



Employee Retention Credit Eligibility Checklist: Help with avoiding or resolving an incorrect claim

You can use this question-and-answer tool to see if you might be eligible for the [Employee Retention Credit](#). Resolving an incorrect claim may help you avoid having to repay an incorrect credit, possibly with penalties and interest.

The IRS continues to warn employers about unscrupulous ERC promoters who oversimplify and misrepresent eligibility rules and lure ineligible taxpayers to claim the credit.

The IRS is committed to helping taxpayers who are eligible, while preventing incorrect ERC claims.

Part A: Checking your eligibility

Answer these questions in numerical order to see if you may be eligible for the ERC.

Employee Retention Credit

The ERC is a pandemic-era tax credit for employers that kept paying employees during the COVID-19 pandemic either:

- when they were shut down due to a government order, **or**
- when they had the required decline in gross receipts during certain eligibility periods in 2020 and 2021, **or**
- qualified as a recovery startup business for the third or fourth quarters of 2021.

Eligibility questions	Next steps
1. Did you 1) operate a trade, business or tax-exempt organization and 2) have employees and pay wages to them between March 13, 2020, and Dec. 31, 2021? For more info, see IRS.gov/ercqualified. Note – Household employers are not eligible for ERC.	• If yes, go to #2. • If no, you aren't eligible to claim the ERC. If you incorrectly claimed ERC, see Part C.
2. Did your trade or business experience the required decline in gross receipts during the eligibility periods in 2020 or the first three calendar quarters (Jan. through Sept.) of 2021? For more info and examples, see IRS.gov/ercdecline	• If yes, you may be eligible for the ERC. You will need to confirm that your decline in receipts meets requirements. See IRS.gov/ercdecline. If you meet the requirements, skip to Part B. • If no, go to #3.
3. Are you claiming the ERC because of supply chain issues? For more info, see IRS.gov/ercsupply and the IRS legal memo on supply chain disruptions (AM-2023-005), which includes examples.	• If yes, be extremely cautious. A supply chain disruption by itself doesn't qualify you for the ERC. Carefully review IRS.gov/ercsupply and examples in the legal memo on supply chain disruptions (AM-2023-005). Be sure your supplier's government order meets the criteria in #4; then go to Part B. If you incorrectly claimed ERC, go to Part C. • If no, see #4.



4. Was the operation of your business or organization fully or partially suspended by a government order due to the COVID-19 pandemic during 2020 or the first three calendar quarters (Jan. through Sept.) of 2021? • The order must be a government order, not guidance, a recommendation or a statement. • The government order must be due to the COVID-19 pandemic and must have fully or partially suspended your operations. • You can only claim ERC for periods the order was in effect and your operations were suspended. For more info, see IRS.gov/ercqualifying	• If yes, you may be eligible for the ERC. For more information and examples of government orders and full or partial suspension see IRS.gov/ercqualifying. Make sure you have documentation of the government order related to COVID-19, how and when it suspended your operations, and the qualified wages you paid. The IRS will consider your operations to be partially suspended if you can show that more than a nominal portion of your business was suspended by a government order. You can only use wages paid during the period the government order was in effect when calculating your credit. Go to Part B. • If no, go to #5.
5. Were you a recovery startup business (RSB)? This means you: • Began carrying on a trade or business after Feb. 15, 2020, • Had \$1 million or less in average annual gross receipts for the prior 3 tax years, and • Didn't qualify for ERC under the gross receipts test (#2) or suspension test (#4)? For more info, see IRS.gov/ercrecover	• If yes, you may be eligible for the ERC. See IRS.gov/ercrecover. RSBs are limited to a maximum of \$50,000 in ERC per quarter and can claim ERC only for the third and fourth quarters of 2021. If you meet all the requirements, skip to Part B. • If no, you are not eligible to claim the ERC. If you incorrectly claimed ERC, go to Part C.

Part B: Claiming the ERC if you're eligible

If the previous questions directed you to Part B, you may qualify for the ERC based on the information you provided. Be sure you have thorough records that show wages paid, gross receipts, government orders and other required documents. If you need help, you should work with a [trusted tax professional](#).

Your claim may not be processed right away but will be dated and held until the IRS processes new ERC claims. The IRS announced a [moratorium](#) on processing new claims on Sept. 14, 2023. Check [IRS.gov/erc](https://www.irs.gov/erc) for updates and other information such as frequently asked questions, examples, guidance, warning signs of scams and more.

Part C: Resolving an incorrect ERC claim

If you incorrectly claimed the Employee Retention Credit, you can use the **ERC claim withdrawal process** outlined at [IRS.gov/withdrawmyerc](https://www.irs.gov/withdrawmyerc) if you haven't received the credit or haven't cashed or deposited an ERC check.

Requesting a withdrawal means you're asking the IRS **not** to process your entire adjusted return that included your ERC claim. If the IRS accepts your request, the claim will be treated as if it was never filed.

If you incorrectly received the ERC before December 21, 2023, and you cashed or deposited the check or you received it as a credit applied to a tax period, you can apply for the **ERC Voluntary Disclosure Program**. This program allows participants to repay only 80% of the ERC they received as a credit on their return or as a refund. Details are at [IRS.gov/ercvdp](https://www.irs.gov/ercvdp).

If you're not able to use the withdrawal process or the ERC Voluntary Disclosure Program, you can still file another adjusted return if you need to [reduce the amount of your ERC claim](#) or [make other changes to your adjusted return](#).