

BMSS, LLC

☎ 1(833) CPA-BMSS

✉ marketing@bmss.com

🌐 www.bmss.com

Local Firm
National Knowledge
Global Reach

- 1> Top 3 Accounting Firm in Alabama
- 2> 10,500+ Clients
- 3> Serve Clients in All 50 States
- 4> 2020 *Accounting Today's* Top Regional Leaders
- 5> Ranked #123 of 2020 IPA Top 200 Firms



Who
Can You
Turn to for

Peace of Mind?

As an **advisory** and **public accounting** firm, we offer all of the services of a traditional **CPA firm** but with a **non-traditional** flair.

About BMSS

Top 3 accounting firm in Alabama | **27** members | **230** staff
| **3** offices | **10,500** clients

We have clients who have conducted business in all **50 states** as well as **100+ international clients**.

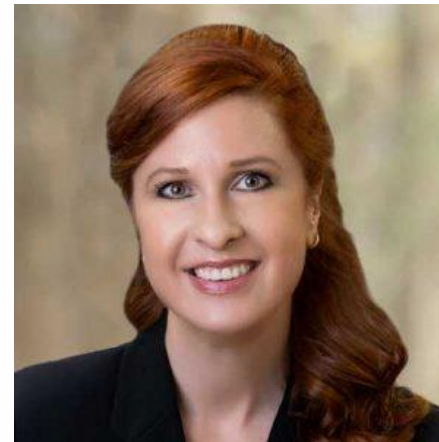
We are an entrepreneurial team who provides exceptional client experience through our Local Presence, National Knowledge and Global Reach. **We create peace of mind.**

ERC (EMPLOYEE RETENTION CREDIT)

(SUBJECT TO CHANGE BASED ON LEGISLATIVE ACTION)



Ross Mendheim, CPA
BMSS Advisors & CPAs
Member
1121 Riverchase Office Road
Birmingham, AL 35244
(205) 982-5500
rmendheim@bmss.com



Joyce Rinaldi, CPA
BMSS Advisors & CPAs
Senior Manager
400 Meridian Street N, Suite 201
Huntsville, AL 35801
(256) 539-8002
jrinaldi@bmss.com

Agenda

- Overview of the Employee Retention Credit (ERC) under the CARES Act
- Changes made under the Consolidated Appropriations Act (CAA)
- Eligibility calculations and claiming the credit
- Interplay between ERC, PPP and other credits
- Common questions

ERC in the CARES Act

Ross Mendheim

Overview – CARES Act

The Employee Retention Credit (ERC) was part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, enacted on March 27, 2020.

- Refundable payroll tax credit
- Applied to wages and certain health plan costs paid after March 12 and before January 1, 2020
- Equal to 50% of qualified wages up to \$10,000

Overview – CARES Act

Eligible employers were employers that carried on a trade or business during calendar year 2020, including tax-exempt organizations.

- Governmental employers were not eligible.
- Self employed individuals were not eligible for their own wages, but were able to claim the credit for wages paid to employees.

Overview – CARES Act

To be eligible, employers must have met one of the following tests:

- Operations were fully or partially suspended due to a governmental order related to COVID-19,
OR
- Experienced a significant decline in gross receipts during a 2020 calendar quarter compared to the same quarter in 2019.

Overview – CARES Act

Qualified wages were calculated as follows:

- 100 or fewer full-time employees – all wages paid to employees during the period of eligibility,
- Greater than 100 full-time employees – only those wages paid to employees who were not performing services.

Overview – CARES Act

Interplay between the ERC and PPP:

- The Employee Retention Credit (ERC) was not available to employers that received a Paycheck Protection Program (PPP) loan.
- Wages were not eligible for the ERC if they were used for other tax credits such as the Families First Coronavirus Relief Act (FFCRA) or the Work Opportunity Tax Credit (WOTC).

ERC Changes Made in the Consolidated Appropriations Act (CAA)

Joyce Rinaldi

Overview – Consolidated Appropriations Act (CAA)

RETROACTIVE changes for 2020 (Sec. 206):

- Now the ERC is available to employers that received a Paycheck Protection Program (PPP) loan.

