

Employee Retention Credit, Emergency Paid Sick Leave and Emergency Family Medical Leave

Q&A

Is the credit issued partially for only those quarters with the decline in gross receipts, or if you have one quarter that meets that decline threshold, you are then eligible for the entire credit?

Once you satisfy the decline in gross receipts test, you are eligible from the start of that quarter until the quarter following a return of gross receipts of at least 80% of 2019.

For example, if your gross receipts are below 50% for 2nd Qtr 2020, you are eligible starting 4/1/2020. Your gross receipts return to at least 80% in 4Q. You are eligible from April 2020 through December 2020.

When you say we cannot double-dip — Does the qualifying quarter of gross receipts (say Q2 2019 & Q2 2020) qualifies us, does that mean the retention credits cannot be used for Q2 2020 (or Q2 2021)?

The double dipping reference is in regard to how the ERC interacts with the PPP Loan and Emergency sick pay credit. The eligible wages for the ERC cannot be wages paid with PPP loan proceeds or wages paid under the employee emergency sick pay credit.

If we took the PPP in 2020, and are filing for PPP2 for 2021, can we only use the ERC credits for 2021 — or can we also retroactively apply (once the IRS releases those guidelines) even though at that time we couldn't do both? Again, does the quarter we use the EERC credit have to align with the gross receipt's loss quarter?

PPP Loan Recipients can now take advantage of the ERC retro to 2020. Even though at the time you applied for PPP1 you were not eligible for ERC. The Consolidated Appropriations Act signed in December changed that part of the regulations.

Yes, the quarter you take the ERC should align to the quarter you are eligible based on the gross receipts test or partially/fully suspended test. We are waiting on guidance from the IRS to determine if we should amend Form 941's for 2020 or if they will issue a new process.

Would drop in receipts be cash or accrual based? Would it depend on your tax basis?

We would suggest using the Gross Receipts according to your tax filing basis.

Will you be taking care of everything for us?

Yes, we can handle the calculation of the credit.

We took the PPP loan and the payroll tax credit; how will we know if we have to pay back ADP plus does our taxes and payroll?

For PPP Loan questions, please reference our webinar on PPP Loan Forgiveness or contact a member on our PPP Team. You will want to review the Forgiveness guidance to determine if the PPP Loan is fully forgivable.