

DOES THE EMPLOYEE RETENTION CREDIT APPLY TO YOUR AEC FIRM

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Many in the architecture, engineering and construction (AEC) industry have heard about the Employee Retention Credit (ERC), but the key question is: Does your company qualify? It is best to think about the ERC as two separate credits: 2021 ERC and 2020 ERC. The reason being each year’s credit has completely different rule sets.

Rules for the 2021 ERC Credit

The rules for 2021 are pretty straight forward. Is revenue for the 2021 quarter you are interested in 20% below the same quarter’s 2019 revenue? If it is, your company is eligible for that quarter. As an alternative, the rules allow you to qualify for the quarter you are interested in if the previous quarter’s revenue is 20% below that same quarter in 2019’s revenue. This is best highlighted by the following example:

Year	1st Quarter Revenue	2nd Quarter Revenue	3rd Quarter Revenue	4th Quarter Revenue
2019	\$1,000,000	\$2,000,000	\$2,000,000	\$1,000,000
2020	\$1,500,000	\$975,000	\$1,200,000	\$750,000
2021	\$850,000	\$1,300,000	\$2,100,000	\$1,400,000

For 2021, Quarter 1 qualifies because Quarter 4 of 2020 is 25% below Quarter 4 of 2019. Quarter 2 qualifies because Quarter 2’s revenue is 35% below Quarter 2 of 2019. Quarter 3 qualifies because of Quarter 2’s drop. Quarter 4 of 2021 does not qualify because Quarter 4 & Quarter 3 do not have a revenue drop.

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If your company's average monthly count of full-time employees in 2019 is less than 500, you can qualify for a quarterly credit of 70% of wages up to a max quarterly credit of \$7,000 per employee. The 2021 credit is much more difficult for companies with over 500 employees in 2019. For these larger companies, eligible wages are only those paid to employees who are not providing services to the company. We expect, for 2021, this credit is mostly geared to companies with less than 500 employees. If in the example above the company has less than 500 employees, it will qualify for up to \$21,000 per employee (\$7,000/qtr. x 3 Eligible Qtrs.).

Rules for 2020 Credit

For 2020, the credit has an annual cap of 50% of wages up to \$10,000 of annual wages. Instead of 20%, the first way to qualify requires a 50% revenue drop as compared to the equivalent 2019 quarter's revenue. This time as an alternative, a company can also qualify during a time when the company is fully or partially shut down due to a government order that affects the company or one of its suppliers. Government orders that affect customer demand are not eligible. For a partial shutdown to be of significance it must at least reduce revenue by 10% during the time of the government order. The employee cutoff in 2020 is 100 monthly average 2019 full-time employees. If your company has less than 100 full-time employees, the company can get up to 50% of wages up to a \$5,000 annual credit per employee. This is available only for the wages during the quarter the company was down 50% in revenue or during the time period when the company was shut down or partially shut down due to a government order. For companies with more than 100 full-time employees, the credit is only for wages paid to employees not providing any services to the company (definitely a more difficult hurdle).

In the prior example, you can see that Quarter 2 of 2020 was more than a 50% drop as compared to Quarter 2 of 2019 and therefore the company is eligible for Quarter 2 of 2020.

In the AEC industry the most common government order is the shutdown of non-essential construction projects. Many states issued this type of order that directly affected the contractors and additionally affected Architects and Engineers involved in those projects during the Construction Administrative phase. In addition, government orders that closed permitting, zoning and government engineering offices also may have affected the industry. One unusual example of an essential construction project involved steel supply issues caused by government orders related to the Canadian border.

As you can see the rules are quite complex and we recommend consulting an expert when trying to navigate this tax credit. Besides running the calculation and filing the appropriate forms, the ERC can have negative interactions with the R&D Tax Credit and PPP, and an expert can help minimize those interactions to maximize your company's overall benefits.

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