



2021

National Income Tax Workbook

Chapter 12: PAYROLL AND TAX CREDIT ISSUES

Topics

P. 447

Issue 1: Payroll Tax Overview

Issue 2: Payroll Tax Deferral

Issue 3: Employee Retention Credit

Issue 4: Sick Leave and Family Leave Credits

Issue 5: COBRA Premium Assistance Credits

Payroll Tax Overview

P. 448

- **FICA wages:**
 - Old-age, survivors, and disability insurance (**OASDI**) = 12.4% capped at \$142,800 in 2021
 - Employer pays 6.2%, withholds 6.2%
 - Hospital insurance (**Medicare**) = 2.9%
 - Employer pays 1.45%, withholds 1.45%
- **Additional Medicare tax** = .9% above \$200,000 for single/HOH and \$250,000 for MFJ, must withheld from employee if employer pays more than \$200,000

Payroll Tax Deposits

PP. 449-
450

Schedule based on amount of employer's payroll

Cross-Reference – Limited Penalty Relief due to COVID

Payroll Tax Reporting

- Most file quarterly Form 941
- Agricultural employers file annual Form 943
- With IRS permission, very small employers file annual Form 944

Information Reporting Deadlines for 2022

- January 31, 2022 – employer must send Form W-2s to employees and file W-2 and W-3 with SSA

Self- Employed Taxpayers P. 450

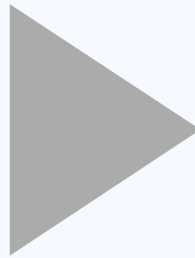
- ✓ 12.4% social security tax on earnings, up to \$142,800 in 2021, minus any wages paid
- ✓ 2.9% Medicare tax on earnings and an additional .9% Medicare tax on earnings above \$200,000 for single and \$250,000 for MFJ
- ✓ SE tax on 92.35%

Self- Employed Taxpayers P. 450

- ✓ Reported on Form 1040, Schedule SE
- ✓ No SE tax is due for earnings < \$400
- ✓ Cross-Reference Estimate Tax Payments
- ✓ Self-employed individuals (who are not farmers) must generally make estimated payments if they expect to owe \$1,000 or more.

POLLING QUESTION #1

I don't
prepare
payroll
returns



True or
False



Issue 2: PAYROLL TAX DEFERRAL

Payroll tax
Deferrals
P. 451

CARES ACT – Employer deferral

- 3/27/20 through 12/31/20

Executive Order – Employee deferral

- 9/1/20 through 12/31/20
- Bi-weekly wages less than \$4,000

**Payment
of
Employer
Payroll
tax
Deferral
P. 451**

Repay 50% by 12/31/21

Repay 50% by 12/31/22

Observation – Nonbusiness Days – pay on the next business day

Payment first applied to 50% due in 2021

Example 12.1 – Dogwood Landscaping deposited \$10,000 of total \$30,000 owed. Pay \$5,000 (one-half of total owed) by 12/31/21.

How to Pay P. 452

Deferred amounts owed may be paid (1) electronically using the Electronic Federal Tax Payment System (EFTPS), (2) by credit or debit card, or (3) by check or money order.

If paying by EFTPS, select Form 941 and the calendar quarter in 2020 to which the payment relates. Separate payment for each quarter.

If paying by check or money order, include a 2020 Form 941-V, Payment Voucher. Fill in the circle for the correct quarter.

Self-Employed – Deferred Payroll Taxes

P. 453

Self-Employed could defer 50% of social security tax

Repay the deferred tax in two installments, 50% by December 31, 2021, and the rest by December 31, 2022

Pay by EFTPS or by credit or debit card, money order or with a check

Separate payments from other tax payments

Independent of other tax payments

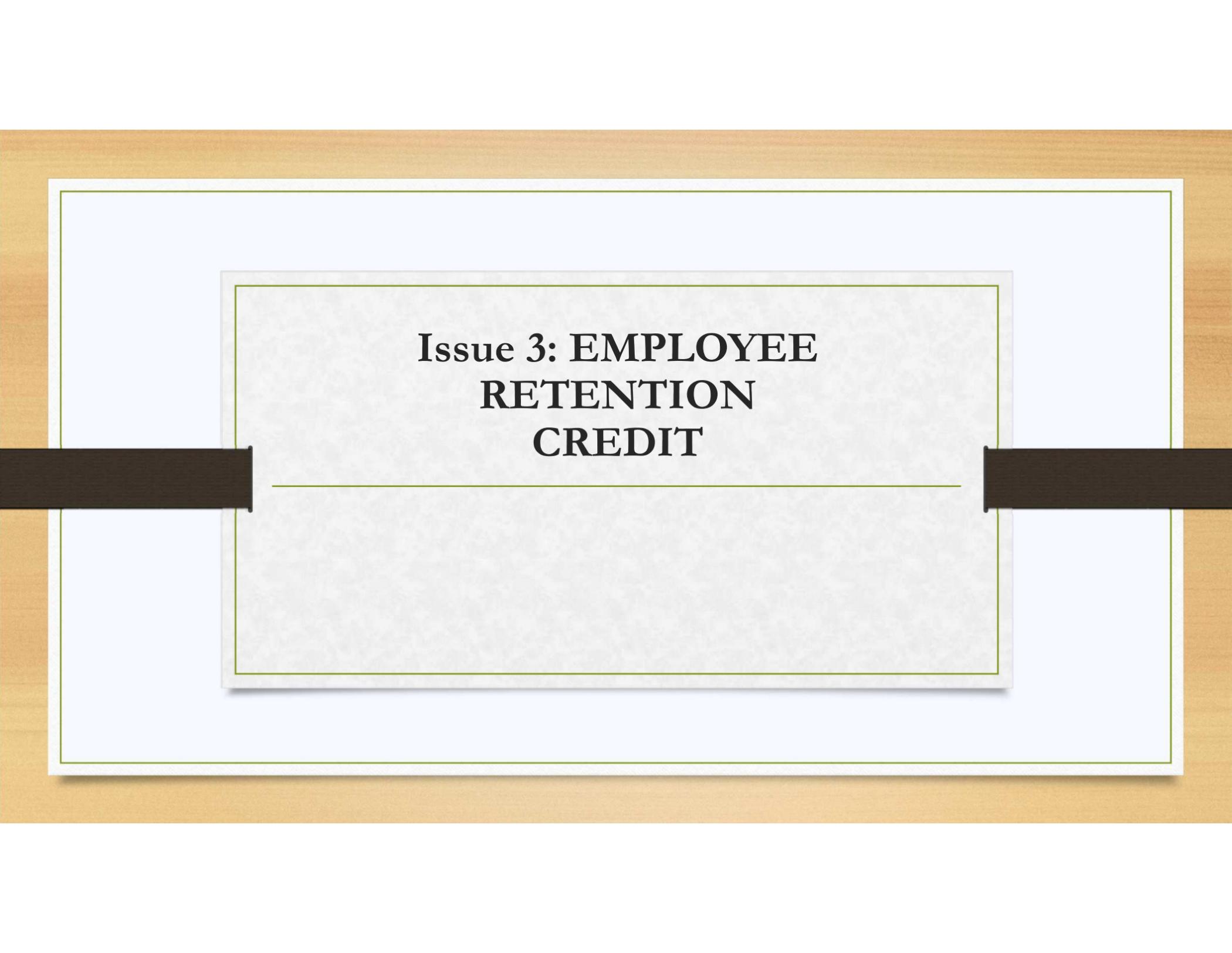
Designate as "deferred Social Security tax"