Overview – Consolidated Appropriations Act (CAA)

PROSPECTIVE changes for 2021 (sec. 207):

- Expands the ERC to be available to qualified wages paid from January 1 through June 30, 2021,
- Increased the available credit amount from 50% to 70% of qualified wages and health plan expenses,
- Change in decline in gross receipts from 50% to 20%

Overview – Consolidated Appropriations Act (CAA)

PROSPECTIVE changes for 2021:

- Increased the maximum credit up to \$14,000 per employee,
- Increased the average full-time employee threshold from more than 100 to more than 500 employees,
- Exceptions were created to include entities whose principal purpose is providing medical or hospital care.

ERC Eligibility and Credit Calculations

Ross Mendheim

ERC Calculations for 2020

- Time period – wages paid after Mar. 12, 2020 – Dec. 31, 2020
- Who's eligible?
 - For profit businesses
 - Tax-exempt organizations
 - Aggregation rules apply
- Three steps
 1. Identify eligibility – gross receipts test or government shutdown
 2. Determine 2019 average full-time employees
 3. Calculate the 50% wage/health costs credit

Step 1: Eligibility Calculations 2020

- Identify 2020 eligible quarters
- Full or partial shutdown by government order OR
- Large drop in year-over-year gross receipts (2020/2019)
 - 50% drop triggers an "eligible quarter"
 - Compare 2020 to 2019
 - Remains "eligible quarter" until the end of the first quarter in which gross receipts exceeds 80% of the receipts of the same quarter in 2019

Example: Gross Receipts Test 2020

Calendar Quarter	<u>2019 Gross Receipts</u>	<u>2020 Gross Receipts</u>	Eligible Quarter	<u>% Drop</u>	<u>Comment</u>
Q1	\$ 100,000	\$ 40,000	YES	60%	Eligible because >50% drop
Q2	\$ 120,000	\$ 70,000	YES	42%	Eligible because < 80% return
Q3	\$ 100,000	\$ 85,000	YES	15%	Eligible because the end of first quarter that returned to at least 80%
Q4	\$ 150,000	\$ 125,000	NO	17%	Ineligible

Step 2: Average Full-time Employees 2020

- Determine 2019 average monthly full-time equivalent (FTE)
 - If MORE than 100 average monthly FTEs
 - Eligible wages - paid to NOT provide services
 - If LESS than 100 average monthly FTEs
 - Eligible wages - ALL wages

Step 3: Calculate the Credit 2020

- 50% of wages tax credit
 - Annual MAX eligible credit per employee = \$5,000
 - Annual MAX eligible wages per employee = \$10,000
 - Annual is the MAX for all quarters in 2020

Sec. 206 of the CAA Application to 2020 ERC

- A business who borrowed a PPP loan may claim the ERC for 2020.
- You cannot double dip on the same payroll dollars.
- If dollars are forgiven under PPP, then they are ineligible for the ERC.

ERC Calculations for 2021

- Time period – January 1 – June 30, 2021
- Who's eligible?
 - For profit businesses
 - Tax-exempt organizations
- Three steps
 1. Identify eligibility – gross receipts test or government shutdown
 2. Determine 2019 average full-time employees
 3. Calculate the 70% wage/health costs credit

Step 1: Eligibility Calculations 2021

- Identify 2021 eligible quarters
- Full or partial shutdown by government order OR
- Large drop in year-over-year gross receipts (2021/2019)
 - 20% drop triggers an "eligible quarter"
 - Compare 2021 to 2019

Step 2: Average Full-time Employees 2021

- Determine 2019 average monthly full-time equivalent (FTE)
 - If MORE than 500 average monthly FTEs
 - Eligible wages - paid to NOT provide services
 - If LESS than 500 average monthly FTEs
 - Eligible wages - ALL wages

Step 3: Calculate the Credit 2021

- 70% wage tax credit
 - Quarterly MAX eligible credit per employee = \$7,000
 - Quarterly MAX eligible wages per employee = \$10,000
- PLUS
 - ADVANCE payment election - If fewer than 500 FTEs
 - Advance would need to be reconciled similar to Premium Tax Credit.

