

LEGAL UPDATE

IRS Publishes Guidance for 2021 Employee Retention Credit (Q1/Q2)

On April 2, 2021, the Internal Revenue Service (IRS) published Notice [2021-23](#) to provide guidance for employers claiming the employee retention credit (ERC) for the first two quarters of 2021. The ERC was originally created by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), and has since been modified and extended by other laws—most recently, the American Rescue Plan Act (ARPA) on March 11, 2021.

Changes to ERC Credits

The notice provides information about ERC changes effective for the first two quarters of 2021, including:

- The increase in the maximum credit amount;
- The expansion of the category of employers that may be eligible to claim the credit;
- Modifications to the gross receipts test;
- Revisions to the definition of qualified wages; and
- New restrictions on the ability of eligible employers to request an advance payment of the credit.

Using the ERC

According to the IRS, employers can access the ERC for the first and second calendar quarters of 2021 prior to filing their employment tax returns by reducing employment tax deposits. Employers with an average of 500 or fewer full-time employees in 2019 may [request](#) advance payment of the credit (subject to certain limits), after reducing deposits.

Additional Guidance Expected

Under the ARPA, the ERC will also be available for the third and fourth quarters of 2021. Notice 2021-23 does not address this—additional guidance is expected for the last two quarters of the year in a subsequent publication.

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Important ERC Updates

- ☑ The ERC will increase to 70% of qualified wages paid between Jan. 1 and June 30, 2021.
- ☑ Qualified wages are limited to \$10,000 per employee per calendar quarter in 2021.
- ☑ The maximum ERC per employee is \$7,000 per quarter for a total of \$14,000 for Q1 and Q2.

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