Employee
–
Deferred
Payroll
Taxes
P. 453

Self-Employed could defer
50% of social security tax

Withhold and pay ratably
between 1/1/21 and 12/31/21

Interest/penalties begin to
accrue 1/1/22



The slide features a light blue background with a thin green border. A white rectangular box with a green border is centered on the slide. Inside this box, the text "Issue 3: EMPLOYEE RETENTION CREDIT" is written in a bold, black, serif font. Two dark brown horizontal bars are positioned on the left and right sides of the white box, extending towards the edges of the slide.

**Issue 3: EMPLOYEE
RETENTION
CREDIT**

Employee Retention Credit

P. 454

Fully refundable payroll tax credit

- Amount of credit **may exceed payroll taxes due.**
- **Get your wages back!**

Amend Payroll Returns

**Employee
Retention
Credit
P. 454**

2020 & 2021 Rules

CARES Act – March 12, 2020 thru
January 1, 2021

TCDTRA – extended thru June 31,
2021

ARPA – extended thru September 31, 2021

Infrastructure Investment & Jobs Act
of 2021 – ERC ends Sept 30, 2021

Practitioner Note - ERC and the Self-Employed P. 455

Self-employed individuals are **not eligible** for the ERC because they do not earn wages.

They may claim credit for wages paid to their employees.

ERC – Eligible Employers

P. 455

Operate Trade or
Business

Fully or partially
suspended

Significant Decline
in Gross Receipts

- Appropriate Government Orders
- COVID-19

- Appropriate Government Orders
- COVID-19

Eligible Employer vs. Qualified Wages

- Employer – fully or partially suspended
- Qualified Wages – eligible wages during full or partial shutdown

Eligible Employers

P. 455

Must be in a *trade or business*

Household Employers are not eligible for the ERC

Tax exempt organizations are deemed to be in a T or B for all their operations

Eligible Employers

P. 455

Practitioner Note – Entity Type

Employers of any size are eligible

Tax exempt organizations under IRC §501(c) and §501(a) are eligible

Federal, state, and local government entities not eligible in 2020

Tribal governments are eligible

Suspended Business Test

P. 455

If a **government order** has “fully suspended” an employer’s operations, it will generally qualify for the ERC.

Employers may also qualify if their operations were “partially suspended” by government order.

Government Orders

P 455

Must be an actual order by a governmental authority with jurisdiction over the operations. Must be mandatory, not advisory.

Do not include press conference comments, declaration of a state of emergency that does not limit or suspend actual operations.

Don't look at whether government enforced the order.

Practitioner Note: Normal Business

P. 456

If more than a nominal portion of business operation was suspended

Gross receipts from that portion of business operation are not less than **10%** of the total gross receipts

- Hours of service performed by the employees in that portion of the business are **not less than 10%** of the total hours of service

Not Partially Suspended – Figure 12.1

PP. 457

Customers stay home due to government orders, and business has reduction in demand

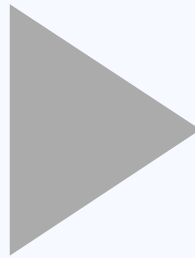
Workplace is closed, but continued business operations are comparable to pre-closure operations

Mask wearing, one-way aisles, etc. will not have more than a nominal effect on business operations


Employers continue operations through telework

POLLING QUESTION #2

Deferred
payroll taxes
are due by Dec.
31, 2021 and
Dec 31, 2022



True or False



May Be Partially Suspended – Figure 12.1 P. 457

- Suppliers cannot make deliveries of critical goods or materials
- More than a nominal portion is closed or suspended
- Modifications have more than a nominal effect
- Significant delay (more than 2 weeks) to move operations to telework



Ex. 12.4 Temp. Closure

P.
457

- Processed Foods, Inc. operates a facility that usually operates 24 hours/day
- Local health department says business must clean workplace once every 24 hours
- Business operations reduced by 5 hours each day to comply with the order



Ex. 12.5 Partial Closure

P. 457

- Stuff for All, Corp. is a large retailer
- Governmental order closes the storefront for two quarters in 2020
- Customers could pick-up orders
- Storefront is more than nominal



Example 12.6 – Partial Suspension

P. 457

- Governmental order revised to allow storefront traffic, but customers had to socially distance and store had to enforce occupancy caps
- Customers sometimes had to wait in short lines to enter business
- No more than nominal effect

Suspension v. Decline in Gross Receipts

P. 458

Establish Significant Decline in Gross Receipts

```
graph TD; A[Establish Significant Decline in Gross Receipts] --> B[NO Suspension required]; B --> C[All Wages count];
```

NO Suspension required

All Wages count

Decline in Gross Receipts Test

P. 458

- 2020
 - Any quarter where gross receipts $< 50\%$ of gross receipts for the same calendar quarter in 2019.
- 2021
 - Eligibility period ends with the earlier of January 1, 2021, or first calendar quarter following 1st calendar quarter where gross receipts $> 80\%$ of gross receipts for same quarter in 2019.

Ex. 12.7 Applying the Test

PP. 458-459

Comfort Shoes had a reduction in customers in early 2020, while it improved retail website.



```
graph TD; A[Comfort Shoes had a reduction in customers in early 2020, while it improved retail website.] --> B[48% decline in Q1, 83% in Q2, and 92% in Q3]; B --> C[Significant decline in Q1 and Q2]
```

48% decline in Q1, 83% in Q2, and 92% in Q3

Significant decline in Q1 and Q2

Practitioner Note

P. 459

New Business
– after
2/15/2020

Special rules
apply to new
businesses

See Notice
2021-20

Definition of Gross Receipts

P. 459



Non-tax exempt: I.R.C. § 448(c)



Tax-exempt: I.R.C. § 6033

Gross receipts includes all gross receipts, not just those from Unrelated trade or business income.



