

Employee Retention Credit extended and expanded

The Employee Retention Credit (ERC) was extended and expanded in March to go through Dec. 31, 2021, as part of the American Rescue Plan Act of 2021 (ARPA). Originally, the ERC was enacted in March 2020 as part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).

Originally, the ERC was a refundable payroll tax credit granted for full-time employees who were retained from March 13, 2020, to Dec. 31, 2020, during the temporary business shutdowns. **The Consolidated Appropriations Act of 2021 (CAA) then expanded the ERC, by retroactively allowing employers (even those who had received a PPP loan) to claim the ERC.** ARPA then extended the ERC further. Under the CARES Act, the amount of credit was 50 percent of qualified wages paid to the employee plus the cost to provide health benefits.

The ERC and the American Rescue Plan Act

The enhanced ERC under ARPA follows the more favorable 2021 rules originally enacted as part of the CAA. These rules include:

- Lowering the threshold for meeting the “eligible employer” standard under the gross receipts test (requiring only a 20 percent decline in gross receipts compared to a 50 percent decline required for the 2020 ERC)
- Raising the credit rate to 70 percent (from 50 percent in 2020)
- Raising the maximum qualified wages to \$10,000 per quarter (from \$10,000 aggregate for all of 2020)
- Raising the “small employer” limit to 500 full-time employees (compared to 100 full-time employees for the 2020 ERC)—a small employer is allowed to claim all wages paid during the eligibility period; while large employers can only claim the ERC for wages paid to employees not providing services

As a result, the maximum ERC per employee for 2021 is now \$28,000, compared to \$5,000 for the 2020 version of the ERC.

Expanded benefits under the new relief legislation

In addition, ARPA provides additional expanded benefits for the ERC—these two changes are only applicable to the third and fourth calendar quarters of 2021.

- First, the ERC is now available for “Recovery Startup Businesses.” This provision is applicable to startup companies that opened a trade or business after February 15, 2020, with average annual gross receipts that do not exceed \$1M.

- Secondly, ARPA also provides an expanded ERC benefit to “Severely Financially Distressed Employers.” To qualify under this provision, an employer must suffer at least a decline of 90 percent gross receipts in the quarter compared to the same quarter in 2019.

If you have questions, please contact our team. We can help to determine if you qualify and then work with you to apply for the ERC.