Summary of Changes in the ERC 2020-2021

Joyce Rinaldi

Summary of Changes in the ERC 2021 vs. 2020

Gross receipts test - reduction in gross receipts compared to the same quarter in 2019

2020
by 50%



2021
by 20%

Summary of Changes in the ERC 2021 vs. 2020

Average full-time employee count for determining eligible wages

2020
100 or less



2021
500 or less

Summary of Changes in the ERC 2021 vs. 2020

2020 – Eligible wages capped at \$10,000 for the year

2021 – Eligible wages capped at \$10,000 for each quarter

2020

**\$10,000/employee
in total**



2021

**\$10,000/employee
for each quarter**

Summary of Changes in the ERC 2021 vs. 2020

Percentage of qualified wages and health plan expenses
available for the credit

2020
50%



2021
70%

Interplay between ERC, PPP and Other Credits

Joyce Rinaldi

Interplay between ERC, PPP and Other Credits

No double dipping!

- ERC qualified wages cannot be considered as eligible wages for PPP forgiveness calculations.
- Employers may not consider wages used for the paid family and medical leave credits (COVID-19 pay) for the Employee Retention Credit.
- Employers may not consider wages used for the Work Opportunity Tax Credit for the Employee Retention Credit.
- Wages used for the ERC must be excluded from R&D tax credit calculations.

Strategies for Consideration

- Businesses who have not yet applied for PPP forgiveness may want to consider non-payroll costs in calculating PPP loan forgiveness. Up to 40% of PPP funds may be used for non-payroll costs.
- Consider the forgiveness period and the impact on eligible ERC wages.
- Connect with your local BMSS expert to optimize the PPP and ERC calculation process.

Common Questions

What is included in gross receipts?

Gross receipts include total sales, net of returns and allowances, and any amounts received for services, income from investments, and from incidental or outside sources such as interest, dividends, rent, royalties, and other income (FAQ 40).

What types of governmental orders may be taken into account?

Orders, proclamations, or decrees from the federal government, or any state or local government are considered "orders from an appropriate governmental authority" if they limit commerce, travel, or group meetings due to COVID-19 in a manner that affects an employer's operation of its trade or business, including orders that limit hours of operation (FAQ 28).

Statements from governmental officials, including comments made during press conferences or interviews, are not considered a governmental order.

What if I voluntarily suspended operations? Am I eligible?

No. Employers that voluntarily suspend operations or reduce hours and are not subject to a governmental order that restricts operations are not eligible for the Employee Retention Credit based on a full or partial shutdown of operations due to a governmental order.

How do I calculate the average full-time employees?

The term "full-time employee" means an employee who had an average of at least 30 hours of service per week or 130 hours of service in the month.

An employer that operated its business for the entire 2019 calendar year determines the number of its full-time employees by taking the sum of the number of full-time employees in each calendar month in 2019 and dividing that number by 12.

What wages are not eligible wages?

- For large employers (more than 100/500), only payments made to NOT provide services are eligible.
- Paid time off wages are includable for small employers (100/500 or less FTEs) unless they were paid under sick and/or family leave wages for which other credits are available. However, these are not eligible wages for large employers.
- Payments, including severance, made to employees following termination are not eligible.
- Wages paid to related individuals such as employees who are children or other family members, are not eligible.

What health care costs can be included?

Qualified wages include an allocable portion of the qualified health plan expenses paid or incurred by an eligible employer. These are costs to provide and maintain a group health plan, but only for the expenses excluded from gross income of the employees (subject to the \$10,000 qualified wage limitation).

How do I claim the credit?

- Form 941, Federal employment tax return
 - Claiming the credit directly
 - Filing amended return (941-X)
- Reduction of Federal employment tax deposits
 - In anticipation of receiving the credits, employers can fund qualified wages by offsetting with their 941 tax deposits.
- For small employers in 2021, Form 7200, advanced refund method is available if there are not sufficient employment taxes to cover the credit. Not available to large employers.

What documentation should I keep after claiming the credit?

- Documentation supporting eligibility – income statements or proof of government shutdown orders
- Average full-time employee calculations
- Wage reports used in calculating eligible wages
- 941 reports (original and amended)
- Form 7200 if applicable

<https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act>

<https://www.irs.gov/pub/irs-drop/n-21-20.pdf>

Questions? Reach out to your BMSS professional.
Call us at 833.CPA.BMSS or visit our website at
www.bmss.com.

CPE certificates will be issued in approximately two weeks.