Practitioner Note – Gross Receipts



Forgiven loan proceeds, grants are not included in gross receipts

**Calculating
the 2020
ERC
P. 459**

For 2020, the maximum ERC is **50%** of **qualified wages** (including allocable health plan expenses) that an eligible employer paid in a calendar quarter.

The **maximum** qualified wages that can be taken into account for the 2020 ERC is \$10,000 per employee for all quarters.

The **maximum 2020 ERC** is \$5,000 per employee.

Qualified Wages for 2020

P. 459

Limited to FICA wages paid after March 12, 2020, and before January 1, 2021

Amounts paid to maintain group health plan if excluded from income

Large employer – amounts paid to employee not working b/c suspension

Small employer – amounts paid to employees b/c business suspended

Cash tips treated as wages or compensation

Ex. 12.8
2020 ERC
Calculation
P. 460

Stray Cat Consulting 4 employees

Significant decline in gross receipts Q2,
Q3, Q4

Figure 12.3 payroll and ERC calculation

\$10,000 limit applies to 2 employees

\$15,250 ERC

FIGURE 12.3
SCC's Payroll and ERC Calculation for 2020

	Q2 Payroll	Q2 ERC	Q3 Payroll	Q3 ERC	Q4 Payroll	Q4 ERC
Employee 1	\$2,500 wages, \$500 health care benefits	\$1,500 ERC (\$3,000 qualified wages x 50%)	\$2,500 wages, \$500 health care benefits	\$1,500 ERC (\$3,000 qualified wages x 50%)	\$2,500 wages, \$500 health care benefits	\$1,500 ERC (\$3,000 qualified wages x 50%)
Employee 2	\$8,000 wages, \$500 health care benefits	\$4,250 ERC (\$8,500 qualified wages x 50%)	\$8,000 wages, \$500 health care benefits	\$750 ERC (\$1,500 qualified wages x 50%)	\$8,000 wages, \$500 health care benefits	\$0 ERC (\$0 qualified wages)
Employee 3	\$10,000 wages, \$500 health care benefits	\$5,000 ERC (\$10,000 qualified wages x 50%)	\$10,000 wages, \$500 health care benefits	\$0 ERC (\$0 qualified wages)	\$10,000 wages, \$500 health care benefits	\$0 ERC (\$0 qualified wages)
Employee 4	No wages, \$500 health care benefits	\$250 ERC (\$500 qualified wages x 50%)	No wages, \$500 health care benefits	\$250 ERC (\$500 qualified wages x 50%)	No wages, \$500 health care benefits	\$250 ERC (\$500 qualified wages x 50%)
Total	\$22,500	\$11,000	\$22,500	\$2,500	\$22,500	\$1,750

**Practitioner
Note**
P. 460

No Wage Duplication

Qualified wages do not include:

- those taken into account for FFCRA credits
- those taken into account for IRC § 45S (paid family and medical leave credit)
- those counted as payroll costs necessary to obtain PPP loan forgiveness

Aggregating Employers

P 461



Controlled
Group

Common
Control

Affiliated
Service
Group

Aggregating Employers P 461

Determining Trade or Business

Fully or Partial Shutdown

Significant Decline in Gross
Receipts

Average 100 FTE

Maximum Credit per
Employee

ERC – Related Individuals

P. 461

Rules “similar to the rules of I.R.C. § 51(i)(1)” apply

Can’t count wages paid to certain relatives

Entity attribution rules apply

ERC – Related Individuals

P. 461

- A related individual is any employee who has one of the following relationships to the employer, who is an individual:
- A child or a descendant of a child
- A brother, sister, stepbrother, or stepsister
- The father or mother, or an ancestor of either
- A stepfather or stepmother
- A niece or nephew
- An aunt or uncle
- A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law ⁴⁴

**ERC –
Related
Individuals**
P. 461

For **corporations – related to** an individual owning, **directly or indirectly**, more than 50% in value of the outstanding stock of the corporation.

For an **entity other than a corporation --** related to an individual owning, **directly or indirectly**, more than 50% of the capital and profits interests in the entity.

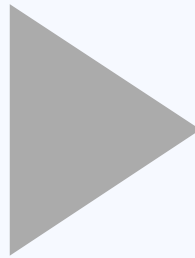
For an **estate or trust --** related individual includes a grantor, beneficiary, or fiduciary of the estate or trust, or any person that bears a relationship described above with an individual who is a grantor, beneficiary, or fiduciary of the estate or trust.

ERC – Related Individuals P. 461

- Indirect ownership is determined through the application of I.R.C. §267(c), which provides the following (among other) rules:
- An individual shall be considered as owning the stock owned, **directly or indirectly**, by or for his family
- The family of an individual includes only brothers and sisters (whole or half-blood), spouse, ancestors, and lineal descendants

POLLING QUESTION #3

The Employee
Retention
Credit was only
available for
tax year 2020



True or False

ERC – Related Individuals

PP. 461-463

Notice 2021-49 provides guidance

Ex. 12.9 No ERC for 80% owner of corp. and son employee

Ex. 12.10 No ERC for 100% owner of corp. and nonemployee son

Ex. 12.11 ERC for 100% owner of corp. and spouse employee

ERC and PPP Loan Forgiveness PP. 463-464

- **Wages count for ERC or PPP forgiveness – not both**
- Eligible employer that received a PPP loan is deemed to have made an election not to take those wages into account for the ERC if include on forgiveness app.
- Election only applies if wages were **necessary** for forgiveness.

FIGURE 12.4
PPP Loan Forgiveness Payroll and Nonpayroll Costs

Payroll Costs	Nonpayroll Costs
Compensation to employees (whose principal place of residence is the United States) in the form of salary, wages, commissions, or similar compensation, (with limits on cash compensation)	Business mortgage interest payments
Cash tips or equivalent	Business rent or lease payments
Payment for vacation, parental, family, medical, or sick leave	Business utility payments
Allowance for dismissal or separation	Covered operations expenditures
Payment for the provision of employee benefits consisting of group health care or group life, disability, vision, or dental insurance, including insurance premiums, and payment of retirement benefits	Covered property damage costs
Payment of state or local tax assessed on employee compensation	Covered supplier costs
Owner compensation replacement for the self-employed and net earnings from self-employment for partners	Covered worker protection expenditures

Ex. 12.12
Include
Only Wages
for PPP
Forgiveness
P. 464

- Good Eats received a \$100,000 PPP loan.
- On its forgiveness application, it included \$100,000 in payroll costs that would qualify as wages.
- Good Eats also paid \$40,000 in nonpayroll costs but didn't include on its forgiveness application.
- Election to exclude \$100,000 from ERC.

