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Employee Retention Credit Extension

New Opportunities for Employers to Claim the Employee Retention Credit

The Employee Retention Credit ("ERC") was introduced as part of the Coronavirus Aid, Relief and Economic Security ("CARES") Act to incentivize employers to retain employees during the pandemic by offering a refundable tax credit against employment taxes. Recently, the ERC was expanded and extended as part of the Consolidated Appropriations Act, 2021 ("the Act") to include the following provisions:

- ✓ Employers previously ineligible to claim the ERC, because they received loans under the Paycheck Protection Program ("PPP"), can now claim retroactive and current ERC benefits.
- ✓ Companies, tax-exempt organizations, colleges and universities, and entities providing medical or hospital care are now entitled to ERC benefits in 2021 if they experience a decline of more than 20% in gross receipts as compared to their gross receipts for the same calendar quarter in 2019.



- ✓ The ERC rate was increased from 50% to 70% of qualified wages.
- ✓ The limitation on credit-eligible qualified wages was increased from \$10,000 per employee, per year to \$10,000 per employee, per quarter.
- ✓ The rules for employers with 100 or fewer employees were expanded to include employers with 500 or fewer employees.

Retain employees
during the pandemic



Comparison of ERC Rules

ERC	2020 RULES	2021 RULES
Credit Applicability	Qualified Wages: Paid after March 12, 2020 and on or before December 31, 2020	Qualified Wages: Paid after December 31, 2020 and on or before December 31, 2021
Credit Type	Refundable payroll tax credit to <i>eligible employers</i>	Refundable payroll tax credit to <i>eligible employers</i>
Credit Amount	50% of qualified wages	70% of qualified wages
Eligible Employer	<p>Government Mandate Test: Employers (including tax exempt orgs.) carrying on a trade or business during 2020 with respect to any calendar quarter where operations (including suppliers) are fully or partially suspended due to orders from an appropriate governmental authority limiting commerce, travel or group meetings due to COVID-19</p>	<p>Government Mandate Test: Employers (including tax exempt orgs.) carrying on a trade or business during 2021 with respect to Q1, Q2, Q3 and Q4 where operations (including suppliers) are fully or partially suspended due to orders from an appropriate governmental authority limiting commerce, travel or group meetings due to COVID-19</p>
	<p>Gross Receipts Test: Employers of any size carrying on a trade or business and tax exempt organizations that during a calendar quarter of 2020 had less than 50% of gross receipts in the same calendar quarter during the prior year</p> <ul style="list-style-type: none"> ✓ Status continues until subsequent quarter in 2020 when gross receipts return to 80% or more of the gross receipts for that same calendar quarter as the prior year ✓ Calculate at controlled group level 	<p>Gross Receipts Test: Employers of any size carrying on a trade or business or tax exempt organizations that during a calendar quarter of 2021 have less than 80% of gross receipts in the same calendar quarter during 2019</p> <ul style="list-style-type: none"> ✓ Companies that did not exist in the first two quarters of 2019 substitute the corresponding quarter in 2020 ✓ Option to compare immediately preceding quarter to the corresponding quarter in 2019 ✓ Calculate at controlled group level <p>Applies to certain governmental employees:</p> <ul style="list-style-type: none"> ✓ Public colleges / universities ✓ Organizations whose principal purposes are providing hospital or medical care
Qualified Wages	<p>Employers with more than 100 full-time employees determined on a controlled group basis: Wages paid by an eligible employer to employees not performing services</p> <ul style="list-style-type: none"> ✓ Include the eligible employer's qualified health plan expenses ✓ Limit: \$10,000 per employee 	<p>Employers with more than 500 full-time employees determined on a controlled group basis: Wages paid by an eligible employer to employees not performing services</p> <ul style="list-style-type: none"> ✓ Include the eligible employer's qualified health plan expenses ✓ Limit: \$10,000 per employee, per quarter
	<p>Employers with 100 or fewer full-time employees determined on a controlled group basis: Wages paid by an eligible employer to all employees</p> <ul style="list-style-type: none"> ✓ Include the eligible employer's qualified health plan expenses ✓ Limit: \$10,000 per employee limit 	<p>Employers with 500 or fewer full-time employees determined on a controlled group basis: Wages paid by an eligible employer to all employees</p> <ul style="list-style-type: none"> ✓ Include the eligible employer's qualified health plan expenses ✓ Limit: \$10,000 per employee, per quarter
Max Credit	\$5,000 per employee	\$28,000 per employee



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Our Services to Support Employers

Complimentary Scoping Activities

Clients that received PPP loans:

- ✓ Determine if the borrower is an eligible employer, determined on a controlled group basis, under either the Government Mandate Test or the Significant Decline in Gross Receipts Test.
- ✓ Review PPP loan forgiveness applications.
- ✓ Review if 2020 contains eligible quarters and qualified wages.
- ✓ Identify if 2021 will contain eligible quarters and qualified wages.

Clients that may have a greater than 20% decline in gross receipts in 2021:

- ✓ Request / Review tax return gross receipts for 2019 and 2020.
- ✓ Identify the eligible employer's controlled group.
- ✓ For employers with more than 500 full-time employees, identify groups of employees who were paid not to perform services in 2020 and 2021.

Quantify estimated tax credit benefits.

Project Activities – Calculate and Document the ERC

Document full or partial suspension of trades or businesses:

- ✓ Government Mandate Test:
 - Review applicable governmental order to determine if the employer was ordered to close or if it was an essential business not subject to the order (perform this analysis in all trade or business locations).
 - Analyze the facts according to the ERC FAQs.
- ✓ Significant Decline in Gross Receipts Test:
Document the decline in gross receipts.

Import quarterly wage data and health care cost data into costing model.

Allocate wages to be used for PPP loan forgiveness and the ERC.

For employers with more than 500 full-time employees, determine which employees were not performing services.

Claim the ERC by filing an amended Form 941-X or timely filed Forms 7200 or 941.

Document eligible employer status and provide costing model within deliverable.