



Frequently asked questions about the Employee Retention Credit

The Employee Retention Credit (ERC) – sometimes called the Employee Retention Tax Credit or ERTC – is a refundable tax credit for certain eligible businesses and tax-exempt organizations. The requirements are different depending on the time period for which you claim the credit.

These frequently asked questions (FAQs) provide general information about eligibility, claiming the credit, scams and more. For technical guidance, see notices, forms and instructions on the [Employee Retention Credit](#) page.

Our [Employee Retention Credit Eligibility Checklist](#) tool can help you see if you may be eligible for the ERC. You can also review a list of [signs your ERC claim may be incorrect](#).

- See the [Withdrawing a claim](#) section below if:
 - You're not eligible and you claimed the credit.
 - You haven't received a check or you received a check but haven't cashed or deposited it.

Find answers to FAQs about ERC.

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Eligibility

Q1. Is every business eligible for the Employee Retention Credit? (added July 27, 2023)

A1. No.

Q2. Who is eligible to claim the Employee Retention Credit? (updated Sept. 14, 2023)

A2. Some promoters tell taxpayers that every employer qualifies for ERC. This is not true. Eligibility for the ERC depends on your specific facts and circumstances.

There are very specific eligibility requirements for claiming the ERC.

[Eligible employers](#) can claim the ERC on an original or amended employment tax return for qualified wages paid between March 13, 2020, and Dec. 31, 2021. However, to be eligible, employers must have either:

- Sustained a full or partial suspension of operations [due to an order from an appropriate governmental authority](#) limiting commerce, travel or group meetings because of COVID-19 during 2020 or the first three quarters of 2021, or
- Experienced a [significant decline in gross receipts during 2020 or a decline in gross receipts during the first three quarters of 2021](#), or
- Qualified as a [recovery startup business](#) for the third or fourth quarters of 2021.

A self-employed individual who has employees and who otherwise meets the requirements to be an eligible employer may be eligible for the ERC based on [qualified wages](#) they paid to employees. Self-employed individuals can't include their own self-employment earnings or wages paid to related individuals when calculating the credit.

Employers in U.S. territories are eligible to claim ERC if they meet other eligibility requirements. For information about qualified wages paid by employers in U.S. territories, see [Notice 2021-20](#), Section III.A, Question 4.

Q3. Who is not eligible to claim the ERC? (updated Sept. 14, 2023)

A3. You don't qualify for the ERC if you didn't operate a business or tax-exempt organization with employees.

Some examples of taxpayers who are not eligible to claim the ERC and are often targeted by ERC scam promoters include:

- Individual taxpayers who are not business owners
- Employees
- Retirees
- Self-employed individuals who do not have any employees
- Household employers
- Employers that didn't pay wages to employees during the qualifying time periods
- Employers who experienced supply chain disruptions but did not experience a full or partial suspension of operations by a qualifying order
- Government agencies

Some other limitations or exceptions apply in certain quarters for certain types of employers. See [comparison chart](#).

Q4. Does participating in the Paycheck Protection Program affect the amount of ERC I may be entitled to? (updated March 22, 2024)

A4. Participating in the Paycheck Protection Program affects the amount of qualified wages used to calculate your credit. Participation in the PPP doesn't affect your eligibility.

If your PPP loan was forgiven, you can't claim the ERC on wages that were reported as payroll costs to obtain Paycheck Protection Program loan forgiveness, however, you may still be eligible to claim ERC.

Payroll costs up to the amount that the Small Business Administration forgave are ineligible for ERC. You may use the rest of your qualified wages to calculate your ERC.

Documents you need to support your ERC claim may include:

- PPP loan forgiveness application
- Documentation from the Small Business Administration related to your loan forgiveness decision
- Calculations that show you did not claim the ERC on the same wages you reported as payroll costs
- Records that show the wages used as payroll costs for PPP and wages used to claim the ERC

For more information about the definition of payroll costs related to PPP, see [Paycheck Protection Program](#) .

For some examples of how to figure out what to exclude from qualified wages as it relates to PPP, see [Notice 2021-20](#), Section III.I, Question 49.

Q5. Does receiving a restaurant revitalization grant or a shuttered venue operators grant affect the amount of ERC I may be entitled to? (added Sept. 14, 2023)

A5. If you received a restaurant revitalization grant or a shuttered venue operators grant, then you can't claim ERC on the wages you included as payroll costs for either grant program in the third or fourth quarter of 2021.

Q6. How does being an essential business affect my eligibility for ERC? (added Sept. 14, 2023)

A6. Being an essential business doesn't necessarily mean you're ineligible for ERC. You may be eligible based on the gross receipts test, or if you can show that you experienced a partial suspension of operations due to an order from an appropriate governmental authority.

For an example of an essential business that was still eligible due to a partial suspension of operations, see [Notice 2021-20](#), Section III.D, Question 17, Example 4.

Whether your business is considered essential or non-essential varies by jurisdiction. You should refer to the governmental order affecting the operation of your trade or business to determine if you are essential or non-essential.

Qualified wages

Q1. What is the definition of qualified wages for the ERC? (updated Sept. 4, 2024)

A1. Generally, qualified wages must be wages that are subject to Social Security and Medicare taxes reportable on a Form W-2 (and not amounts reported on another form, like the Form 1099-NEC). However, they may also include certain health care expenses you pay for your employees. Because qualified wages must be wages subject to Social Security and Medicare taxes, qualified wages do not include any amounts paid to independent contractors and reported on Form 1099-NEC, Nonemployee Compensation.

Not all wages that you pay to employees may be qualified wages for purposes of the ERC. Be wary of anyone who says you can use all wages when calculating your ERC.

Different dollar limits apply and the rules vary by the quarter for which you're claiming the ERC.

The amount of your qualified wages used to calculate your ERC will also depend on certain factors, including:

- The [average number of employees](#) you employed in 2019;
- Whether the employees provided services for the wages you paid during the suspension of operations or the quarter in which you experienced the required decline in gross receipts;
- How the [related individual rules](#) apply to your situation;
- Whether the wages were used to claim other tax credits; and
- Whether the wages were used as payroll costs for other programs (Paycheck Protection Program, shuttered venue operators grant or restaurant revitalization grant).