Ex. 12.13
Including
Wages and
Nonpayroll
P. 465

- Same facts but Good Eats included \$100,000 in payroll costs that would qualify as wages and \$40,000 nonpayroll costs.
- Only needed \$60,000 in payroll costs, so only \$60,000 deemed excluded from ERC.

Maximizing ERC P. 465

- Allocate to PPP 1st
 - Payroll cost
 - Payroll expenses
- What about Partial Shutdown Quarter
 - ERC is only allowed during shut down
 - PPP doesn't have those restrictions

Tax Treatment of the ERC P. 465

- Not income to the employer,
- Reduce deduction for qualified wages, including qualified health plan expenses **in the amount of the ERC.**
- Employers **do not** reduce the deduction by the employer's share of the SS and Medicare taxes.

Practitioner Note:
Amending 2020 Returns to Claim ERC PP. 465-466

- Determine quarter(s) of eligibility
- Determine qualified wages (including allocable health care expenses paid)
- Eliminate wages used on a successful PPP forgiveness application, those for which a FFCRA credit was taken, or (if basis of qualification was a shutdown) those wages attributable to period during which employees were working
- Eliminate unqualified employees (related parties, those for whom a work opportunity credit was paid in 2020 quarter)
- Calculate the ERC by quarter

Amending 2020 Returns to Claim ERC

P. 466

- Fill out and file the Form 941-X, 943-X, or 944-x (and accompanying worksheets), as appropriate
- Amend **2020 income tax return** as necessary to reduce a prior deduction for qualified wages in the amount of the ERC
- Period of Limitations
 - 3 years to file 941-X
- Practitioner Note (P. 465)
 - Amending non-payroll tax returns

Ex. 12.14 Amending 2020 Returns 466-472

PP.

60% decline in Gross Receipts

\$ 60,000 PPP Loan & Erroneously claimed ERC

\$44,833 qualified wages (after allocated to PPP forgiveness)

\$15,000 ERC

Claim on amended 941-X – Figure 12.6

P 466

FIGURE 12.5
Rolly's Roadhouse Costs on the
PPP Forgiveness Application

Nonpayroll Costs:	
Rent	\$15,000
Mortgage interest	5,000
Utilities	4,000
Total nonpayroll costs	<u>\$24,000</u>
 Payroll Costs:	
Owner compensation replacement	\$20,833
Other employee compensation, including health care benefits	15,167
Total payroll costs	<u>\$36,000</u>

P 468

FIGURE 12.0
Rolly's Roadhouse's Form 941-X

Form **941-X: Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund**
(Rev. October 2020) Department of the Treasury — Internal Revenue Service OMB No. 1545-0029

Employer identification number (EIN) ☒ ☐ - ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐

Name (not your trade name) Rolly Anderson

Trade name (if any) Rolly's Roadhouse

Address 123 Mulberry St. Suite or room number
Number Street
 White Bear Lake MN 55038
City State ZIP code
 Foreign country name Foreign province/county Foreign postal code

Read the separate instructions before completing this form. Use this form to correct errors you made on Form 941 or 941-SS. Use a separate Form 941-X for each quarter that needs correction. Type or print within the boxes. You MUST complete all four pages. Don't attach this form to Form 941 or 941-SS unless you're reclassifying workers; see the instructions for line 36.

Part 1: Select ONLY one process. See page 5 for additional guidance.

☐ 1. **Adjusted employment tax return.** Check this box if you underreported amounts. Also check this box if you overreported amounts and you would like to use the adjustment process to correct the errors. You must check this box if you're correcting both underreported and overreported amounts on this form. The amount shown on line 27, if less than zero, represents the amount of the refund you are claiming on Form 941-SS, or Form 944 for the tax period in which you're filing this form.

☒ 2. **Claim.** Check this box if you overreported amounts only and you would like to use the claim process to ask for a refund or abatement of the amount shown on line 27. Don't check this box if you're correcting ANY underreported amounts on this form.

Part 2: Complete the certifications.

☒ 3. **I certify that I've filed or will file Forms W-2, Wage and Tax Statement, or Forms W-2c, Corrected Wage and Tax Statement, as required.**
Note: If you're correcting underreported amounts only, go to Part 3 on page 2 and skip lines 4 and 5. If you're correcting overreported amounts, for purposes of the certifications on lines 4 and 5, Medicare tax doesn't include Additional Medicare Tax. Form 941-X can't be used to correct overreported amounts of Additional Medicare Tax unless the amounts weren't withheld from employee wages or an adjustment is being made for the current year.

4. If you checked line 1 because you're adjusting overreported federal income tax, social security tax, Medicare tax, or Additional Medicare Tax, check all that apply. You must check at least one box.
I certify that:

☐ a. I repaid or reimbursed each affected employee for the overcollected federal income tax or Additional Medicare Tax for the current year and the overcollected social security tax and Medicare tax for current and prior years. For adjustments of employee social security tax and Medicare tax overcollected in prior years, I have a written statement from each affected employee stating that he or she hasn't claimed (or the claim was rejected) and won't claim a refund or credit for the overcollection.

☐ b. The adjustments of social security tax and Medicare tax are for the employer's share only. I couldn't find the affected employees or each affected employee didn't give me a written statement that he or she hasn't claimed (or the claim was rejected) and won't claim a refund or credit for the overcollection.

☐ c. The adjustment is for federal income tax, social security tax, Medicare tax, or Additional Medicare Tax that I didn't withhold from employee wages.

5. If you checked line 2 because you're claiming a refund or abatement of overreported federal income tax, social security tax, Medicare tax, or Additional Medicare Tax, check all that apply. You must check at least one box.
I certify that:

☐ a. I repaid or reimbursed each affected employee for the overcollected social security tax and Medicare tax. For claims of employee social security tax and Medicare tax overcollected in prior years, I have a written statement from each affected employee stating that he or she hasn't claimed (or the claim was rejected) and won't claim a refund or credit for the overcollection.

☐ b. I have a written consent from each affected employee stating that I may file this claim for the employee's share of social security tax and Medicare tax. For refunds of employee social security tax and Medicare tax overcollected in prior years, I also have a written statement from each affected employee stating that he or she hasn't claimed (or the claim was rejected) and won't claim a refund or credit for the overcollection.

☐ c. The claim for social security tax and Medicare tax is for the employer's share only. I couldn't find the affected employees, or each affected employee didn't give me a written consent to file a claim for the employee's share of social security tax and Medicare tax, or each affected employee didn't give me a written statement that he or she hasn't claimed (or the claim was rejected) and won't claim a refund or credit for the overcollection.

