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IRS re-issues Form 941 to address employee retention credit

The IRS has re-issued Form 941, “Employer’s Quarterly Federal Tax Return” for 2020 and the related instructions—each with a note providing guidance for employers claiming the newly enacted employee retention credit that allows a tax credit to certain employers operating a business during 2020 that is negatively affected by COVID-19.

Read [Form 941](#) [PDF 371 KB] *Employer’s Quarterly Federal Tax Return*

Form 941 – added clarification

The note added and attached to Form 941 and its instructions clarifies that, to claim the employee retention credit, employers that paid qualified wages during the period from March 13, 2020, through March 31, 2020, are to include 50% of those wages together with 50% of any qualified wages paid during the second quarter of 2020 on the employer’s **second quarter Form 941**, Form 941-SS or Form 941-PR.* The release explicitly states that employers are **not** to include the credit on the first quarter Form 941, Form 941-SS or Form 941-PR.

*Form 941-SS is used to report social security and Medicare taxes for workers in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. Form 941-PR is used by employers in Puerto Rico to report income taxes, social security tax, or Medicare tax withheld from employees’ paychecks and to pay the employer’s portion of social security or Medicare tax.

CARES Act – Employee retention credit

The employee retention credit was established as part of the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) (Pub. L. No. 116-136) signed into law by the president on March 27, 2020.

The employee retention credit allows a refundable tax credit equal to 50% of qualified wages (including qualified health plan expenses) paid to employees by an eligible employer. The maximum amount of qualified wages that may be taken into account with respect to each employee is \$10,000 (i.e., the maximum credit is \$5,000 per employee). The credit is allowed against the employer portion of social security taxes and corresponding taxes imposed on railroad employers.

- **Eligible employers:** The credit is generally available to employers that carry on a trade or business during calendar year 2020 that either: (1) is fully or partially suspended due to orders from a governmental authority limiting commerce, travel, or group meetings due to COVID-19; or (2) has a significant decline in gross receipts (i.e., gross receipts for a calendar quarter are less than 50% of gross receipts for the same quarter in the prior year).
- **Qualified wages:** For employers that averaged more than 100 full-time employees in 2019, qualified wages includes wages paid to employees for time that they are not providing services due to one of the two reasons described above—full or partial suspension, or significant decline in gross receipts. For eligible employers with an average of 100 or fewer full-time employees in 2019, qualified wages includes wages paid to any employee during one of these periods.
- **Effective dates:** The credit applies with respect to qualified wages paid from March 13, 2020, through December 31, 2020.

KPMG observation

Additional considerations and limitations on the ability to claim the employee retention credit may apply. Employers that may be eligible to claim the employee retention credit need to consider the criteria for eligibility and measuring qualified wages, as well as how to properly report and claim the credit.

Additional information about the employee retention credit, including limitations on eligibility, is discussed in more detail in a KPMG report: [Employer-related liquidity—tax credits, deferrals, and efficiencies \(COVID-19\)](#) [PDF 948 KB] (April 3, 2020).

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