These rules changed throughout 2020 and 2021. See [comparison chart](#).

For further discussion, see [Notice 2021-20](#) (Section III.G, Questions 30 through 39), [Notice 2021-23](#) (Section III.E), and [Notice 2021-49](#) (Section III.E. and Section IV.A. through IV.D).

Q2. What is the definition of “related individuals?” (added Sept. 4, 2024)

A2. Wages paid to related individuals aren't [qualified wages](#) for the ERC. Generally, related individuals are those who have one of the following relationships with the majority owner:

- Child or a descendant of a child.
- Brother, sister, stepbrother or stepsister.
- Father, mother or an ancestor of either.
- Stepfather or stepmother.
- Niece or nephew.
- Aunt or uncle.
- Son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law.
- Household member, meaning an individual who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

Note that majority owners and their spouses may be considered related individuals as well.

Constructive ownership rules apply to identify who is considered a majority owner. See Section IV.D. of [Notice 2021-49](#), 2021-34 I.R.B. 316 for more information.

Q3. What special rules apply to large eligible employers? (added Sept. 4, 2024)

A3. Large eligible employers are those that averaged:

- more than 100 full-time employees in 2019 and claimed ERC for 2020 tax periods, and/or

- more than 500 full-time employees in 2019 and claimed ERC for 2021 tax periods.

Special rules apply to these employers. Large eligible employers can only claim wages paid to employees who were not providing services due to a suspension of operations or a decline in gross receipts. For more details see the ERC [comparison chart](#).

Qualifying government orders

Q1. What kind of government orders qualify my business or organization for the ERC? (added July 28, 2023)

A1. To qualify for ERC, you need to have been subject to a qualifying government order related to COVID-19 that caused a full or partial suspension of your trade or business operations. The government order may be at the local, state or federal level.

Examples of governmental orders:

- An order from the city's mayor stating that all non-essential businesses must close for a specified time period;
- A state's emergency proclamation that residents must shelter in place for a specified period, except for essential workers;
- An order from a local official imposing a curfew on residents that impacted the operating hours of your trade or business for a specified time period;
- An order from a local health department mandating a workplace closure for cleaning and disinfecting.

Q2. Can I rely on a recommendation, bulletin or statement issued by a government authority to qualify for ERC? (updated Sept. 14, 2023)

A2. No. Recommendations or statements encouraging you to take certain actions are not orders.

To qualify for the ERC, you must have been subject to a government order that fully or partially suspended your trade or business.

If you use a third party to calculate or claim your ERC, you should ask them to give you a copy of the government orders – not a generic narrative about an order. Read the order carefully and make sure it applied to your business or organization.

Q3. Is being subject to a government order enough to make me eligible for ERC? (added July 28, 2023)

A3. No. You need to demonstrate that the government order was related to COVID-19 and that it resulted in your trade or business being fully or partially suspended.

Q4. What does it mean to be fully or partially suspended? (updated Sept. 14, 2023)

A4. Whether your business or organization was fully or partially suspended depends on your specific situation. For examples, see [Notice 2021-20](#), Section III.D.

Some examples of who **doesn't** qualify under this eligibility factor:

- If all your employees were able to telework during the pandemic and your business continued to operate, your business wasn't suspended.
- If your customers were affected by a stay-at-home order, but no orders applied to your business operations, you weren't suspended.
- If you voluntarily closed your business or reduced hours of operation, you weren't ordered to suspend.

You could still qualify for ERC based on a decline in gross receipts even if you don't qualify under suspension of operations due to government order.

Remember: You need to be able to prove your claim with a specific government order and show how it suspended all or part of your operations.

Q5. What does “more than nominal” mean when considering whether my business or organization was partially suspended? (added Sept. 14, 2023)

A5. IRS will consider you to be partially suspended if more than a nominal part of your business was suspended by a governmental order.

The IRS considers "more than nominal" to be at least 10% of your business based on either the gross receipts from that part of the business or the total hours your employees spent working in that part of the business.

If all parts of your business could operate but you had to modify how it operated, then we will consider you to be partially suspended if you can show that the order had more than a nominal effect on your business. We consider "more than a nominal effect" to be at least a 10% reduction in your ability to provide goods or services in the normal course of your business.

If you changed business practices to alter behavior, such as making store aisles one-way or requiring customers or employees to wear masks, we won't consider that change to have had a more than a nominal effect on your business operations.

For more details and examples, see [Notice 2021-20](#), Section III.D, Questions 11, 17 and 18.

Q6. If my business was suspended by a government order for only part of a quarter, am I an eligible employer for the entire quarter? (added Sept. 14, 2023)

A6: You are considered an eligible employer for the entire calendar quarter if your business operations were fully or partially suspended due to a governmental order during a portion of a calendar quarter.

However, you can claim the ERC **only for wages paid during the suspension period, not the whole quarter.**

For examples, see [Notice 2021-20](#), Section III.D, Question 22.

Q7. Are communications from the Occupational Safety and Health Administration (OSHA) considered a government order for purposes of qualifying for the ERC due to a full or partial suspension of operations? (added Nov. 7, 2023)

A7. Generally, no. An employer **won't be considered eligible for the ERC** just because they followed general guidance or recommendations contained in OSHA communications.

For details on what the IRS considers OSHA communications, see the [IRS legal memo AM-2023-007](#)

[PDF](#).

However, if an appropriate government authority – such as a state governor – issued an order that made OSHA recommendations mandatory, the employer may then be able to claim the ERC.

The IRS will consider an employer to be eligible for ERC if they:

- Provide an order from an appropriate government authority mandating compliance with OSHA recommendations, and
- Demonstrate that implementing the mandatory recommendations either:
 - Suspended more than a nominal part of the employer's trade or business operations, or
 - Required modifications that had more than a nominal effect on the employer's trade or business operations.

Modifications that required minor adjustments – such as masking or making store aisles one way to enforce social distancing – most likely did not result in more than a nominal effect on business operations because those adjustments didn't restrict the employer's ability to provide goods and services in their normal course of business.

For more information and examples, see [What does "more than nominal" mean when considering whether my business or organization was partially suspended?](#) earlier in this section and the [IRS legal memo AM-2023-007](#) [PDF](#).