☒ d. The claim is for federal income tax, social security tax, Medicare tax, or Additional Medicare Tax that I didn't withhold from employee wages.

Return You're Correcting...
Check the type of return you're correcting.
☒ 941
☐ 941-SS
Check the ONE quarter you're correcting.
☐ 1: January, February, March
☐ 2: April, May, June
☒ 3: July, August, September
☐ 4: October, November, December
Enter the calendar year of the quarter you're correcting.
 2020 (YYYY)

Enter the date you discovered errors.
 / /
(MM / DD / YYYY)

For Paperwork Reduction Act Notice, see the separate instructions. www.irs.gov/form941 Form **941-X** (Rev. 10-2020) **Next** ➔

P 469

FIGURE 12.6 (continued)
Rolly's Roadhouse's Form 941-X

Name (not your trade name)		Employer identification number (EIN)		Correcting quarter 3 (1, 2, 3, 4)
Rolly Anderson		XXX-XX-XXX		Correcting calendar year (YYYY) 2020

Part 3: Enter the corrections for this quarter. If any line doesn't apply, leave it blank.

	Column 1 Total corrected amount (for ALL employees)	Column 2 Amount originally reported or as previously corrected (for ALL employees)	Column 3 Difference (if this amount is a negative number, use a minus sign.)	Column 4 Tax correction
6. Wages, tips, and other compensation (Form 941, line 2)	60,000 .	60,000 .	0 .	Use the amount in Column 1 when you prepare your Forms W-2 or Forms W-2a.
7. Federal income tax withheld from wages, tips, and other compensation (Form 941, line 3)	9,000 .	9,000 .	0 .	Copy Column 3 here ▶
8. Taxable social security wages (Form 941 or 941-SS, line 5a, Column 1)	60,000 .	60,000 .	0 .	× 0.124* = 0 .
9. Qualified sick leave wages (Form 941 or 941-SS, line 5a(i), Column 1)	.	.	.	* If you're correcting your employer share only, use 0.062. See instructions.
10. Qualified family leave wages (Form 941 or 941-SS, line 5a(ii), Column 1)	.	.	.	× 0.062 = .
11. Taxable social security tips (Form 941 or 941-SS, line 5b, Column 1)	.	.	.	× 0.124* = .
12. Taxable Medicare wages & tips (Form 941 or 941-SS, line 5c, Column 1)	60,000 .	60,000 .	0 .	* If you're correcting your employer share only, use 0.062. See instructions.
13. Taxable wages & tips subject to Additional Medicare Tax withholding (Form 941 or 941-SS, line 5d)	.	.	.	* If you're correcting your employer share only, use 0.0145. See instructions.
14. Section 3121(a) Notice and Demand—Tax due on unreported tips (Form 941 or 941-SS, line 5f)	.	.	.	* Certain wages and tips reported in Column 3 should be multiplied by 0.008. See instructions.
15. Tax adjustments (Form 941 or 941-SS, lines 7 through 9)	.	.	.	Copy Column 3 here ▶
16. Qualified small business payroll tax credit for increasing research activities (Form 941 or 941-SS, line 11a; you must attach Form 8974)	.	.	.	See instructions
17. Nonrefundable portion of credit for qualified sick and family leave wages (Form 941 or 941-SS, line 11b)	.	.	.	See instructions
18. Nonrefundable portion of employee retention credit (Form 941 or 941-SS, line 11c)	.	.	.	See instructions
19. Special addition to wages for federal income tax	.	.	.	See instructions
20. Special addition to wages for social security taxes	.	.	.	See instructions
21. Special addition to wages for Medicare taxes	.	.	.	See instructions
22. Special addition to wages for Additional Medicare Tax	.	.	.	See instructions
23. Combine the amounts on lines 7 through 22 of Column 4	.	.	.	0 .
24. Deferred amount of social security tax* (Form 941 or 941-SS, line 13b)	.	.	.	See instructions
25. Refundable portion of credit for qualified sick and family leave wages (Form 941 or 941-SS, line 13c)	.	.	.	See instructions

FIGURE 12.6 (continued)
Rolly's Roadhouse's Form 941-X

Name (not your trade name)		Employer identification number (EIN)		Correcting quarter 3 (1, 2, 3, 4)	
Rolly Anderson		XXX-XX-XXX		Correcting calendar year (YYYY) 2020	
Part 3: Enter the corrections for this quarter. If any line doesn't apply, leave it blank. (continued)					
	Column 1 Total corrected amount (for ALL employees)	Column 2 Amount originally reported or as previously corrected (for ALL employees)	Column 3 Difference (If this amount is a negative number, use a minus sign.)	Column 4 Tax correction	
26. Refundable portion of employee retention credit (Form 941 or 941-SS, line 13d)	15,000	0	15,000	See instructions	-15,000
27. Total. Combine the amounts on lines 23 through 26 of Column 4					-15,000
<p>If line 27 is less than zero:</p> <ul style="list-style-type: none"> If you checked line 1, this is the amount you want applied as a credit to your Form 941 or 941-SS for the tax period in which you're filing this form. (If you're currently filing a Form 944, Employer's ANNUAL Federal Tax Return, see the instructions.) If you checked line 2, this is the amount you want refunded or abated. <p>If line 27 is more than zero, this is the amount you owe. Pay this amount by the time you file this return. For information on how to pay, see Amount you owe in the instructions.</p>					
28. Qualified health plan expenses allocable to qualified sick leave wages (Form 941 or 941-SS, line 19)					
29. Qualified health plan expenses allocable to qualified family leave wages (Form 941 or 941-SS, line 20)					
30. Qualified wages for the employee retention credit (Form 941 or 941-SS, line 21)	30,000	0	30,000		
31. Qualified health plan expenses allocable to wages reported on Form 941 or 941-SS, line 21 (Form 941 or 941-SS, line 22)					
32. Credit from Form 5884-C, line 11, for this quarter (Form 941 or 941-SS, line 23)					
33a. Qualified wages paid March 13 through March 31, 2020, for the employee retention credit (use this line to correct only the second quarter of 2020) (Form 941 or 941-SS, line 24)					
33b. Deferred amount of the employee share of social security tax included on Form 941 or 941-SS, line 13b (use this line to correct only the third and fourth quarters of 2020) (Form 941 or 941-SS, line 24)					
34. Qualified health plan expenses allocable to wages reported on Form 941 or 941-SS, line 24 (use this line to correct only the second quarter of 2020) (Form 941 or 941-SS, line 25)					

Next ➔

P 471

FIGURE 12.6 (CONTINUED)
Rolly's Roadhouse's Form 941-X

Name (not your trade name) Rolly Anderson	Employer identification number (EIN) XXX-XX-XXXX	Correcting quarter 3 (1, 2, 3, 4) Correcting calendar year (YYYY) 2020
-----------------------------------------------------	------------------------------------------------------------	--------------------------------------------------------------------------------------------

Part 4: Explain your corrections for this quarter.

