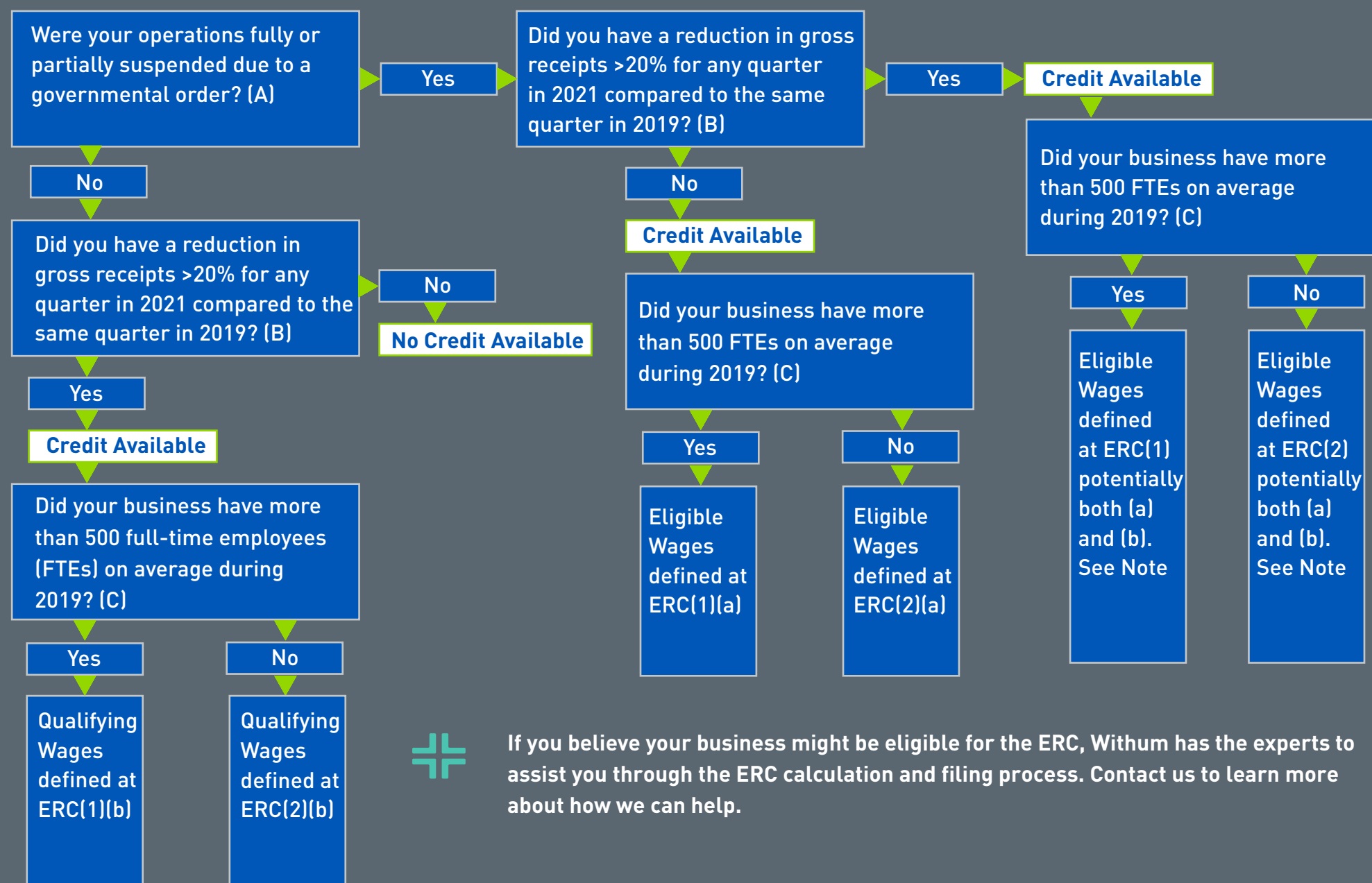



Employee Retention Credit – 2021 Eligibility Flowchart



 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.

KEY:

ERC (1): Qualifying Wages: Wages paid to employees to NOT TO PROVIDE SERVICES. Qualifying Wages are capped at \$10K per employee per quarter. The credit is equal to 70% of Qualifying wages per quarter. (Max credit per employee \$7,000 per quarter)

- (a) During time of full or partial suspension of business operations due to qualifying governmental orders
- (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 per quarter. The credit is equal to 70% of Qualifying wages per quarter. (Max credit per employee \$7,000 per quarter)

- (a) During time of full or partial suspension of business operations due to qualifying governmental orders
- (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.

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 advisor the applicability of this guidance to your business.

(B) Qualifying Quarter = 2021 quarter when gross receipts dropped by at least 20% (when compared to the same quarter in 2019); Each quarter should be evaluated separately against the same quarter in 2019. An alternative test for eligibility exists to utilize the immediate preceding calendar quarter to determine eligibility for a quarter. For example, if Q1 2021 suffered a greater than 20% reduction in gross receipts from Q1 2019, this quarter's results could be utilized to qualify a business for Q2 2021. Currently, the ERC is available to most businesses for Q1, Q2 and Q3 2021 (unless the business qualifies as a recovery-startup business)

*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 excludes proceeds and/or forgiveness on PPP loans.

* What if you were not open for all of 2019? If a business did not exist at the beginning of the same quarter of 2019, the same quarter in 2020 is substituted.

(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.