Supply chain

Q1. Was my business or organization fully or partially suspended if I had a supply chain issue? (updated March 22, 2024)

A1. A supply chain issue by itself does not qualify you for the ERC.

The IRS provided a narrow, limited exception if an employer was not fully or partially suspended but their supplier was. The exception, however, only applied when the employer absolutely could not operate without the supplier's product and the supplier was fully or partially suspended themselves.

In addition to having the supplier's governmental order, you will need to show that:

- The government order caused the supplier to suspend operations,
- You couldn't obtain the supplier's goods or materials elsewhere (regardless of cost), and
- It caused a full or partial suspension of your own business operations.

You should be wary of anyone who says you qualify for ERC based on supply chain issues without asking for specific information about how your business or organization was affected, your supplier's situation and documentation. For more information and examples see legal memo [AM-2023-005](#) [PDF](#).

Decline in gross receipts

Q1. How do I tell if I have the required decline in gross receipts to claim the ERC? (updated Sept. 14, 2023)

A1. You may qualify for ERC if your business or organization experienced a significant decline in gross receipts during 2020 or a decline in gross receipts during the first three quarters of 2021.

Generally, this test is met by taking the gross receipts of the calendar quarter in which ERC is considered and comparing them to the gross receipts of the same calendar quarter in 2019.

- For 2020, you begin qualifying in the quarter when your gross receipts are less than 50% of the gross receipts for the same quarter in 2019. You no longer qualify in the quarter after the quarter in which your gross receipts are more than 80% of the same quarter in 2019.

For example: Your gross receipts were \$100 in each quarter of 2019. They were \$45 in the second quarter of 2020, \$85 in the third quarter and \$75 in the fourth quarter. Under these facts, you would qualify for the second and third quarter but not the fourth.

- For 2021, the gross receipts for the quarter must be less than 80% of the gross receipts for the same quarter in 2019.
- For calendar quarters in 2021, you can also use the alternative quarter election rule, which gives employers the ability to look at the prior calendar quarter and compare to the same calendar quarter in 2019 to determine whether there was a decline in gross receipts.

For example: Your gross receipts were \$100 in each quarter of 2019. They were \$75 in the first quarter of 2021 and \$85 in the second quarter. Under these facts, you would qualify for the first quarter using the regular gross receipts test and for the second quarter using the alternative quarter election rule.

Be sure to keep thorough records and consider whether you need to coordinate with another part of your business, such as if you're part of an aggregated group. For more information about aggregation rules, see [Notice 2021-20](#), Section III.B.

Q2. What types of income do I need to include in gross receipts? (added Sept. 14, 2023)

A2. Gross receipts for purposes of the ERC are defined by reference to existing law. Learn more about the specific rules in Notice 2021-20, Section III.E, Questions 24 and 25.

For an employer other than a tax-exempt organization, gross receipts for ERC purposes generally means gross receipts of the taxable year. It generally includes:

- Total sales (net of returns and allowances)
- All amounts received for services
- Any income from investments
- Any income from incidental or outside sources

For example, gross receipts for an employer that is not a tax-exempt organization may include:

- Interest (including original issue discount and certain tax-exempt interest)
- Dividends, rents, royalties and annuities, regardless of whether those amounts are derived in the ordinary course of the taxpayer's trade or business

For an employer that is a tax-exempt organization, gross receipts means the gross amount received by the organization from all sources without reduction for any costs or expenses, including:

- Cost of goods or assets sold
- Cost of operations
- Expenses of earning, raising or collecting such amounts.

For example, gross receipts for an employer that is a tax-exempt organization may include gross sales or receipts from business activities (including business activities unrelated to the purpose for which the organization qualifies for exemption) and the gross amount received:

- As contributions, gifts, grants and similar amounts without reduction for the expenses of raising and collecting such amounts,
- As dues or assessments from members or affiliated organizations without reduction for expenses attributable to the receipt of such amounts,
- From the sale of assets without reduction for cost or other basis and expenses of sale,
- As investment income, such as interest, dividends, rents and royalties.

Recovery startup business

Q1. What is a recovery startup business? (updated Sept. 14, 2023)

A1. A [recovery startup business](#) is a business or organization that began carrying on a trade or business after February 15, 2020, and had average annual gross receipts of \$1 million or less for the three years preceding the quarter for which they are claiming the ERC.

Your business does not need to specifically relate to pandemic relief or recovery efforts to be eligible.

To be eligible as a recovery startup business, you can't be eligible for ERC under the full or partial suspension test or the gross receipts test. A recovery startup business can claim ERC only for the third and fourth quarters of 2021 and may claim a maximum of \$50,000 of ERC per quarter.

You should consider whether you need to coordinate with another part of your business, such as if you're part of an aggregated group. For more information about aggregation rules, see [Notice 2021-20](#), Section III.B. and [Notice 2021-49](#), Section III.D.

Claiming the ERC

Q1. How do I claim the ERC? (updated Sept. 14, 2023)

A1. Eligible employers that didn't claim the credit when they filed their original employment tax return can claim the credit by filing an amended employment tax return. For example, businesses that file quarterly employment tax returns can file [Form 941-X, Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund](#) [PDF](#), to claim the credit for prior 2020 and 2021 quarters.

Reminder: If you file Form 941-X to claim the Employee Retention Credit, you must reduce your deduction for wages by the amount of the credit for that same tax period. Therefore, you may need to amend your income tax return (for example, Forms 1040, 1065, 1120, etc.) to reflect that reduced deduction.

Q2. Is there a deadline to claim the ERC? (added July 27, 2023)

A2. Generally, for 2020 tax periods, the deadline is April 15, 2024. For 2021 tax periods, the deadline is April 15, 2025.

Q3. Who can sign a claim for refund for the ERC? (added July 27, 2023)

A3. The person who can sign an ERC claim depends on the type of employer you are.

Type of employer	Who can sign a claim for refund for the ERC if you filed an original employment tax return
Sole proprietorship	The individual who owns the business
Corporation, including a limited liability company (LLC) treated as a corporation	The president, vice president, or other principal officer duly authorized to sign
Partnership (including an LLC treated as a partnership) or unincorporated organization	A responsible and duly authorized member, partner, or officer having knowledge of its affairs
Single-member LLC treated as a disregarded entity for federal income tax purposes	The owner of the LLC or a principal officer duly authorized to sign
Trust or estate	The fiduciary

The claim for refund may also be signed by a duly authorized agent of the taxpayer if a valid power of attorney has been filed.