☐ 35. Check here if any corrections you entered on a line include both underreported and overreported amounts. Explain both your underreported and overreported amounts on line 37.

☐ 36. Check here if any corrections involve reclassified workers. Explain on line 37.

37. You must give us a detailed explanation of how you determined your corrections. See the instructions.

Calculated and claimed the employee retention credit, which was not claimed in 2020. This amendment is made in response to the change in law that allows a 2020 employee retention credit, even if the employer received Paycheck Protection Program loan forgiveness.

Part 5: Sign here. You must complete all four pages of this form and sign it.

Under penalties of perjury, I declare that I have filed an original Form 941 or Form 941-SS and that I have examined this adjusted return or claim, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

X Sign your name here

Date / /

Print your name here Rolly Anderson

Print your title here Owner

Best daytime phone

Paid Preparer Use Only

Preparer's name

Preparer's signature

Firm's name (or yours if self-employed)

Address

City State

Check if you're self-employed ☐

PTIN

Date / /

EIN

Phone

ZIP code

Page **4** Form **941-X** (Rev. 10-2020)

FIGURE 12.7
Rolly's Roadhouse's Form 941-X, Worksheet 1

Worksheet 1. Adjusted Credit for Qualified Sick and Family Leave Wages and the Employee Retention Credit—(continued)

Step 3. Figure the employee retention credit		
3a	Qualified wages (excluding qualified health plan expenses) for the employee retention credit (Form 941, Part 3, line 21, or, if corrected, Form 941-X, line 30, column 1)	3a 30,000
3b	Qualified health plan expenses allocable to qualified wages for the employee retention credit (Form 941, Part 3, line 22, or, if corrected, Form 941-X, line 31, column 1)	3b
3c	Qualified wages (excluding qualified health plan expenses) paid March 13, 2020, through March 31, 2020, for the employee retention credit (Form 941, Part 3, line 24, or, if corrected, Form 941-X, line 33a, column 1). Enter an amount here only for the second quarter Form 941-X	3c
3d	Qualified health plan expenses allocable to qualified wages paid March 13, 2020, through March 31, 2020, for the employee retention credit (Form 941, Part 3, line 25, or, if corrected, Form 941-X, line 34, column 1). Enter an amount here only for the second quarter Form 941-X	3d
3e	Add lines 3a, 3b, 3c, and 3d	3e 30,000
3f	Retention credit. If you're correcting the second, third, or fourth quarter of 2020, multiply line 3e by 50% (0.50). If you're correcting a 2021 quarter, multiply line 3e by 70% (0.70)	3f 15,000
3g	Enter the amount of the employer share of social security tax from Step 1, line 1f	3g 3,720
3h	Enter the amount of the nonrefundable portion of the credit for qualified sick and family leave wages from Step 2, line 2j	3h
3i	Subtract line 3h from line 3g	3i 3,720
3j	Nonrefundable portion of employee retention credit. Enter the smaller of line 3f or line 3i. Enter this amount on Form 941-X, line 18, column 1	3j
3k	Refundable portion of employee retention credit. Subtract line 3j from line 3f and enter this amount on Form 941-X, line 26, column 1	3k 15,000

Caution:
 Only complete lines 3c and 3d for your second quarter 2020 Form 941-X.

2021 Employee Retention Credit P. 473

TCDTRA extended – after December 31, 2020 and before July 1, 2021

ARPA extended – July 1, 2021 through December 31, 2021



Eligible Employers

- 501(c)(1) and 501(a)
- College or University
- Government entity – principal purpose or function is medical or hospital care

2021 Employee Retention Credit

P. 473

- Decline in Gross Receipts Test
- 80% threshold
- Employer qualifies if gross receipts for calendar quarter in 2021 are less than 80% of gross receipts (>20% decline) for same calendar quarter in 2019.
- **Alternate calculation** also available

Practitioner Note

P. 473

Infrastructure Investment & Jobs Act

Passed on 11/06/2021

Division H, Title VI, Sec. 80604, pg. 2423

Terminates Sept. 30, 2021

Recovery Start Up Business

- Terminates Dec. 31, 2021

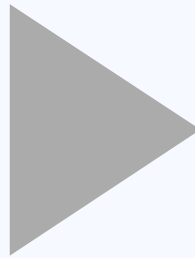
2021 Credit Calculation

P. 474

- ERC credit is increased from 50% to 70% of qualified wages.
- Limit remains \$10,000, but is for each quarter, not across quarters.
- **Qualified Wages**
- Large employers expanded to > 500 (instead of >100).
- ~~Eligible employer can claim up to \$28,000 credit per employee in 2021.~~
- **Eligible employer can claim up to \$21,000 credit per employee in 2021 (\$10,000 x 70% x 3 quarters)**

POLLING QUESTION #4

Qualified
wages for ERC
ALWAYS
include related
party wages.



True or False

2021 Credit Calculation P. 474

Severely Financially Distressed



In Q3 and Q4, large employers whose revenue is less than 10% of revenue for comparable 2019 quarter may count all wages, whether employees worked or not.



Recovery Startups - \$50,000 limit per quarter

Not qualified wages

P. 475

- Qualified wages for the ERC don't include wages taken into account for credits under I.R.C. §§ 41, 45A, 45P, 45S, 51, 1396, 3131, and 3132.
- Qualified wages also don't include wages that were used as payroll costs in connection with a Shuttered Venue Operator Grant or a restaurant revitalization grant.
- No PPP loan forgiveness and a credit for the same wages.

EX. 12.15
CALCULATING
2021 CREDIT
PP. 475-476

In 2021, SCC had significant decline in gross receipts for Q2, Q3, and ~~Q4~~.

Figure 12.6 payroll and credit calculation

SCC is eligible for a \$46,200 credit (compared to \$15,250 in 2020).

