



ERC ELIGIBILITY SIMPLIFIED

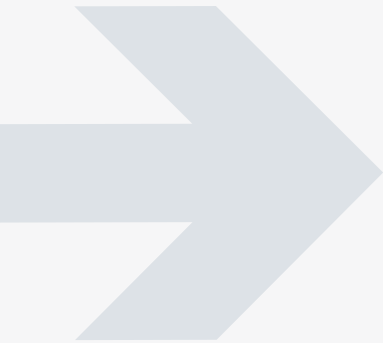
BASED ON [IRS.GOV/ERC](https://www.irs.gov/erc)

Introduction

ERC ELIGIBILITY SIMPLIFIED

On September 14, 2023, the IRS published the ERC Eligibility Checklist and an FAQ section to make it easier for taxpayers to determine their eligibility for ERC.

This document, ERC Eligibility Simplified, combines these two tools to help employers more quickly and accurately assess if they are a good candidate for ERC.



IMPORTANT

While this document can be a very helpful guide, ERC is still a complex tax credit that includes hundreds of pages of legislation and IRS guidance. A more formal determination of eligibility requires a detailed review of what the IRS calls your 'facts and circumstances'.

NOTE

The text in white boxes is copied directly from IRS.gov/erc pages. The remaining text is helpful guidance written by OneBridge Advisors.

ERC Eligibility Checklist

Question 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](https://www.irs.gov/ercqualified). Note – Household employers are not eligible for ERC.

Yes

No

IMPORTANT

Wages paid to an individual or a married couple who own 51% or more of the business are excluded. Similarly, wages paid to family members of these same people do not qualify. Finally, ministers who claim the housing allowance and those paid on a 1099 do not count as eligible employees because they pay self-employment taxes.

- » If you can answer YES, go to question 2.
- » If you can answer YES, but your organization started after February 15, 2020, you may be eligible, but stop here.

IRS **ERC Eligibility Checklist**

Question 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](https://www.irs.gov/ercdecline)

Yes

No

- » If your organization had fewer than 100 full time employees in 2019, you can qualify for ERC in any calendar quarter from Q2 of 2020 to Q3 of 2021 if you had a significant decline in gross revenue of either 50% in 2020 or 20% in 2021, relative to the corresponding quarter in 2019. This same 20% qualifier for 2021 can also be compared to any previous quarter.
- » If your organization had 100 or more full time employees in 2019, the only quarters available to you are Q1 to Q3 of 2021.
- » Regardless of your answer, go to question 3.

IRS **ERC Eligibility Checklist**

Question 3

Are you claiming the ERC because of supply chain issues?

For more info, see [IRS.gov/ercsupply](https://www.irs.gov/ercsupply) and the IRS legal memo on [supply chain disruptions \(AM-2023-005\)](#), which includes examples.

Yes

No

While ERC allows you to qualify due to supply chain, generally speaking, if the following is true:

1. The supplier's delay was caused by a Covid-related government order.
 2. The item was not available from another supplier.
 3. The supply chain issue created a 'nominal effect'.
- » Even if you think the answer is YES, the specifics will need to be reviewed by a qualified tax professional. **Regardless of your answer, go to question 4.**

IRS **ERC Eligibility Checklist**

Question 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](https://www.irs.gov/ercqualifying)

» To determine if you were “partially suspended”, see the FAQ section under Qualifying government orders on the next page.

FREQUENTLY ASKED QUESTIONS

ABOUT THE EMPLOYEE RETENTION CREDIT

Qualifying government orders

Q5 What does “more than nominal” mean when considering whether my business or organization was partially suspended? (added September 14, 2023)

A5. IRS will consider you to be partially suspended if more than a nominal part of your business was suspended by a governmental order.

The IRS considers "more than nominal" to be at least 10% of your business based on either the gross receipts from that part of the business or the total hours your employees spent working in that part of the business.

If all parts of your business could operate but you had to modify how it operated, then we will consider you to be partially suspended if you can show that the order had more than a nominal effect on your business. We consider "more than a nominal effect" to be at least a 10% reduction in your ability to provide goods or services in the normal course of your business.

If you changed business practices to alter behavior, such as making store aisles one-way or requiring customers or employees to wear masks, we won't consider that change to have had a more than a nominal effect on your business operations.

For more details and examples, see [Notice 2021-20](#), Section III.D, Questions 11, 17 and 18.

- » If you believe your organization may have been 'partially suspended', continue to next page. If not, stop here.

IRS **ERC Eligibility Checklist**

Maybe Eligible

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](https://www.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](#).

- » The above text is what the IRS shows to those who answer YES to being fully or partially suspended. Go to next page.

Summary

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Qualifying for ERC is based on either a full or partial suspension due to Covid-related government orders, or a significant decline in gross revenue. If 10% or more of your business or organization was effected by an order that ‘reduced your ability’ to operate in a ‘comparable manner’, you are considered ‘partially suspended.’ It’s also possible to qualify if you were nominally effected by a supplier who was partially or fully suspended.

Examples of government orders are: capacity restrictions, social distancing, extensive cleaning, stay at home orders, travel restrictions, required to follow OSHA guidelines, etc.

If you believe your organization may qualify for at least one calendar quarter, the next best step is a free consultation call with OneBridge Advisors. This call is a preliminary review of your situation that determines if a more thorough evaluation is warranted. If so, OneBridge Advisors will recommend a highly qualified firm that has the experience and expertise for your type and size of business or organization.



You can take this step by completing a form at www.onebridgeadvisors.com, or send an email to info@onebridgeadvisors.com.

**WHEN YOU KNOW BETTER,
YOU DO BETTER.**

THANK YOU



As CEO and Senior Consultant at OneBridge Advisors, I want to say thank you to so many qualified tax professionals and firms who have guided us and our clients along this ERC journey.

These people have been working exclusively and tirelessly on the employee retention credit since its expansion in 2021. They are true professionals, dedicated to the highest standards of excellence in compliance, accuracy, documentation, and client service.

Justin Jorns, *CPA Jorns & Associates*

Tony Swantek, *COO Jorns & Associates*

David Hahn, *Lead Tax Attorney Jorns & Associates*

Matt McClintock, *Tax Attorney Jorns & Associates*

Andrew King, *CEO Hundredfold Consulting*

Daniel Mayo, *Lead ERC Tax Attorney at Withum*

Matt Kelley, *Lead ERC Tax Attorney Experian Employer Services*

Brandon Edwards, *CSO Experian Employer Services*

Max Shenker, *VP Experian Employer Services*

Thank you.
Dean Francis

