

Get up to \$33,000 per employee

Employee
Retention
Tax
Credit

The ERTC is a refundable tax credit designed to reward and encourage businesses to keep their employees on payroll. Go to oewd.org/ERTC to learn more.

What is it?

The Employee Retention Tax Credit (ERTC) is a refundable tax credit. Employers can take advantage of the ERTC against federal employment taxes via qualified wages paid to their employees **from March 13, 2020 to December 31, 2021**. **Businesses can retroactively claim the credit against past quarters.**

Maximum credit per employee



Who's eligible?

Private businesses or tax-exempt organizations of all sizes that conduct a trade or business and meet one or both of the following criteria:

1. Your business was forced to partially or fully suspend or limit operations by a governmental order
2. Your business experienced a 50% decline in gross receipts during any quarter in 2020 versus the same quarter in 2019, and/or a 20% decline in gross receipts during any quarter in 2021 versus the same quarter in 2019

Note: If your business started in 2020, you will use 2020 as your comparison period when applying for the tax credit in 2021.

GROSS RECEIPTS ELIGIBILITY TEST		
2019	2020	2021
Base Year	↓ 50%	↓ 20%

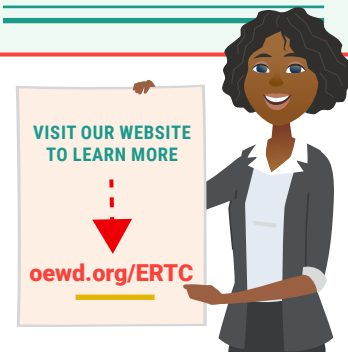
MORE INFORMATION

For details, resources, and FAQ, contact our Small Business Hotline at **415-554-6134** or **sfosb@sfgov.org** and go to **oewd.org/ERTC**

How to claim the credit

We strongly recommend that you speak with a **Certified Public Accountant (CPA)**. A CPA can help your business maximize the value of the ERTC. If you do not currently have one, the SF Chamber of Commerce has a list of local CPAs at link.oewd.org/CPA.

- To claim the credit **retroactively**, file a Form **941-X**, Adjusted Employer's Quarterly Federal Tax Return
- To claim the credit **currently**, file a Form **941**, Employer's Quarterly Federal Tax Return
- To claim the credit **in advance**, file a Form **7200**, Advance Payment of Employer Credits Due to COVID-19



The contents in this guide are intended to convey general information only. It should not be construed as, and should not be relied upon for, legal or tax advice and it may not reflect the most current developments. We strongly recommend business owners consult with their certified public accountant or attorney for specific advice.

SAN FRANCISCO
OFFICE OF ECONOMIC &
WORKFORCE DEVELOPMENT

Frequently Asked Questions

What if my business received a PPP loan?

- You may still be eligible for the ERTC.
- You cannot use wages applied to the ERTC toward the forgiveness of a PPP loan. Consider applying non-payroll expenses toward your PPP forgiveness application to maximize the benefit of both PPP forgiveness and the ERTC.

Can I use qualified wages applied to the ERTC for other federal tax credits?

- A business **may not** "double benefit" by utilizing the same wages for claiming the ERTC and the Families First Coronavirus Response Act (FFCRA), American Rescue Plan Act of 2021 Leave Credits, Work Opportunity Tax Credit (WOTC), Research and Development Credit (R&D), or forgiveness on a PPP loan.

What if I started my business during the pandemic?

- Your business may still qualify under the traditional rules. However, if your business started in 2020, you will use 2020 as your comparison period when applying for the tax credit in 2021. You may apply the suspension of operations qualifier as appropriate.
- The 2021 American Rescue Plan expanded the ERTC so that a business that was launched after February 15, 2020 and does not qualify under the standard rules may still apply for the ERTC under the special "Recovery Startup Business" qualifying criteria.
- Recovery startup businesses may apply if their average annual gross receipts are \$1 million or less. The total ERTC value is capped at \$50,000 per quarter. Additionally, the Recovery Startup Business qualifier is only eligible for Q3 and Q4 of 2021.

Employee Retention Tax Credit

How to calculate the credit

1 Determine what quarters of 2020 and 2021 your business qualifies for the ERTC

- Was your business ordered by the government to partially or fully suspend operations; or
- Did your business experience a drop in gross receipts of at least 50% (2020) or 20% (2021) vs. the same quarter in 2019?

Note: if your business started in 2020, you will use 2020 as your comparison period when applying for the tax credit in 2021.

2 Determine the total qualified wages

Include allocable qualified health plan expenses, paid to each employee per quarter. Do not include wages that have been used toward PPP forgiveness.

3 Calculate tax refund in 2020

Apply a cap of \$10,000 of qualified wages per employee across all quarters combined. Multiply the qualified wages up to the annual cap by 50% to determine your credit amount for 2020. The max is \$5,000 per employee for the entire year.

4 Calculate tax refund in 2021

Apply a cap of \$10,000 of qualified wages per employee per individual quarter. Multiply the qualified wages up to the quarterly cap by 70% to determine your credit for each quarter in 2021. The max is \$7,000 per employee per quarter.



Terms and Definitions

Qualified wages

Qualified wages include all forms of wages that are subject to FICA taxes (taxes withheld from paychecks to fund Social Security and Medicare). Additionally, qualified wages may include the employer's health plan expenses properly allocable to the wages.

Note that there are certain employees that should not be considered for qualified wages under most circumstances, including:

- An individual who owns more than 50 percent of the business
- An grantor, beneficiary or fiduciary of the employer
- A family relative of the employer (if the employer is an individual), as well as spouses or household employees.

The IRS has also clarified that tips may be considered qualified wages for the ERTC, as long as they are Medicare wages.

Full Time Employees

Full time employees are those employees that work 30 hours or more in a week or 130 hours or more in a month.

ERTC rules for large businesses vs. small businesses (eligibility rules are different in 2020 and 2021)

In 2020, businesses with 100 or fewer full time employees may include qualified wages for all employees when calculating the credit. If a business had more than 100 employees in 2019, they can only include qualified wages paid to an employee during a period where that employee was not providing services to the business, but was still receiving qualified wages.

In 2021, that threshold is raised to 500 or more full time employees.

Full or partial suspension of operations with respect to ERTC eligibility

A full or partial suspension of operations means a government body ordered your business to either cease all operations, or continue with some, but not all of normal operations. A partial suspension means that a "more than nominal" portion of business operations were suspended by government order. See **IRS Notice N2021-20** for a detailed definition, paying special attention to FAQ #17 and #18.