

## Extension of the Federal Employee Retention Tax Credit

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The Federal Employee Retention Tax Credit (ERTC) offers eligible employers significant tax benefits through an ability to claim a refundable tax credit for paying qualified wages and certain health plan expenses. Employers may be able to receive as much as \$33,000 per employee in incentives.

The American Rescue Plan Act (ARPA) extends the ERTC through the end of 2021. There are different rules for the treatment of wages employers (1) [paid from March 12, 2020 through December 31, 2020](#); (2) pay in the first half of 2021; and (3) pay in the second half of 2021 (the IRS guidance for the 2021 ERTC has not yet been issued).

Eligibility for the tax benefits is also linked to an employer's size, the impact of the pandemic on an employer's ability to provide services, and the suspension of operations because of government mandates or reductions in quarterly gross receipts.

Employers can receive both Paycheck Protection Plan (PPP) loans and claim ERTC benefits, but there are limits on "double-dipping" (the eligible employer can claim the ERTC on any qualified wages that are not counted as payroll costs in obtaining PPP loan forgiveness). ARPA also makes the ERTC available to "recovery start-up businesses" that began carrying on a trade or business after February 15, 2020, and that have annual gross receipts of \$1 million or less.

### ARPA Available Employer Tax Credit Incentives

Time periods covered	March 13, 2020 to end of 2020	Q1-Q2 of 2021	Q3-Q4 of 2021
What are "qualified wages"?	<ul style="list-style-type: none"> <li>- For employers with over 100 employees*, only wages for employees not performing services due to COVID-19</li> <li>- Certain health plan expenses</li> </ul>	<ul style="list-style-type: none"> <li>- For employers* with 500 or fewer employees, all wages</li> <li>- For employers with over 500 employees, only wages not performing services due to COVID-19</li> <li>- Certain health plan expenses</li> </ul>	<ul style="list-style-type: none"> <li>- Same rules as Q1-Q2 of 2021, <i>and</i></li> <li>- For employers who experience a decline in gross receipts of greater than 90% during Q3 or Q4 of 2021 compared to the same quarter in 2019, all wages</li> </ul>
Maximum amount of "qualified wages"	\$10,000 for the entire 2020 year	\$10,000 per calendar quarter in 2021	
Amount of credit	50% of qualified wages	70% of qualified wages	
Maximum total credit	\$5,000 for all of 2020	\$14,000 for each quarter in 2021, for an aggregate total of \$28,000 for all of 2021	
Tax the credit is claimed against	Refundable against the 6.2% employer portion of the Social Security (OASDI) tax	Refundable against the 1.45% employer portion of the Medicare (HI) tax	

If you are an employer with a question about the ARPA, contact [Tracy Armstrong](#) or another member of the Wilentz [Employment Law](#) team.

**Attorney**

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**Practice**

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