If you used a third-party payer, such as a Professional Employer Organization (PEO), a Certified Professional Employer Organization (CPEO) or a 3504 agent to file your original return, you can't file a claim for refund on your own. You will need to work with them to claim the ERC.

Q4. What happens if I incorrectly claim the credit? (updated Dec. 2, 2024)

A4. The IRS reminds anyone who incorrectly claimed the ERC and received a refund must pay it back, possibly with penalties and interest.

You may be able to withdraw your ERC claim if the IRS hasn't processed or paid your ERC. Withdrawing the claim means you're asking the IRS to not process the adjusted return that included your ERC claim. See the next section, [Withdrawing an ERC claim](#) for details.

Q5. Can I claim the ERC on an amended return if I have not filed my original employment tax return? (added July 27, 2023)

A5. No. Claims for refund will not be processed if an original employment tax return has not been filed.

Q6. Can I file an amended return to claim the ERC if I did not issue and file forms W-2? (updated July 28, 2023)

A6. No. The IRS will not process ERC claims for refund if the claim for refund is filed after Forms W-2 were due and you did not file Forms W-2.

Q7. Does the ERC affect my income tax return? (updated March 20, 2025)

A7. Yes.

The amount of your ERC reduces the amount that you are allowed to report as wage expense on your income tax return for the tax year in which the qualified wages were paid or incurred.

Generally, most taxpayers claim wage expense as a deduction on their income tax returns. However, for some taxpayers, wage expense is properly capitalized to the basis of a particular asset or as an inventory cost.

You can amend your income tax return to reduce the amount of your original wage expense if that adjustment has not yet been made by:

- reducing the prior wage deduction, or
- reducing the prior amount capitalized (and making any resulting adjustment, such as reducing a depreciation deduction).

However, if you're affected by either of the situations below, the simplest solution for you is to follow the instructions in the [Income tax and ERC](#) section.

- You didn't reduce your wage expense on your income tax return and your claim was allowed
- You reduced your wage expense but your claim was disallowed

Income tax and ERC

Q1. Should I have reduced my wage expense on my income tax return when I filed for the Employee Retention Credit (ERC)? (added March 20, 2025)

A1. Yes. The amount of your ERC reduces the amount of your wage expense on your income tax return for the tax year in which you paid or incurred the qualified wages.

Generally, a taxpayer can't deduct an expense as an ordinary and necessary business expense if they have a right or reasonable expectation of reimbursement at the time they paid or incurred the expense.

Taxpayers who are eligible for the ERC have a right or reasonable expectation of reimbursement for qualified wage expense in the amount of the ERC. For additional information, see [Notice 2021-20](#) (in particular section II.F and questions 60 and 61 in section III.L).

The subsequent questions in this section explain how to resolve issues with income tax returns if you:

- Didn't reduce your wage expense and your ERC claim was allowed, or
- Reduced your wage expense and your ERC claim was disallowed.

As further described in news release [IR-2022-89](#), taxpayers may be eligible for penalty relief related to ERC claims.

Q2. I claimed the ERC but didn't reduce my wage expenses on my income tax return. The ERC claim was paid in a subsequent year. What do I do? (added March 20, 2025)

A2. You should address your overstated wage expense. Under these facts, you're not required to file an amended return or, if applicable, an administrative adjustment request (AAR) to address the overstated wage expenses. Instead, you can include the overstated wage expense amount as gross income on your income tax return for the tax year when you received the ERC.

Example: Business A claimed an ERC of \$700 based on \$1,000 of qualified wages paid for tax year 2021 but did not reduce its wage expense on its income tax return for 2021. The IRS paid the claim to Business A in 2024, so Business A received the benefit of the ERC but hasn't resolved its overstated wage expense on its income tax return.

Business A does not need to amend its income tax return for tax year 2021. Instead, Business A should account for the overstated deduction by including the \$700 in gross income on its 2024 income tax return.

If the taxpayer capitalized wages or did not otherwise experience a reduction in tax liability for the overstated wage expense, the taxpayer might not need to include the overstated wage expense amount in gross income on the income tax return for the tax year in which the taxpayer received the ERC. Instead, the taxpayer may need to make other adjustments such as a reduction in basis for capitalized wages.

Why you need to include this amount in gross income

Under the tax benefit rule, a taxpayer should include a previously deducted amount in income when a later event occurs that is fundamentally inconsistent with the premise on which the deduction is based. If you received the ERC and did not reduce your wage expense on your income tax return for the year the wage expense was paid or incurred, your ERC claim and income tax return are inconsistent and you may be claiming an unwarranted double benefit. Application of this rule corrects a taxpayer's excess wage expense on the income tax return for the year in which it received the ERC, rather than limiting corrections to income tax returns for the prior year in which the ERC was claimed.

Q3. What can I do if my ERC claim was disallowed and I'd already reduced my wage expense on my income tax return by the amount of ERC I expected? (added March 20, 2025)

A3. If your ERC was disallowed and you had reduced the wage expense on your income tax return for the year the ERC was claimed, you may, in the year your claim disallowance is final (meaning you are not contesting the disallowance or you have exhausted your remedies to argue against the disallowance), increase your wage expense on your income tax return by the same amount that it was reduced when you made your claim. Alternatively, you may, but are not required to, file an amended return, AAR, or protective claim for refund to deduct your wage expense for the year in which the ERC was claimed.

Example: Business B claimed the ERC for tax year 2021 and reduced its wage expense on its income tax return for tax year 2021 because it expected the credit would be allowed and paid. In 2024, the IRS disallowed Business B's ERC claim. Business B does not challenge the denial of the ERC claim and, accordingly, the disallowance is final.

Business B does not need to amend its income tax return for tax year 2021. Instead, Business B can address this adjustment on its 2024 income tax return by increasing its wage expense by the amount of the previously reduced wage expense from its 2021 income tax return.

Because taxpayers have a limited amount of time to file amended returns or AARs, if applicable, this process prevents the need for taxpayers to file protective claims for years where the time to file an amended return or AAR is quickly coming to a close. This process also gives relief to taxpayers who previously reduced wage expenses in tax years for which the assessment period has expired, and the taxpayer did not file a protective refund claim.

