

Payroll Tax Credits - Updates for 2021

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COVID-19-Related Payroll Tax Credits

FFCRA

1. Emergency Paid Sick Leave (EPSL) Tax Credit
2. Expanded Family and Medical Leave Act (E-FMLA) Tax Credit

Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

1. Employee Retention Credit (ERC)

Consolidated Appropriations Act, 2021

Changes to FFCRA and CARES Act Tax Credits for 2021

EPSL or E-FMLA Eligibility

- Businesses and Tax-Exempt Organizations with fewer than 500 employees
- FFCRA mandated wages in 2020, voluntary January 1 through March 31, 2021
- Credit is based for wages paid to Employees unable to work due to one (or more) of the following reasons:
 1. Employee subject to a government isolation order;
 2. Employee advised to self-quarantine by a health care provider;
 3. Employee experiencing COVID-19 symptoms and seeking a medical diagnosis;
 4. Employee caring for an individual with COVID-19;
 5. Employee caring for son or daughter younger than 18 because school or daycare is closed; or
 6. Employee is experiencing any other substantially similar condition.

Fewer than 500 employees

- Determined at the time an employee's leave is to be taken
- Fewer than 500 full-time and part-time US employees
- Follow Department of Labor guidance related to aggregation as a single employer

EPSL Qualifying Wages & Amount of Credit

- EPSL tax credit is 100% of qualifying wages
- Qualifying wages are up to 10 days of wages paid to employees April 1, 2020 through March 31, 2021:
 - For reasons 1-3
 - Regular Rate of Pay;
 - Maximum of \$511 per day and \$5,110 total.
 - For reasons 4-6
 - 2/3 Rate of Pay;
 - Maximum of \$200 per day and \$2,000 total.
- Includes allocable health care expenses, and employer share of Medicare tax (1.45%)

E-FMLA Qualifying Wages & Amount of Credit

- E-FMLA Credit is 100% of qualifying wages
- Qualifying wages are up to 10 weeks of wages paid in each calendar year to employees employed at least 30 days through March 31, 2021:
 - For reasons 4-6, must be a son or daughter,
 - At least 2/3 rate of pay;
 - Maximum of \$200 per day, up to 10 weeks, (\$10,000) per calendar year.
- Includes allocable health care expenses, and Employer share of Medicare tax (1.45%)

ERC Eligibility

- All Businesses, Tax Exempt Entities and for 2021, some Government Entities who:
 - 1) fully or partially suspend operations due to a government order that limits commerce, travel, or group meetings due to COVID-19; or
 - 2) Experience a significant decline in gross receipts during a calendar quarter.
- New for 2021, employers may retroactively claim the ERC if they received a Payroll Protection Program (PPP) loan in 2020
- Not eligible for the credit on wages paid with proceeds of a forgiven PPP loan or on FFCRA paid sick leave or family leave wages

ERC: Fully or Partially Suspend Operations

- Essential Businesses (allowed to remain open):
 - May qualify for a partial suspension if more than a nominal portion of the business is required to close.
 - If an essential business' supplier must suspend operations due to the order and such suspension makes the essential business unable to perform, the essential business may qualify.
- Teleworking: If workplace must close but business is able to continue operations through teleworking, business does not qualify.
- Timing: Only eligible for credit during time order is in force.

ERC: Fully or Partially Suspend Operations (cont.)

- Partial Suspension: Any modification of operations required by a government order must have more than a "nominal" effect on operations.
- Multiple Locations: If one location is required to close or partially suspend operation, all locations are considered partially suspended.
- Aggregated Groups: If members of an aggregated group are treated as a single employer under the aggregation rules, if one member is required to suspend operations, all members are considered to be partially suspended.

ERC: Significant Decline in Gross Receipts

- "Significant": As to each quarter, as compared with the same quarter in 2019:
 - 2020: decline by 50 percent
 - 2021: decline by 20 percent
- New for 2021: Election to use prior quarter to qualify for the current quarter.
- Eligibility ends on the first day of the quarter *following* the first quarter in which an employer's gross receipts are greater than 80 percent of its gross receipts in same quarter as 2019
- Example:

Significant Decline in Gross Receipts Analysis	Q1 20	Q2 20	Q3 20	Q4 20	Q1 21
Gross Receipts as % of same 2019 quarter	48%	83%	92%	79%	93%
- Employer is entitled to ERC for Qualifying Wages in Q1 & Q2 2020 and by electing to use the prior quarter, Q1 2021

ERC: Qualifying Wages

- Average FTEs in 2019 greater than 500:
 - 2020 & 2021: Wages paid for not providing services.
- Average FTEs in 2019 between 101-500:
 - 2020: Wages paid for not providing services.
 - 2021: Wages paid for both not providing and providing services.
- Average FTEs in 2019 100 or less:
 - 2020 & 2021: Wages paid for both not providing and providing services.
- Includes allocable health care expenses
- Average FTEs do not include any employee for whom employer was granted a Working Opportunity Tax Credit

ERC: Amount of Credit

- 2020:
 - 50% of Qualifying Wages paid March 13, 2020-December 31, 2020.
 - Maximum credit of \$5,000 per employee for the year.
- 2021:
 - 70% of Qualifying Wages paid January 1, 2021-June 30, 2021.
 - Maximum credit of \$7,000 per employee per quarter of 2021.
 - Advance payment of the credit is only allowed for Employers with 500 or fewer 2019 FTEs.

