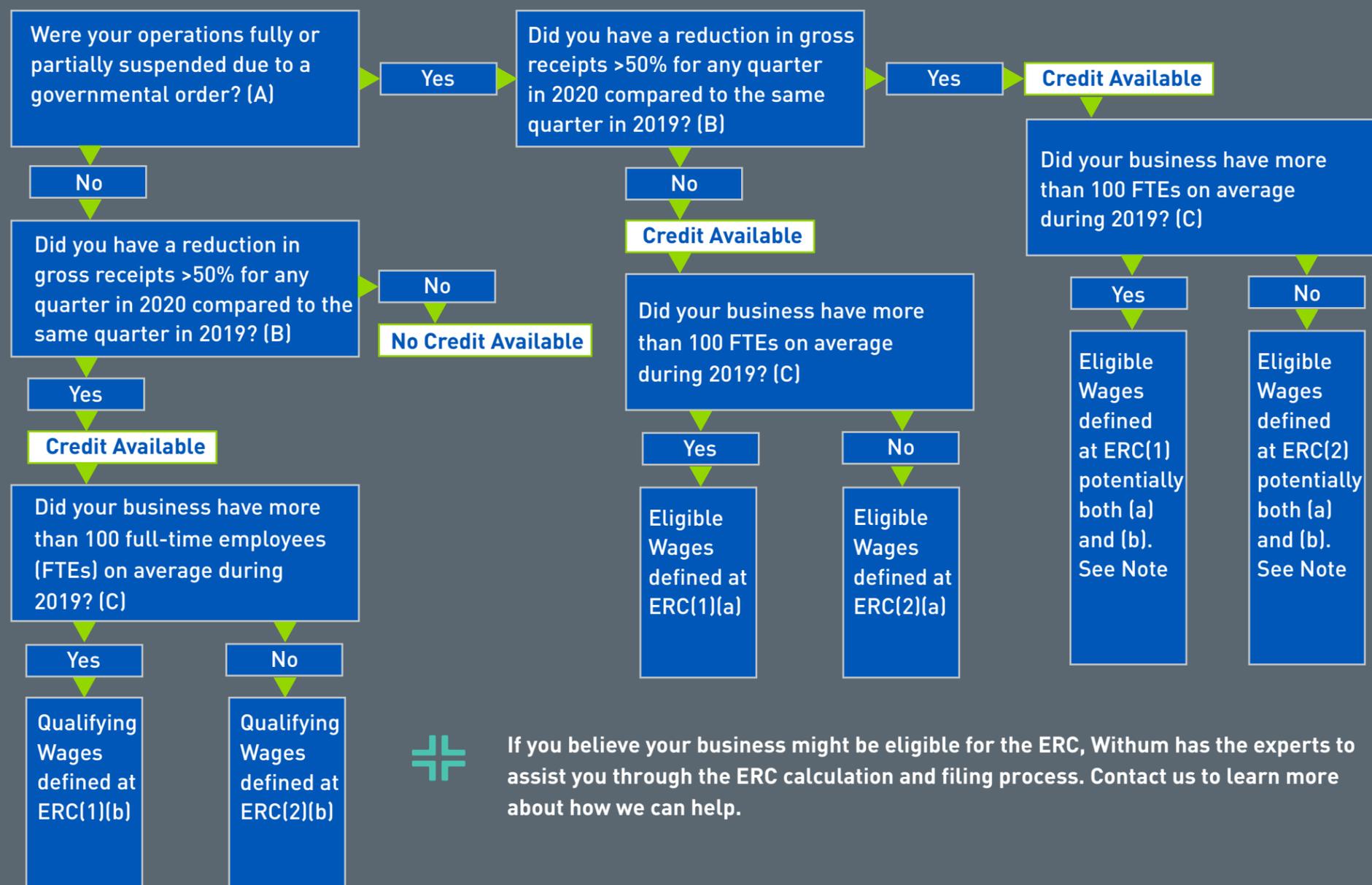


Employee Retention Credit – 2020 Eligibility Flowchart



KEY:

ERC (1): Qualifying Wages: Wages paid to employees to NOT TO PROVIDE SERVICES. Qualifying Wages are capped at \$10K per employee in total for the year. The credit is equal to 50% of total Qualifying Wages. (Max credit per employee \$5,000 for the year)

- (a) During time of government-mandated closure
- (b) During Qualifying Quarters identified in Footnote (B) below

Note: Wages cannot be counted twice in determining Qualifying Wages, so in order to include wages in (a) and (b), a business closure would have to occur outside of a Qualifying Quarter.

ERC (2): Qualifying Wages: ALL wages paid; REGARDLESS IF EMPLOYEES PROVIDED SERVICES. Qualifying Wages are capped at \$10K per employee in total for the year. The credit is equal to 50% of total Qualifying Wages. (Max credit per employee \$5,000 for the year)

- (a) During time of government-mandated closure
- (b) During Qualifying Quarters identified in Footnote (B) below

Note: Wages cannot be counted twice in determining Qualifying Wages, so in order to include wages in (a) and (b), a business closure would have to occur outside of a Qualifying Quarter.



If you believe your business might be eligible for the ERC, Withum has the experts to assist you through the ERC calculation and filing process. Contact us to learn more about how we can help.

FOOTNOTES:

(A) The IRS guidance surrounding whether a trade or business' operations were fully or partially suspended by qualifying governmental orders can be complex. The IRS has addressed this issue by way of their FAQs in [IRS Notice 2021-20](#). We recommend you discuss with your Withum advisor the applicability of this guidance to your business.

(B) Qualifying Quarter = the 2020 quarter when receipts dropped by at least 50% (when compared to the same quarter in 2019); and continuing for consecutive quarters, and including quarter when receipts improve to >80% of the same quarter in 2019. Stated another way: **1)** For each quarter in 2020, measure your gross receipts, and compare them to the same quarter in 2019. If 2020 receipts decline by more than 50% compared to the same quarter in 2019, wages in that quarter of 2020 will qualify. **2)** Continue by analyzing each successive quarter in 2020. All successive quarters will count until (and including) the quarter in which receipts improve to at least 80% of what they were for the same quarter in 2019. [See here for a link to the IRS FAQ re. significant decline in gross receipts.](#)

* Gross receipts, as clarified by the IRS in Notice 2021-20, has the same meaning as when used under section 448(c) of the IRC. Gross receipts includes total sales (net of returns and allowances) and all amounts received for services. It also includes any income from investments and from incidental and outside sources. Gross receipts specifically includes proceeds and/or forgiveness on PPP loans.

* What if you were not open for all of 2019? **1)** If you opened in Q2 2019: Compare Q1 and Q2 of 2020 to Q2 2019 (Q3 and Q4 as usual) **2)** If you opened in Q3 2019: Compare Q1, Q2 and Q3 2020 to Q3 2019 (Q4 as usual) **3)** If you opened in Q4 2019: Compare each quarter of 2020 to Q4 2019.

(C) For this purpose, the average number of FTEs is the total number of full-time employees (defined as those working more than 30 hours per week or 130 hours in a month). The average over 2019 takes the total number of FTE per month and divides by 12.

(D) Note all eligibility criteria for purposes of the ERC are based on the aggregated group of entities. Aggregation rules are complex and should be considered for any business that has a multiple entity structure, or whose primary owners are also involved in other businesses. We recommend you discuss with your Withum advisor the applicability of aggregation rules to your business.