

# United States: Upcoming Deadlines To File For Employee Retention Credits

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by [Betsi Barrett](#)

Bennett Thrasher

When Congress passed the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#) in March 2020, it established numerous programs that provided incentives for employers to keep workers on their payrolls. In the early days of the COVID-19 pandemic, stay-at-home orders and other public health measures resulted in many businesses temporarily closing their doors to the public. Employees faced furloughs or layoffs as their employers contended with lost revenue. One of the programs established by the CARES Act, the [Employee Retention Credit \(ERC\)](#), provides a payroll tax credit to employers affected by the pandemic. Congress has amended the program several times since it passed the CARES Act. While the ERC is only available for wages paid during 2020 and 2021, the deadline has not passed for employers to claim the credit. The following article offers an overview of the ERC, the process and deadlines for claiming it and possible scams that employers may face related to the ERC.

## What Is the Employee Retention Credit?

The ERC is a fully refundable tax credit in an amount based on wages paid to employees during certain periods of time in 2020 and 2021. To be eligible for the credit, an employer must have experienced at least one of the following in connection with the pandemic during a calendar quarter:

- Closure of some or all business operations because of public health orders; or
- Reduction in gross receipts of at least 50% over the previous year's corresponding quarter for 2020 credits or a reduction in gross receipts of at least 20% over 2019's corresponding quarter for 2021 credits.

Many public health orders issued in 2020, for example, required businesses that serve the general public to close, such as restaurants and movie theaters. Other businesses, such as retail stores, faced significant restrictions on their operations. The ERC provided an incentive for those businesses not to lay off employees.

For credits claimed with respect to 2020 wages, the maximum ERC available is \$5,000 per qualified employee. An employer can receive a credit of 50% for the first \$10,000 of

Qualified Wages paid per employee for all qualified quarters. For 2021 credits, the maximum ERC available is \$28,000 per qualified employee. An employer can receive 70% of the first \$10,000 of Qualified Wages paid per employee in each qualified quarter. This sets the maximum 2021 credit at \$7,000 per employee, per quarter.

The credit is refundable, meaning that if the amount of the credit is greater than the amount of tax owed by the employer, the IRS will refund the balance. An employer that owes \$5,000 in payroll tax and can claim \$10,000 in ERCs will receive a refund check for \$5,000.

### How Do I Claim the Employee Retention Credit?

In order to claim the ERC, taxpayers must file an amended [Form 941-X, the Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund](#) to supersede the originally filed Form 941 for the relevant credit quarter.

### What Is the Deadline for Claiming the Employee Retention Credit?

While 2021 was the last year in which employers could incur a tax credit under the ERC program, the deadline to claim the credit is not imminent:

- For credits earned in the calendar year 2020, the deadline to claim the credit is **April 15, 2024**.
- For credits earned in 2021, the deadline is **April 15, 2025**.

The IRS issued a [warning to employers](#) in October 2022 about fraudulent notices and offers related to the ERC. These may include notices claiming that a deadline is approaching quickly, followed by an offer to assist the employer with filing a claim. As of May 2023, the earliest deadline is still almost a year away.

### What Do I Do If I Receive a Fraudulent Notice About the Employee Retention Credit?

Employers should treat any third-party solicitation regarding the ERC with skepticism. Many fraudulent operations, dubbed "ERC mills," have popped up to take advantage of the confusion created by the multitude of pandemic relief programs.

If you have questions about a solicitation related to the ERC, a trusted financial professional can provide you with more information and guidance. You can report suspected illegal activity to the IRS by filing [Form 3949-A](#). You can also report the matter to the U.S. Treasury Inspector General for Tax Administration (TIGTA) by calling (800) 366-4484.

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

AUTHOR(S)

**Betsi Barrett**

Bennett Thrasher

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