



# TaxNewsFlash

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## Notice 2021-23: Employee retention credit, for first two quarters of 2021

The IRS today released an advance version of Notice 2021-23 concerning the employee retention credit claimed by employers for the first and second calendar quarters of 2021.

### Background

Today's notice expands on guidance previously provided in Notice 2021-20, which addressed the employee retention credit claimed for the 2020 calendar year. In general, Notice 2021-20 formalized much of the information in a set of previously issued "frequently asked questions" (FAQs) available on the IRS website, and also further clarified these FAQs by constructing a safe harbor approach while also addressing recent retroactive legislative changes regarding interaction with employers that received a Paycheck Protection Program (PPP) loan. Read a [KPMG report](#) [PDF 260 KB]

### Notice 2021-23

[Notice 2021-23](#) [PDF 146 KB] reflects guidance for employers claiming the employee retention credit under the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) as modified by the *Taxpayer Certainty and Disaster Tax Relief Act of 2020* (Relief Act) for the first two calendar quarters of 2021. A related IRS release—[IR-2021-74](#) (April 2, 2021)—explains that Notice 2021-23 reflects:

- An increase in the maximum credit amount
- Expansion of the category of employers that may be eligible to claim the credit
- Modifications to the gross receipts test
- Revisions to the definition of qualified wages
- New restrictions on the ability of eligible employers to request an advance payment of the credit

As a result of the changes made by the Relief Act, for the first two quarters of 2021:

- Eligible employers can now claim a refundable tax credit against the employer share of social security tax equal to 70% of the qualified wages they pay to employees after December 31, 2020, through June 30, 2021.

- Qualified wages are limited to \$10,000 per employee per calendar quarter in 2021.
- The maximum employee retention credit available is \$7,000 per employee per calendar quarter, for a total of \$14,000 for the first two calendar quarters of 2021.

The IRS explained that employers can access the employee retention credit for the first and second calendar quarters of 2021 prior to filing their employment tax returns by reducing employment tax deposits. Employers with an average of 500 or fewer full-time employees in 2019 ("small employers") may request advance payment of the credit after reducing deposits. In 2021, advances are not available for larger employers. Notice 2021-23 provides details about how to calculate and claim the employee retention credit for the first two calendar quarters of 2021.

The IRS release concludes that the *American Rescue Plan Act of 2021* (enacted March 11, 2021) made the employee retention credit available to eligible employers for wages paid during the third and fourth quarters of 2021. The IRS stated it will provide further guidance about the employee retention credit that is available for these calendar quarters under the recently enacted legislation.

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