Why you can address the wage expense from your disallowed claim in a later tax year

The special statutory rules for the ERC treat a claimed ERC as a right or reasonable expectation of reimbursement for qualified wage expense, which serves as the basis for computing the ERC.

Therefore, you may be able to deduct the wage expense in a later year if you didn't get the expected reimbursement – in this case the ERC. You should treat the failure to receive the ERC the same way taxpayers can treat the failure to receive any other reasonably expected reimbursement that prevented them from deducting a business expense in the year they paid or incurred the expense.

The “special statutory rules” referred to here are:

- Section 2301(e) of the CARES Act for qualified wages paid between March 13, 2020, and June 30, 2021.
- Section 3134(e) of the Internal Revenue Code for wages paid between July 1, 2021, and Dec. 31, 2021.

Signs of incorrect ERC claims

Q1. How can I tell if my ERC claim may be incorrect? (added Nov. 21, 2024)

A1. IRS compliance teams identified and shared common signs that have been a recurring theme seen on ERC claims. None of these qualify under the rules passed by Congress:

- **Essential businesses during the pandemic that could fully operate and didn't have a decline in gross receipts.** Promoters convinced many essential businesses to claim the ERC when, in many instances, essential businesses weren't eligible because their operations weren't fully or partially suspended by a qualifying government order. Modifications that didn't affect an employer's ability to operate, like requiring employees to wash hands or wear masks, doesn't mean the business operations were suspended. The IRS urges essential businesses to review [eligibility rules](#) and [examples related to government orders](#).

- **Business unable to support how a government order fully or partially suspended business operations.** Whether a business was [fully or partially suspended](#) depends on its specific situation. When asked for proof on how the government order suspended [more than a nominal portion](#) of their business operations, many businesses haven't provided enough information to confirm eligibility.
- **Business reporting family members' wages as qualified wages.** If business owners claimed the ERC using wages paid to related individuals, those claims are likely for the wrong amount or ineligible. Wages paid to related individuals aren't [qualified wages](#) for the ERC. Generally, related individuals are the majority owner and their:
 - Spouse.
 - Child or a descendant of a child.
 - Brother, sister, stepbrother or stepsister.
 - Father, mother or an ancestor of either.
 - Stepfather or stepmother.
 - Niece or nephew.
 - Aunt or uncle.
 - Son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law.
 - Household member, meaning an individual who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.
- **Business using wages already used for Paycheck Protection Program loan forgiveness.** The U.S. Small Business Administration offered the [Paycheck Protection Program](#) , which provided SBA-backed loans that helped businesses keep their workforce employed during the pandemic. The PPP ended May 31, 2021, but borrowers could still apply for PPP loan forgiveness.

If SBA forgave the loan, businesses can't claim the ERC on wages that they reported as payroll costs to get PPP loan forgiveness. [Participating in the PPP](#) affects the amount of qualified wages used to calculate the ERC. Payroll costs up to the amount SBA forgave aren't eligible for ERC. Taxpayers can use the rest of their qualified wages to figure their credit.

- **Large employers claiming wages for employees who provided services.** Special rules applied to large eligible employers, which are those that averaged:
 - more than 100 full-time employees in 2019 and claimed ERC for 2020 tax periods, and/or
 - more than 500 full-time employees in 2019 and claimed ERC for 2021 tax periods.

Large eligible employers can only claim wages paid to employees who **were not** providing services. Many large employers' claims incorrectly included wages for employees who **were** providing services during these periods. The [ERC comparison chart](#) provides more details.

- **Too many quarters being claimed.** Some promoters have urged employers to claim the ERC for all quarters that the credit was available. Qualifying for all quarters is uncommon, and this could be a sign of an incorrect claim. Employers should carefully [review their eligibility](#) for each quarter.
- **Government orders that don't qualify.** Some promoters have told employers they can claim the ERC if any government order was in place in their area, even if their operations weren't affected or if they chose to suspend their business operations voluntarily. This is false. To claim the ERC under government order rules:
 - Government orders must have been in effect **and** the employer's operations must have been [fully or partially suspended](#) by the government order during the period for which they're claiming the credit.
 - The government order must be due to the COVID-19 pandemic.
 - The order must be a government order, not guidance, a recommendation or a statement.

Some promoters suggest that an employer qualifies based on communications from the Occupational Safety and Health Administration (OSHA). This is generally not true. See the ERC FAQ about [OSHA communications](#) and the [2023 legal memo on OSHA communications](#) [PDF](#) for details and examples.

The frequently asked questions about ERC – [Qualifying Government Orders](#) section of IRS.gov has helpful examples. Employers should make sure they have documentation of the government order related to COVID-19 and how and when it suspended their operations. Employers should avoid a promoter that supplies a generic narrative about a government order.

- **Too many employees and wrong calculations.** Employers should be cautious about claiming the ERC for all wages paid to every employee on their payroll. The law changed throughout 2020 and 2021. There are dollar limits and varying credit amounts, and employers need to meet certain rules for wages to be considered [qualified wages](#), depending on the tax period. The IRS urges employers to carefully review all calculations and to avoid overclaiming the credit, which can happen if an employer erroneously uses the same credit amount across multiple tax periods for each employee. For details about credit amounts, see the [Employee Retention Credit - 2020 vs 2021 Comparison Chart](#).
- **Business citing supply chain issues.** Qualifying for ERC based on a supply chain disruption is very uncommon. A supply chain disruption by itself doesn't qualify an employer for ERC. An employer needs to ensure that their supplier's government order meets the requirements. Employers should carefully review the [rules on supply chain issues](#) and examples in the [2023 legal memo on supply chain disruptions](#) [PDF](#).
- **Business claiming ERC for too much of a tax period.** It's possible, but uncommon, for an employer to qualify for ERC for the entire calendar quarter if their business operations were fully or partially suspended due to a government order during a [portion of a calendar quarter](#). A business in this situation can claim ERC only for wages paid during the suspension period, not the whole

quarter. Businesses should check their claim for overstated qualifying wages and should keep payroll records that support their claim.