EX. 12.15
CALCULATING
2021 CREDIT
 PP. 475-476

FIGURE 12.8
SCC's 2021 Payroll and ERC Calculation

	Q1 Payroll	Q1 ERC	Q2 Payroll	Q2 ERC	Q3 Payroll	Q3 ERC
Employee 1	\$2,500 wages, \$500 health care benefits	\$2,100 ERC (\$3,000 qualified wages x 70%)	\$2,500 wages, \$500 health care benefits	\$2,100 ERC (\$3,000 qualified wages x 70%)	\$2,500 wages, \$500 health care benefits	\$2,100 ERC (\$3,000 qualified wages x 70%)
Employee 2	\$8,000 wages, \$500 health care benefits	\$5,950 ERC (\$8,500 qualified wages x 70%)	\$8,000 wages, \$500 health care benefits	\$5,950 ERC (\$8,500 qualified wages x 70%)	\$8,000 wages, \$500 health care benefits	\$5,950 ERC (\$8,500 qualified wages x 70%)
Employee 3	\$10,000 wages, \$500 health care benefits	\$7,000 ERC (\$10,000 qualified wages x 70%)	\$10,000 wages, \$500 health care benefits	\$7,000 ERC (\$10,000 qualified wages x 70%)	\$10,000 wages, \$500 health care benefits	\$7,000 ERC (\$10,000 qualified wages x 70%)
Employee 4	No wages, \$500 health care benefits	\$350 ERC (\$500 qualified wages x 70%)	No wages, \$500 health care benefits	\$350 ERC (\$500 qualified wages x 70%)	No wages, \$500 health care benefits	\$350 ERC (\$500 qualified wages x 70%)
Totals	\$22,500	\$15,400 ERC	\$22,500	\$15,400 ERC	\$22,500	\$15,400 ERC

Claiming the Credit P. 476

The ERC is a refundable credit against certain payroll taxes. For wages paid ***before July 1, 2021***, the nonrefundable portion of the ERC was against the employer share of social security tax (6.9%).

However, for **wages paid after June 30, 2021**, the nonrefundable portion of the ERC is against the employer share of Medicare tax (1.45%).

Reduce employment tax deposits

Advance credit – file Form 7200

2021 ERC – Extended Audit Period P. 477

- ARPA includes a new **5-year statute of limitations** for IRS to audit and assess a deficiency for claiming the ERC in quarters **three and four** of 2021.
- Prior quarters are subject to the standard 3-year audit rule.

COMPARING THE PROVISIONS PP. 477-478

FIGURE 12.9
Comparison of ERC Provisions

	2020	2021 Q1 and Q2	2021 Q3 and Q4
Time Period for Wages	March 13, 2020–December 31, 2020	January 1, 2021–June 30, 2021	July 1, 2021–December 31, 2021
Amount of Credit	50% of qualified wages (including allocable health plan expenses) Limited to \$10,000 in qualified wages per employee for all quarters, so maximum ERC is \$5,000 (\$10,000 × 50%) per employee for the year	70% of qualified wages (including allocable health plan expenses) Limited to \$10,000 in qualified wages per employee per quarter, so maximum ERC is \$28,000 (\$10,000 × 4 quarters × 70%) per employee for the year	
Decline In Gross Receipts Test	Employers whose operations were fully or partially suspended or had a reduction in gross receipts of more than 50% for quarter as compared to 2019 (employer will lose eligibility the quarter after first quarter where gross receipts exceed 80% of 2019 gross receipts)	Employers whose operations were fully or partially suspended or had a reduction in gross receipts of more than 20% for quarter as compared to 2019 May use prior quarter and compare to equivalent 2019 quarter to establish eligibility	

COMPARING THE PROVISIONS PP. 477-478

FIGURE 12.9 (continued)
Comparison of ERC Provisions

	2020	2021 Q1 and Q2	2021 Q3 and Q4
Employees Not Providing Service	Employers with 100 or fewer full-time employees in 2019 can claim ERC for all qualified wages Employers with more than 100 full-time employees may claim ERC only for employees that are not performing services	Employers with 500 or fewer full-time employees in 2019 can claim ERC for all qualified wages Employers with more than 500 full-time employees may claim ERC only for employees that are not performing services	Same as quarters one and two, 2020, but large severely financially distressed employers (gross receipts less than 10% percent of gross receipts for same quarter in 2019) can claim ERC for employees, regardless of whether they are performing services
Recovery Startup Business	N/A	N/A	After February 15, 2020, may claim up to \$50,000 credit per quarter, even if it was not subject to shutdown or did not have a significant decline in gross receipts
Interaction with Other Provisions	An employee will not be included for the ERC for any period that an employer is allowed a work opportunity credit under I.R.C. § 51 for that employee Qualified wages exclude wages taken into account for FFCRA credits, and other FMLA credit under I.R.C. § 455 Employers can receive both a PPP loan and the ERC, however, employers cannot receive both loan forgiveness and a credit for the same wages.	Qualified wages exclude wages taken into account for credits under I.R.C. §§ 41, 45A, 45P, 45S, 51, 1396, and FFCRA Qualified wages exclude amounts used as payroll costs necessary for PPP loan forgiveness	Qualified wages exclude wages taken into account for credits under I.R.C. §§ 41, 45A, 45P, 45S, 51, 1396, 3131, and 3132 Qualified wages exclude amounts used as payroll costs necessary for PPP loan forgiveness Qualified wages exclude wages used for payroll costs for shuttered operator grants and restaurant revitalization grants
Nonrefundable Portion	For wages paid before July 1, 2021, the nonrefundable portion of the employee retention credit is against the employer's share of social security tax		For wages paid after June 30, 2021, the nonrefundable portion of the employee retention credit is against the employer's share of Medicare tax
Advance Credit	Form 7200 advance credit available to all eligible employers	Form 7200 advance credit in an amount up to 70% of 2019 average quarterly wages, available only to employers with 500 or fewer full-time employees	
Government Employers	No government employers	Public colleges, universities, and organizations whose primary purpose is to provide medical or hospital care	
Statutory Enforcement Period	3 years	3 years	5 years

**Issue 4: SICK LEAVE AND
FAMILY
LEAVE CREDITS**

Sick and Family Leave Credits

P. 479

- From April 1, 2020, through December 31, 2020, the FFCRA provided for paid coronavirus-related leave through:
- the Emergency Paid Sick Leave Act (EPSLA), which entitled workers to up to 80 hours of paid sick time when they were unable to work for certain reasons related to COVID-19, and
- the Emergency Family and Medical Leave Expansion Act (Expanded FMLA), which entitled workers to certain paid family and medical leave.

Sick and Family Leave Credits

P. 479

- COVIDTRA extended through March 31, 2021.
 - No longer mandatory
- Through March 31, 2021, credits claimed in 2020 reduced the credits available in the first quarter of 2021.
- ARPA extended the credits through September 30, 2021 and expanded availability.

