPAs.



# WHAT IS THE ERTC AND HOW DOES IT HELP MY BUSINESS?

## WHAT IS THE ERTC?

Eligible businesses can now access ERTC for both 2020 and 2021 for eligible employee wages as long as these specific payroll wages and/or group benefits were not directly paid with Paycheck Protection Program (PPP) loan funds.

## WHAT EMPLOYERS ARE ELIGIBLE FOR ERTC?

Employers of 100 or less full-time employees can access ERTC for on premises, working employees in 2020 and employers of 500 or less full-time employees can access ERTC for on-premises, working employees in 2021. The employer status is calculated by counting the average number of full-time employees employed during 2019.

- A full-time employee is an employee who, with respect to any calendar month in 2019, worked an average of at least 30 hours per week or 130 hours in the month.
  - An employer that began business during 2019 determines the number of its full-time employees by taking the sum of the number of full-time employees in each full calendar month in 2019 when operating and dividing by that number of months.
  - An employer that began business during 2020 determines the number of its full-time employees by taking the sum of the number of full-time employees in each full calendar month in 2020 when operating and dividing by that number of months, same as the approach for employers that began business operations during 2019.

NOTE: Aggregation rules apply when determining the number of full-time employees; in most cases all entities are considered a single employer if they are a “controlled group” of corporations, are under common control, or are aggregated for benefit plan purposes.

Restaurants who received Restaurant Revitalization Funds from the U.S. Small Business Administration may choose to spend grant funds on payroll in calendar year 2021, which is an eligible expense. If the entity does meet payroll expenses with grant funds, the entity may not also receive ERTC for this payroll expense. The SBA and IRS will release more details on this coordination.

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## WHO IS ELIGIBLE?

If your business:

- Has 500 or fewer employees (100 for 2020);
- Was at least partly closed due to a government order OR
- Your business's experience a significant decline in gross receipts during a calendar quarter in 2020 or 2021. (50% decline in 2020, 20% in 2021); AND
- You kept employees on the payroll

you may be eligible for 2021 employee retention tax credits of up to \$28,000 per employee. And the longer you keep your employees on payroll, the more benefits you are eligible to receive.

For 2021, the ERTC is a quarterly tax credit against the employer's share of certain payroll taxes. The tax credit is 70% of the first \$10,000 in wages per employee in each quarter of 2021. That means this credit is worth up to \$7,000 per quarter and up to \$28,000 per year, for each employee. If the amount of the tax credit for an employer is more than the amount of the employer's share of those payroll taxes owed for a given quarter, the excess is refunded directly to them.

For 2020, the ERTC is still available. The credit is 50% of the first \$10,000 of qualified employee wages up to \$5,000 for the year. To claim the credit in 2020 requires amending the related payroll tax returns (Form 941).

NOTE: The current infrastructure bill will limit the ERTC through 3rd Quarter 2021, limiting the potential credit to \$21,000 per employee.

## IS MY BUSINESS ELIGIBLE IF I RECEIVED A PPP LOAN?

Businesses that received PPP loans in 2020 or 2021 can still claim the ERTC. While wages used to apply for PPP loan forgiveness cannot also be claimed as ERC wages, remaining wages may be eligible for the credit.

The ERTC is also available for the last two quarters of 2021 for certain small businesses that opened after February 15, 2020. These businesses, if they have less than \$1 million in annual gross receipts, may claim ERTCs of up to \$50,000 per quarter, even if the businesses have not been shut down or experienced declines in revenue.

## QUALIFIED WAGES

Generally, qualified wages are compensation you pay to employees, including qualified health plan expenses. However, wages paid to over 50% owners or employees related to 50% owners (wife, kids, step-kids, parents, aunts and uncles, etc) do not qualify for the ERTC per current IRS guidelines.

Wages are qualified for ERTC only if the wages are made to an employee who continues to be employed by the employer. Any payments correlated with a former employee's termination of employment are not qualified wages because they are payments for the past employment relationship and not attributable for employee retention credits.

Qualified wages are calculated without regard to federal taxes imposed or withheld, including the employee's or employer's shares of social security taxes, the employee's and employer's shares of Medicare tax, and federal income taxes required to be withheld.

## ADDITIONAL ERTC PROVISIONS

### Advance Payments

Form 7200: For 2020, the IRS allowed employers to reduce deposits of employment taxes when anticipating ERTC for qualified wages by filing Form 7200. For 2021, advance payments of ERTC are permitted only for small employers (500 or fewer employees during 2019) and only up to 70% of the average quarterly wages paid by the employer in calendar year 2019.

### Effects on Tax Return

As with any employment credits, the amount of credit claim must reduce the amount of deductible wages claimed on the business annual income tax return. For those going back to 2020 it may require amending the business return.

### Recovery Startup Business

If you just started your business after February 15, 2020 and have annual gross receipts under \$1 million, you still may be eligible for ERTC of up to \$50,000 per quarter.