- **Business didn't pay wages or didn't exist during eligibility period.** Employers can only claim ERC for tax periods when they paid wages to employees. Some taxpayers claimed the ERC but records available to the IRS show they didn't have any employees. Others have claimed ERC for tax periods before they even had an employer identification number with the IRS, meaning the business didn't exist during the eligibility period. The IRS has started disallowing these claims, and more work continues in this area as well as other aspects of ERC.
- **Promoter says there's nothing to lose.** Businesses should be on high alert with any ERC promoter who urged them to claim ERC because they "have nothing to lose." Businesses that incorrectly claim the ERC risk repayment requirements, penalties, interest, audit and potential expenses of hiring someone to help resolve the incorrect claim, amend previous returns or represent them in an audit.

Please note that if you willfully filed a fraudulent ERC claim, or if you assisted or conspired in such conduct, withdrawing a fraudulent claim will not exempt you from potential criminal investigation and prosecution.

Correcting an ERC claim

Withdrawing a claim

Q1. Who can ask to withdraw an ERC claim? (added Oct. 19, 2023)

A1. You can use the ERC claim withdrawal process if **all of the following** apply:

- You made the claim on an adjusted employment tax return (Forms 941-X, 943-X, 944-X, CT-1X).
- You filed your adjusted return only to claim the ERC, and you made no other adjustments.
- You want to withdraw the entire amount of your ERC claim.
- The IRS has not paid your claim, or the IRS has paid your claim but you haven't cashed or deposited the refund check.

Please note that if you willfully filed a fraudulent ERC claim, or if you assisted or conspired in such conduct, withdrawing a fraudulent claim will not exempt you from potential criminal investigation and prosecution.

If you're not able to withdraw your claim, you can still file another adjusted return if you need to:

- [Reduce the amount of your ERC claim](#)
- [Make other adjustments to your amended return](#)

You can submit a request to withdraw the full amount of your ERC claim even if you're [under audit](#).

Q2. Who can't use the withdrawal process? (updated Dec. 2, 2024)

A2. You can't use the withdrawal process if **any of the following** apply:

- The credit you are trying to withdraw was filed on an original employment tax return (Form 941, 943, 944, CT-1),
- You are trying to withdraw only a portion of your ERC,
- Your adjusted return (Form 941-X, Form 943-X, Form 944-X, Form CT-1X) reports tax items not on your original return in addition to the ERC claim,
- You need to make other corrections to your return,
- You received your ERC refund and cashed or deposited the refund check, or
- You received a notice or letter from the IRS disallowing the entire amount of your ERC.

If you're not able to withdraw your claim, you can still file another adjusted return if you need to:

- [Reduce the amount of your ERC claim](#)
- [Make other adjustments to your amended return](#)

Q3. If I am under audit, can I withdraw my ERC claim? (added Oct. 19, 2023)

A3. If you've been notified that the IRS is auditing the adjusted return that includes your ERC claim, prepare your withdrawal request as explained below. See the [sample form](#) for help.

1. Make a copy of the adjusted return with the claim you wish to withdraw.
2. In the left margin of the first page, write "**Withdrawn.**"
3. In the right margin of the first page:
 - Have an [authorized person](#) **sign** and **date** it.
 - Write their **name** and **title** next to their signature.

Then:

- If you've been assigned an examiner, communicate with your examiner about how to submit your withdrawal request directly to them.
- If you haven't been assigned an examiner, respond to your audit notice with your withdrawal request, using the instructions in the notice for responding.

Q4. If I already received a bill or notice of demand in connection with my ERC claim, can I withdraw my ERC claim? (added Oct. 19, 2023)

A4. No. You should [pay the amount due](#) or contact the IRS using the contact information on the notice for payment options or collection alternatives.

Q5. How do I withdraw my ERC claim? (updated Dec. 2, 2024)

A5. If you've been notified that your claim is under audit, see [If I am under audit, can I withdraw my ERC claim?](#) for instructions.

If you use a professional payroll company and they filed your ERC claim for you, you should consult with them if you want to withdraw your ERC claim. Depending on how the company filed your claim – individually or batched with others – you may need to have them submit your withdrawal request through the [supplemental claim process](#) for third-party payers.

Otherwise, you'll need to follow different steps depending on your situation.

You haven't received a refund

If you filed an adjusted return (Form 941-X, 943-X, 944-X, CT-1X) to claim the ERC and you would like to withdraw your entire claim, use the process below. If you filed adjusted returns for more than one tax period, you must follow the steps below for each tax period that you are requesting a withdrawal.

To request a withdrawal, see the [sample form](#) and follow these steps:

1. Make a copy of the adjusted return with the claim you wish to withdraw.
2. On the left margin of the first page, write **"Withdrawn."**
3. On the right margin of the first page:
 1. Have an [authorized person](#) **sign** and **date** it.
 2. Write their **name** and **title** next to their signature.
4. **Fax** the signed copy of your return using a computer or mobile device to the IRS's ERC claim withdraw fax line at 855-738-7609. This is your withdrawal request.

Note: If you can't fax your withdrawal request, you should also make a copy of the signed and dated first page to keep for your records. Then mail it to the address in the instructions for the adjusted return that applies to your business or organization. This will take longer for the IRS to receive your request. Track your package to confirm delivery.

You received a refund check but haven't cashed or deposited it

If you received a refund check but haven't cashed or deposited it, you can still withdraw your claim. You need to mail the voided check with your withdrawal request using these steps:

1. Prepare the claim withdrawal request using the steps above, but don't fax the request.
2. Write **"Void"** in the endorsement section on the back of the refund check.
3. Include a note that says **"ERC Withdrawal"** and briefly explain the reason for returning the refund check.

4. Make **copies for your tax records** of the front and back of the voided check, the explanation note and the signed and dated withdrawal request page.
5. Don't staple, bend or paper clip the voided check; include it with your claim withdrawal request and **mail** it to the IRS at:

Cincinnati Refund Inquiry Unit

PO Box 145500

Mail Stop 536G

Cincinnati, OH 45250

Track your package to confirm delivery.

Q6. Who can sign my request to withdraw my ERC claim? (added Oct. 19, 2023)

A6. Your withdrawal request must be signed by an authorized person. The person who can sign an ERC claim or a withdrawal request depends on the type of employer you are.