How to Claim the Tax Credits

The credits are allowed against the employer portion of social security taxes

1. Calculate total amount of qualifying wages paid under each credit, include qualifying allocable health expenses; and for the FFCRA credits, employer share of Medicare tax
2. Determine amount of credits- 100%, 50% or 70% of qualifying wages
3. Retain the credit amount from employment tax deposits
 - For 2021- File for Advanced Payment on IRS Form 7200, if eligible
 - For 2020 retroactive ERC- File amended quarterly forms 941-X
4. File quarterly IRS Form 941, true up any deferred deposits and advanced payments
5. Retain required documentation

Advance Payment

Form 7200 Advance Payment of Employer Credits Due to COVID-19 <small>(Rev. January 2021)</small> Department of the Treasury Internal Revenue Service		OMB No. 1545-0029
▶ Go to www.irs.gov/Form7200 for instructions and the latest information.		
Name (not your trade name)		Employer identification number (EIN)
Trade name (if any)		Applicable calendar quarter in 2021 (check only one box). Caution: See instructions before completing to determine if the credits and advance are available for the applicable quarter in 2021.
Number, street, and apt. or suite no. If a P.O. box, see instructions.		(1) <input type="checkbox"/> January, February, March
City or town, state, and ZIP code. If a foreign address, also complete spaces below. (See instructions.)		(2) <input type="checkbox"/> April, May, June
Foreign country name	Foreign province/county	Foreign postal code
Name on employment tax return (third-party payer) that will report the wages and credits related to the advance you're requesting in Part II (leave blank if return is filed under your name and EIN). See instructions.		(3) <input type="checkbox"/> July, August, September
		(4) <input type="checkbox"/> October, November, December
		EIN on employment tax return (if other than your own)

Tip: File Form 7200 if you can't reduce your employment tax deposits to fully account for these credits that you expect to claim on your employment tax return for the applicable quarter, or year if you file an annual return. Don't reduce your employment tax deposits and request advanced credits for the same expected credits. You will need to reconcile your advanced credits and reduced deposits on your employment tax return. You can't request an advance payment of the credit for sick and family leave for self-employed individuals.

Part I Tell Us About Your Employment Tax Return

A Check the box to indicate which employment tax return form you file (or will file for 2021). Check only one box.
 (1) 941, 941-PR, or 941-SS (2) 943 or 943-PR (3) 944 or 944(SP) (4) CT-1

B Is this a business that started on or after January 1, 2020? You must check one box. ▶ Yes No

C Amount reported on line 2 of your most recently filed Form 941 (or wages reported on Schedule R (Form 941), column (d), by your third-party payer (see instructions)). If you file a different employment tax return or have never filed one, see instructions ▶

D Tax period of most recently filed Form 941 (for example, "Q4 2020") or annual employment tax return (for example, "2020") ▶

E If you're requesting an advance payment of the employee retention credit (Part II, line 1), enter the average number of full-time employees you had in 2019 (or 2020 if your business wasn't in existence in 2019). Aggregation rules apply. See instructions ▶

F If you're requesting an advance payment for qualified sick and/or family leave wages (Part II, lines 2 and/or 3), enter the number of employees you had when qualified leave was taken during the quarter for the advance requested. See instructions . . . ▶

Part II Enter Your Credits and Advance Requested

1	Total employee retention credit for the quarter. Don't enter more than the amount eligible to be advanced for the quarter. See instructions	1
2	Total qualified sick leave wages eligible for the credit and paid this quarter. See instructions	2
3	Total qualified family leave wages eligible for the credit and paid this quarter. See instructions	3
4	Add lines 1, 2, and 3	4
5	Total amount by which you have already reduced your federal employment tax deposits for these credits for this quarter. Enter as a positive number	5
6	Total advanced credits requested on previous filings of this form for this quarter	6
7	Add lines 5 and 6	7
8	Advance requested. Subtract line 7 from line 4. If zero or less, don't file this form	8

Looking Forward

- Biden's American Rescue Plan (ARP)
 - FFCRA
 - Extend FFCRA Tax Credits through September 30, 2021 for employers with less than 500 employees
 - Capped at \$1,400 per employee per week
 - Mandate for nearly all employers
 - Add vaccine paid leave category.
- IRS or SBA Guidance on interaction of ERC and PPP loans, and ERC alternative election for 2021

Questions?

Thank You!

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