

Do You Qualify For The Employee Retention Credit?

June 8th, 2022



Employee Retention Credit (ERC)

- The credit is available beginning in Q2 2020 – Q3 2021
- Amount of the credit for 2020 is a maximum of \$5,000 per employee
- Amount of the credit for 2021 is a maximum of \$7,000 per employee per quarter

Ways to Qualify for ERC

- Reduction in Gross Receipts
- Government Shutdown
- Recovery Startup Business – Started after February 15, 2020, and had revenue of less than \$1,000,000

Calculating the Credit

- Full-Time Equivalents (FTEs)
- Qualified Wages
- Limitations of the Credit

Qualified Wages Depend on the Number of Full-Time Employees the Employer Had in 2019:

- **Full-Time Employee**
 - For purposes of the ERC, a full-time employee is one that, in 2019, worked at least 30 hours per week or 130 hours in a month
- **Qualified Wages for 2020**
 - Large Employers: Those who have more than 100 FTEs can only use the qualified wages paid to employees who were NOT providing service
- **Qualified Wages for 2021**
 - Large Employers: Those who have more than 500 FTEs

What are Qualified Wages?

- Wages paid to each W2 employee that is used to calculate the credit
- Up to \$10,000 of qualified wages per employee, per quarter
- Include certain qualified health expenses and 401k expenses in the calculation of the ERC
- Wages for owners with > 50% ownership do not qualify
 - This includes family members' wages

Limitations of the Credit

- **PPP loan interaction**
 - Cannot use PPP loan wages to also claim ERC
 - Any excess wages above the loan amount are eligible
- **2020 interaction with other credits**
 - ERC Wages cannot also be used for:
 - Qualified Sick Leave Credit
 - Family Leave Wages (FFCRA Credit)
 - Workers Opportunity Credit (WOTC)
- **2021 interaction with other credits**
 - In addition to the same 2020 credits, ERC Wages cannot also be used for:
 - R&D Credit
 - Indian Employment Credit
 - Military Differential Wage Payment Credit
 - Empowerment Zone Credit

Claiming ERC in Past Quarters: 941-X

- When retroactively claiming the credit (2020 or Q1 2021), an amended Federal 941 return is required for each quarter in which you are claiming the credit
- Money being received around 9 -12 months
- Needed items to file an amended return are:
 - Original 941 filed
 - Wage reports listed by the employee
 - Credit calculation with qualified wage amount and total credit requested
 - Worksheet 3 or 4 from 941-X instructions

Form 941-X: Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund
 (OMB No. 1545-0047)
 (Rev. April 2015) Department of the Treasury - Internal Revenue Service

Return You Are Correcting
 Check the type of return you are correcting:
 941
 941-SS
 Check the QTR quarter you are correcting:
 1: January, February, March
 2: April, May, June
 3: July, August, September
 4: October, November, December
 Enter the calendar year of the quarter you are correcting: (YYYY)

Part 1: Select ONE of one process. See page 4 for additional guidance.

1. **Adjusted employment tax return.** Check this box if you underreported amounts. Also check this box if you overreported amounts and you would like to use the adjuster's process to correct the error. You must check this box if you are correcting both underreported and overreported amounts on this form. The amount shown on line 26, if any, from this form, may only be applied as a credit to your Form 941, Form 941-SS, or Form 944 for the tax period in which you are filing this form.

2. **Claim.** Check this box if you overreported amounts and you would like to use the claim process to ask for a refund or abatement of the amount if you are on line 20. Do not check this box if you are correcting ANY underreported amounts on this form.

Part 2: Complete the certifications.

3. **I certify that I have filed or will file Forms W-2, Wage and Tax Statement, or Forms W-2s, Corrected Wage and Tax Statement, as required.**
NOTE: If you are correcting underreported amounts only, go to Part 3 on page 2 and skip lines 4 and 5. If you are correcting overreported amounts, for purposes of the certifications on lines 4 and 5, Medicare tax does not include Additional Medicare Tax. Form 941-X cannot be used to correct overreported amounts of Additional Medicare Tax, unless the amounts were not withheld from employee wages or an adjustment is being made for the current year.

4. If you checked line 1 because you are adjusting overreported amounts, check all that apply. You must check at least one box. I certify that:

a. I report or reimburse each affected employee for the overcollected federal income tax or Additional Medicare Tax for the current year and the uncollected social security tax and Medicare tax for current and prior years. For adjustments of employee social security tax and Medicare tax overcollected in prior years, I have a written statement from each affected employee stating that he or she has not claimed (or the claim was rejected) and will not claim a refund or credit for the overcollection.

b. The adjustments of social security tax and Medicare tax are for the employer's share only. I could not find the affected employee or each affected employee did not give me a written statement that he or she has not claimed (or the claim was rejected) and will not claim a refund or credit for the overcollection.

c. The adjustment is for federal income tax, social security tax, Medicare tax, or Additional Medicare Tax that I did not withhold from employee wages.

5. If you checked line 2 because you are claiming a refund or abatement of overreported employment taxes, check all that apply. You must check at least one box. I certify that:

a. I report or reimburse each affected employee for the overcollected social security tax and Medicare tax. For claims of employee social security tax and Medicare tax overcollected in prior years, I have a written statement from each affected employee stating that he or she has not claimed (or the claim was rejected) and will not claim a refund or credit for the overcollection.

b. I have a written consent from each affected employee stating that I may file this claim for the employer's share of social security tax and Medicare tax. For refunds of employee social security tax and Medicare tax overcollected in prior years, I also have a written statement from each affected employee stating that he or she has not claimed (or the claim was rejected) and will not claim a refund or credit for the overcollection.

c. The claim for social security tax and Medicare tax is for the employer's share only. I could not find the affected employee or each affected employee did not give me a written consent to file a claim for the employer's share of social security tax and Medicare tax or each affected employee did not give me a written statement that he or she has not claimed (or the claim was rejected) and will not claim a refund or credit for the overcollection.

d. The claim is for federal income tax, social security tax, Medicare tax, or Additional Medicare Tax that I did not withhold from employee wages.

For Paperwork Reduction Act Notice, see the Instructions. 941 (09/2015) 08-16-17053 Form 941-X (Rev. 4/2015)

Things to Consider

- The ERC is not includible in gross income, but it is subject to disallowance rules
 - This is at the federal level; certain states (including Illinois) allow the deduction
- If an employer has already filed its federal income tax forms, those forms need to be amended
 - Federal income tax return form
 - Personal income tax return form, if the employer is a pass-through entity
- Extension of limitation on assessment from 3 - 5 years
- Reach out to your Payroll provider if Professional Employer Organization (PEO)

PKF Mueller Success Stories

- Private Schools
- Alternative Quarter Elections

Contact Us



Mark Stricker, CPA

Client Advisory Services Director

+1 224 603 6070

mstricker@pkfmueller.com



Dan Patterson, CPA

Senior Client Advisory Services Associate

+1 847 783 1917

dpatterson@pkfmueller.com

Contact the PKF Mueller ERC Team:
ERCTeam@pkfmueller.com

Questions?