

Upcoming Deadlines to File for Employee Retention Credits

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, and the period of time when employers could incur eligibility for the ERC has passed. The deadline has not passed, however, 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 quarter.

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.

Employers could claim a tax credit of 50% of qualified wages paid to eligible employees during the calendar quarters covered by the ERC program. The maximum amount of qualified wages per employee, which includes wages, salary, commissions and qualified health plan expenses, is \$10,000 for all quarters. The maximum amount of the ERC that an employer may claim for each employee, therefore, is \$5,000.

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.

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 January 2023, the earliest deadline is still more than a year away.

How Do I Claim the Employee Retention Credit?

All employers must file [Form 941, the Employer's Quarterly Federal Tax Return](#), after every calendar quarter. The main purposes of this form are to account for:

- Amounts withheld from employee paychecks for federal income tax, Social Security and Medicare; and
- Matching amounts paid by the employer for Social Security and Medicare.

Typically, each Form 941 is due at the end of the first month of the next quarter. For example, Form 941 for the first quarter of the year, which ends on March 31, is due on April 30.

If you did not claim the ERC on Form 941 after the quarter when you earned the credit, you may use [Form 941-X, the Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund](#).

The deadline for Form 941-X depends on the reason for filing. If you are filing to claim the ERC, the deadline is based on limitations set by Congress. The deadlines are discussed further above.

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.

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