Sick and Family Leave Credits

PP. 479-480

➤ Eligible Employers

- Businesses and tax-exempt w/ fewer than 500. Not government.

➤ Wages

- Compensation
- No double benefit

Sick Leave Credits

PP. 480-481

- 80 hours/max \$511 per day if employee can't work b/c employee is ill
- 80 hours/max \$200 day or 2/3 regular pay if employee can't work b/c caring for someone else
- **Family Leave Credits**
 - \$200/day capped at \$10,000
- Ex. 12.16 two limits apply

Sick Leave Credits

PP. 480-481

➤ **Additions to the Credits**

- Medicare tax, health insurance coverage

➤ **Tax Treatment**

- Include in gross income

ARPA Expands -- Q2 and Q3 2021 Credits

P. 482

- **New category of sick leave beginning April 1**
- The time the employee is seeking or awaiting the results of a diagnostic test for a medical diagnosis of, COVID-19 (and the employee has been exposed to COVID-19 or the employee's employer has requested such test or diagnosis),
OR
- The employee is obtaining immunizations related to COVID-19 or recovering from an injury, disability, illness, or condition related to such immunization (or caring for someone else who meets this criteria).

Additional Amounts

P. 483

- Qualified sick and family leave wages taken by employees prior to April 1, 2021, were only subject to the employer's share of Medicare tax (and not the employer's share of social security tax); therefore, the employer was entitled to receive credits to offset only the Medicare tax for those periods.
- Under I.R.C. §§ 3132 and 3133, qualified family and sick leave wages are subject to the employer's share of social security tax and Medicare tax, but the **credit is increased by the employer's share of social security and Medicare taxes imposed** on the qualified family leave wages.

Tax Treatment

P. 484

- In the third and ~~fourth~~ quarter of 2021, eligible employers must include the **full amount of the credits received** for qualified leave wages in income.
- Qualified leave wages and health care expenses generally remain deductible.

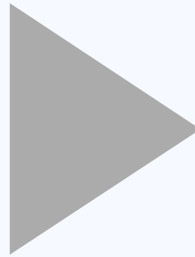
Sick and Family Leave Credits

PP. 484-487

- Interaction w/ other credits – no double benefit
- Extended limitation period – 5 years
- Documenting eligibility – keep records 6 years
- Self-Employed – comparable credits

POLLING QUESTION #5

There is no need to amend payroll returns, the Irs will correct them to include the credits.



True or False

Sick and Family Leave Credits

PP. 486-487

FIGURE 12.10
Comparison of Sick and Family Leave Credit Provisions

	2020 Q2, Q3, and Q4	2021 Q1	2021 Q2 and Q3
Time Period for Wages	April 1–December 31, 2020	January 1–March 31, 2021	April 1, 2021–September, 2021
Eligible Employers	Businesses and tax-exempt organizations with fewer than 500 employees No eligibility for federal, state, or local governments (Tribal governments are eligible.)		Businesses and tax-exempt organizations with fewer than 500 employees State and local governments are eligible, regardless of size
Leave Mandate	Employers are required to provide paid sick and family leave to eligible employees	Leave is optional, but credits are available to compensate eligible employers that provide it	
Sick Leave Reasons	(1) Employee subject to quarantine or isolation, (2) advised by health care professional to quarantine, (3) experiencing COVID-19 symptoms and seeking a diagnosis, (4) caring for an individual subject to quarantine or isolation order or advised to quarantine, or (5) caring for a child whose school or daycare was closed		All sick leave reasons for 2020 and 2021 Q1 and adds (1) seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19; (2) obtaining immunization related to COVID-19 or recovering from any injury, disability, illness, or condition related to the immunization; or (3) accompanying someone who is obtaining immunization related to COVID-19 or caring for someone who is recovering from any injury, disability, illness, or condition related to the immunization
Family Leave Reasons	Care for a child of the employee if the child's school or place of care has been closed or the childcare provider is unavailable for reasons related to COVID-19		All sick leave reasons for 2021 Q2 and Q3
Sick Leave Credit Limits	100% percent of qualified wages, which include 2 weeks or 80 hours, capped at \$511/day (\$5,110 in aggregate) for reasons related to employee's own health needs; two-thirds regular pay up to \$200 per day (\$2,000 in aggregate) to care for others		Resets available sick leave limits and provides up to 10 days per employee

Sick and Family Leave Credits

PP. 486-487

FIGURE 12.10 (continued)
Comparison of Sick and Family Leave Credit Provisions

	2020 Q2, Q3, and Q4	2021 Q1	2021 Q2 and Q3
Family Leave Credit Limits	100% of qualified wages, which include 10 weeks, two-thirds regular pay up to \$10,000 (\$200 per day)		Resets available family leave limits and provide up to 12 weeks per employee (\$12,000 limit)
Additions to the Credits	Employer's share of Medicare tax imposed on wages and cost of health insurance coverage allocable to qualified wages (employers not subject to employer's share of social security tax on qualified wages)		Allocable health insurance coverage, collective bargaining contributions (subject to wage limit), employer's share of social security and Medicare (employer subject to Medicare and social security tax on qualified wages)
Interaction with Other Provisions	May not take into account same wages for FMLA credit under I.R.C. § 455 Employers can receive both a PPP loan and family and sick leave credits; wages are not eligible as payroll costs for PPP loan forgiveness		Qualified wages don't include wages taken into account for credits under I.R.C. §§ 45A, 45P, 45S, 51, 1396 Tax credit is reduced by amount of research credit under I.R.C. § 41 Cannot use wages used for payroll costs for PPP, shuttered operator grants, and restaurant revitalization grants For Q2, if receives ERC on same wages, employer must reduce credit by credit allowed under ERC. For Q3, qualified leave wages may not be taken into account for ERC
Taxation of Credit	Credits included in employer's gross income; expenses deductible		
Advance Credit	Form 7200 advance credit available to all eligible employers		
Statutory Enforcement Period	3 years	3 years	5 years
Self-Employed	May claim up to 10 days of sick leave and 50 days of family leave, applying average daily self-employment income	May claim a family leave credit for a maximum of 60 days, and a sick leave credit of 10 days in 2021 May only claim credit for vaccine and vaccine-related conditions during the second and third quarters	

Issue 5: COBRA PREMIUM ASSISTANCE CREDITS

COBRA Premium Assistance Credit PP. 488-489

- ARPA premium assistance and corresponding tax credit
- 100% reduction in premium
- Loss of coverage b/c reduced hours or involuntary termination
- April 1 through September 30, 2021
- Refundable payroll credit
- Reduce employment tax deposits, request an advance
- Included in gross income of recipient

Questions?

