

PPP TOOLBOX

NAVIGATING THE INTERACTIONS 2

PPP Loan Forgiveness and the Employee Retention Tax Credits

August 2021

Confused about whether you can receive full PPP Loan Forgiveness and claim Employee Retention Tax Credits while avoiding double dipping? Don't worry - you're in good company - this is one of the top questions we have been hearing from nonprofit organizations. This guidance is a supplement to our earlier work on restricted funding within the PPP context: [Navigating the Interaction Between PPP and Restricted Funding](#). We encourage you to read through that if you need a general refresher on how to think about double dipping and PPP loans.

Can an organization receive both a PPP Loan and Employee Retention Tax Credits?

Yes, an organization can receive both, if they meet the separate eligibility requirements for each. This has not always been the case. The March 2020 CARES Act established both the Paycheck Protection Program and the Employee Retention Tax Credit (ERTC). The legislation originally mandated that organizations could only receive one or the other, not both. This restriction was ultimately reversed by the December 2020 Economic Aid Act allowing organizations to receive both PPP and ERTC.

If an organization has a PPP Loan, can they claim the ERTC during the PPP Covered Period?

The ERTC partially reimburses **qualified wages** which refers to compensation and allocated health care expenses. It is possible for an organization to use qualified wages to claim the ERTC during the PPP Covered Period **only if** these qualified wages are not being used towards PPP Forgiveness, nor being reimbursed by any other funding sources. For example, employee wages earned in excess of the \$100,000 annualized compensation cap (prorated to \$15,385 for 8 weeks and \$46,154 for 24 weeks) could be used towards the ERTC if not reimbursed by other funding sources.

Can cash compensation listed on the PPP Forgiveness Application be applied to the ERTC?

It depends. In [Notice 2021:20](#), the IRS provides some guidance on how the inclusion of specific expenses on the Forgiveness Application impacts the availability of qualified wages for ERTC. The chart on the next page draws largely upon this IRS guidance to illustrate different examples of what expenses might be listed associated with a \$200,000 PPP Loan. As you can see, applications which include nonpayroll expenses as well as non-qualified wage payroll expenses result in the availability of more qualified wages with which to claim the ERTC. As a reminder, qualified wages in this context refers to both cash compensation as well as allocable health care expenses.

How should organizations approach PPP Forgiveness if they are considering claiming the ERTC?

Our recommendation is to conserve wages eligible for ERTC by including as many nonpayroll expenses as possible (capped at 40% of the total loan amount) and to include the payroll expenses that are not considered qualified wages for ERTC: employer retirement contribution, life insurance, disability insurance, and state and local payroll taxes. This approach maximizes the amount of qualified wages available to claim the ERTC, if you choose to at a later date. Examples #5 and #6 on the chart illustrate this approach.

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Examples are based on IRS [Notice 2021:20](#) (starting on page 71). The only change we've made is in Example 1 in which we've listed a loan amount of \$200,000 rather than \$100,000 to make the comparison process easier.

#	Loan Amount	Covered Period Expenses Listed on Forgiveness Application	Qualified Wages Available for ERTC
1	\$200,000	Qualified wages: \$200,000	None. All \$200,000 of the listed expenses are being used to obtain forgiveness and thus, there are not excess wages on the application.
2	\$200,000	Qualified wages: \$250,000	\$50,000. \$200,000 of the \$250,000 listed expenses are being used to obtain forgiveness. The excess \$50,000 in expenses has not been reimbursed and can be used towards the ERTC.
3	\$200,000	Qualified wages: \$200,000 Had \$70,000 of nonpayroll expenses but these were not listed on the Forgiveness Application.	None. The additional expenses were not listed on the Forgiveness Application. All \$200,000 of the listed payroll costs are being used to obtain forgiveness.
4	\$200,000	Qualified wages: \$200,000 Nonpayroll expenses: \$70,000	\$70,000. \$70,000 of nonpayroll expenses and \$130,000 of qualified wages is being used to obtain forgiveness. This leaves a balance of \$70,000 of unreimbursed qualified wages which can be used towards the ERTC.
5	\$200,000	Qualified wages: \$200,000 Nonpayroll expenses: \$90,000	\$80,000. Remember that payroll expenses must be at least 60% of the total loan amount. This means that \$120,000 of qualified wages needs to be used for forgiveness along with \$80,000 of nonpayroll expenses. This leaves a balance of \$80,000 in unreimbursed qualified wages which can be used towards the ERTC. Only qualified wage expenses can be used towards the ERTC so the additional \$10,000 in nonpayroll expenses is not reimbursed by PPP or ERTC.
6	\$200,000	Qualified wages: \$150,000 Other payroll expenses (not qualified wages): \$100,000 Nonpayroll Expenses: \$70,000	\$120,000. The nonpayroll expenses and other payroll expenses total \$170,000. \$30,000 of cash compensation is being used to obtain forgiveness. This leaves a balance of \$120,000 in unreimbursed qualified wages which can be used towards the ERTC.