People authorized to sign a withdrawal request

Type of employer	Who can sign a claim for refund for the ERC if you filed an original employment tax return
Sole proprietorship	The individual who owns the business
Corporation, including a limited liability company (LLC) treated as a corporation	The president, vice president, or other principal officer duly authorized to sign
Partnership (including an LLC treated as a partnership) or unincorporated organization	A responsible and duly authorized member, partner, or officer having knowledge of its affairs
Single-member LLC treated as a disregarded entity for federal income tax purposes	The owner of the LLC or a principal officer duly authorized to sign
Trust or estate	The fiduciary

Your withdrawal request may also be signed by a duly authorized agent of the taxpayer (i.e., an individual with valid power of attorney via Form 2848, Power of Attorney and Declaration of Representative, or a reporting agent with Form 8655, Reporting Agent Authorization).

Q7. Can I withdraw my ERC claimed on an original tax return? (added Oct. 19, 2023)

A7. No. You cannot withdraw the ERC you claimed on an original tax return through the ERC claim withdrawal process. You can correct the amount of ERC claimed on an original tax return by filing the adjusted return that applies to your business or organization (Form 941-X, Form 943-X, Form 944-X, Form CT-1X) and making payment for any tax due. If you are claiming a refund, then you need to file your adjusted return within 3 years of filing your original return or two years from making payment (whichever is later).

If you need to return a refund check for the claim we processed, follow the instructions for mailing your withdrawal request and voided check in [How do I withdraw my ERC claim?](#)

Q8. Can I submit a new, adjusted return to the dedicated ERC claim withdrawal fax line? (added Oct. 19, 2023)

A8. No. IRS will not process any new, previously unfiled tax returns (including original filings) sent to the dedicated ERC claim withdrawal fax line.

Q9. What happens if the IRS processes my earlier return before receiving and processing my withdrawal request? (added Oct. 19, 2023)

A9. IRS will reject your request to withdraw your ERC claim if your claim has already been processed. You will need to file a new adjusted return to correct the amount of your previously claimed ERC.

Q10. How do I withdraw my ERC claim if I used a certified professional employer organization (CPEO), professional employer organization (PEO) or other IRC section 3504 agents? (updated Dec. 2, 2024)

A10. If you use a professional payroll company and they filed your ERC claim for you, you should consult with them if you want to withdraw your ERC claim. Depending on how the company filed your claim – individually or batched with others – you may need to have them submit your withdrawal request through the [supplemental claim process](#) for third-party payers.

Q11. I'm a CPEO, PEO, or IRC section 3504 agent. Can I use the ERC claim withdrawal process to withdraw the ERC for some, but not all of my common law employer (CLE) clients? (updated Dec. 2, 2024)

A11. No. Requesting a withdrawal means you are asking the IRS not to process your entire adjusted return for the tax period that included your ERC claim – this would include the ERC claim for all of your common law employer clients.

As a result, you will need to prepare a new adjusted return (Form 941-X, Form 943-X, Form 944-X, Form CT-1X) with the correct amount of ERC and any other corrections for that tax period. Mail the new adjusted return to the IRS using the address in the instructions for the form that applies to your business or organization. Do not send the new adjusted return to the dedicated ERC claim withdrawal fax line. IRS will not process new adjusted returns sent to this fax line.

Q12. What happens after I submit my withdrawal request? (added Oct. 19, 2023)

A12. The IRS will send you a letter telling you whether your withdrawal request was accepted or rejected. Your approved request is not effective until you have your acceptance letter from the IRS.

If your withdrawal is accepted, you may need to amend your income tax return. See [Claiming the ERC](#) for an explanation of how ERC affects your income tax return. If you need help, seek out a [trusted tax professional](#).

Q13. If I can't withdraw my claim, do I have other options to correct my ERC? (updated Dec. 2, 2024)

A13. You may be able to amend your return if you only need to reduce your ERC claim, not eliminate it for a full tax period. See the Correcting an ERC – [Amending a return](#) section.

Amending a return

Q1. What should I do if I'm still entitled to some of the credit but claimed more than I'm entitled to receive? (added Oct. 19, 2023)

A1. Prepare a new adjusted return (Form 941-X, Form 943-X, Form 944-X, Form CT-1X) with the correct amount of ERC and any other corrections for that tax period. Mail the new adjusted return to the IRS using the address in the instructions for the form that applies to your business or organization. Do not send the new adjusted return to the dedicated ERC claim withdrawal fax line. IRS will not process new adjusted returns sent to this fax line.

Q2. I want to withdraw my ERC claim, but I also need to make other corrections to my employment tax return. What should I do? (added Oct. 19, 2023)

A2. Prepare a new adjusted return (Form 941-X, Form 943-X, Form 944-X, Form CT-1X) with the correct amount of ERC and any other corrections for that tax period. Mail the new adjusted return to the IRS using the address in the instructions for the form that applies to your business or organization. Do not send the new adjusted return to the dedicated ERC claim withdraw fax line. IRS will not process new adjusted returns sent to this fax line.

ERC scams

Q1. How do I know if I'm being scammed by an ERC promoter? (updated Dec. 2, 2024)

A1. Scam promoters use several different tactics to mislead people who have no chance of meeting the requirements for the Employee Retention Credit, while charging them excessive fees – often thousands of dollars.

Be sure to review the [warning signs of incorrect ERC claims](#), a list that outlines tactics unscrupulous promoters have used and why their points are wrong.

Aggressive ERC marketing to watch out for:

- Unsolicited calls or advertisements mentioning an "easy application process"
- Offers to check your eligibility "in minutes" on a website or app, in person or by phone.
- Large up-front fees to claim the credit.
- Pressure to accept a promoter's offer of a refund anticipation loan.
- Fees based on a percentage of the refund amount of Employee Retention Credit claimed. This is a similar warning sign for average taxpayers, who should always avoid a tax preparer basing their fee on the size of the refund.
- Preparers refusing to sign the ERC return being filed by the business, exposing just the taxpayer claiming the credit to risk.
- Aggressive claims from the promoter that the business receiving the solicitation qualifies before any discussion of the group's tax situation. In reality, the Employee Retention Credit is a complex credit that requires careful review before applying.
- Pressure to claim the credit because "every business qualifies" or because a business like yours received the credit. Eligibility for the ERC is complex and based on each business's facts and circumstances.

- The IRS also sees wildly aggressive suggestions from marketers urging businesses to submit the claim because there is nothing to lose. In reality, those improperly receiving the credit could have to repay the credit – along with substantial interest and penalties.

Unscrupulous promoters may lie about eligibility requirements, including refusing to provide detailed documents supporting their computations of the ERC. In addition, those using these companies could be at risk of someone using the credit as a ploy to steal the taxpayer's identity or take a cut of the taxpayer's improperly claimed credit.

The IRS continues to see a variety of ways that promoters can lure businesses, tax-exempt groups and others into applying for the credit.

- Aggressive marketing. This can be seen in countless places, including radio, television and online as well as phone calls and text messages.
- Direct mailing. Some ERC mills are sending out fake letters to taxpayers from non-existent groups like the "Department of Employee Retention Credit." These letters can be made to look like official IRS correspondence or an official government mailing with language urging immediate action.
- Leaving out key details. These unscrupulous ERC promoters often don't accurately explain eligibility requirements or how the credit is computed. They may make broad arguments suggesting that all employers are eligible without evaluating an employer's individual circumstances. For example:
 - Only recovery startup businesses are eligible for the ERC in the fourth quarter of 2021, but promoters fail to explain this limit.
 - Promoters may not inform taxpayers that they need to reduce wage deductions claimed on their business' federal income tax return by the amount of the Employee Retention Credit. This causes a domino effect of tax problems for the business.
 - Many of these promoters don't tell employers that they can't claim the ERC on wages that were reported as payroll costs to obtain Paycheck Protection Program loan forgiveness.

Q2. How can I protect myself from ERC scam promoters? (updated Sept. 14, 2023)

A2. The IRS reminds businesses, tax-exempt groups and others being approached by these promoters that they can take simple steps to protect themselves from making an improper Employee Retention Credit claim.

- Work with a [trusted tax professional](#) if you're an eligible employer who needs help claiming the credit; the IRS urges people not to rely on the advice of those soliciting these credits. Promoters who are marketing this ultimately have a vested interest in making money; in many cases they are not looking out for the best interests of those applying.

- Request a detailed worksheet explaining ERC eligibility and the computations used to determine your ERC amount.
- Don't accept a generic document about a government order from a third party. If they say you qualify for ERC based on a government order, ask for a copy of the government order. Review it carefully to make sure it applied to your business or organization.
- Don't apply for this credit unless you believe you are legitimately qualified.

For more information on warning signs of ERC scams and how to report fraud, see the [Employee Retention Credit](#) page.

Q3. How do I report fraud regarding ERC? (updated March 20, 2025)

A3. The IRS encourages people to report:

- Tax-related illegal activities relating to ERC claims
- Individuals who promote improper and abusive tax schemes
- Tax return preparers who deliberately prepare improper returns

To report tax-related illegal activities relating to ERC claims, take these steps:

1. Complete [Form 14242, Report Suspected Abusive Tax Promotions or Preparers](#) [PDF](#)
2. Include with your form any supporting materials
3. Provide your contact information: This is optional but will be helpful if we have questions and will let us acknowledge receipt of your referral
4. Send your form and materials by fax or U.S. mail to the IRS Lead Development Center in the Office of Promoter Investigations

Mail:

Internal Revenue Service
Lead Development Center MS7900
1973 N. Rulon White Blvd.
Ogden, UT 84404

Fax: 877-477-9135

Recordkeeping

Q1. What records do I need to support my eligibility for the Employee Retention Credit? (updated Dec. 2, 2024)

A1. In general, you need to have the records you relied on to show:

- Your business operations were suspended, including the specific government order;
- You experienced the required decline in gross receipts;
- Which employees received qualified wages and in what amounts;
- That you paid qualified wages only to employees who were not providing services, if you are a large eligible employer;
- How you allocated qualified health plan expenses;
- How Paycheck Protection Program loan forgiveness affects your ERC claim (see question regarding PPP in the Eligibility section). Your relationship to other businesses or entities and how it affects your ERC claim (see aggregation rules in [Notice 2021-20](#), Section III.B).

You also need any completed Forms 7200 that you submitted to the IRS and any completed federal employment and income tax returns related to your claim for ERC.

Businesses that claimed the Employee Retention Credit may have received IRS Letter 105-C if the IRS identified the claim as ineligible. See [Understanding Letter 105-C, Disallowance of the Employee Retention Credit](#), to learn more about next steps and what records to send if you disagree with the disallowance.

Timing

Q1. How long will it take to get my Employee Retention Credit? (updated Aug. 15, 2024)

A1. We understand the importance of these credits, and we appreciate the patience of employers and tax professionals as we continue to process valid claims while also protecting against potential fraud and abuse of the credit.

The IRS projects that tens of thousands of low-risk ERC claims will be paid out beginning in September and throughout the fall. We also shifted the moratorium period on new claims. Previously, the agency was not processing claims filed after Sept. 14, 2023. It will now [start processing ERC claims filed between Sept. 14, 2023, and Jan. 31, 2024](#). Work will focus on the highest and lowest risk claims.

Processing and payment time will vary for ERC claims that show increased risk of being incorrect. Most of these claims need additional review to confirm a business's eligibility. You may receive a request for more information to support your claim.

The IRS reminds businesses that they may receive payments for some valid tax periods – generally quarters – while we continue to review other periods for eligibility. ERC eligibility can vary from one tax period to another if, for example, government orders were no longer in place or a business's gross

receipts increased. Alternatively, qualified wages may vary due to a forgiven Paycheck Protection Program loan or because an employer already claimed the maximum amount of qualified wages in an earlier tax period.

More information and resources on ERC

- [Withdraw an Employee Retention Credit \(ERC\) claim](#)
- [Employee Retention Credit Eligibility Checklist](#)
- [Employee Retention Credit](#) – includes notices, forms and instructions
- [Legal memo regarding supply chain disruptions](#) [PDF](#) (July 21, 2023)
- [Legal memo regarding OSHA communications](#) [PDF](#) (Nov. 3, 2023)
- [Professional Responsibility and the Employee Retention Credit](#) [PDF](#) (March 7, 2023)

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