Cherry Bekaert
Your Guide Forward

What You Need To Know About the **Employee Retention Credit**

Note: This fact sheet was revised on April 2024 to reflect recent updates to the ERC.

The Employee Retention Credit (ERC) is a refundable tax credit for employers who kept as we're out of the covid "era" paying employees despite temporary business closures or revenue declines due to COVID-19.

2021 Eligibility

Employers of any size that had more than a **20% decline** in gross receipts in Q4 2020, Q1 2021, Q2 2021 or Q3 2021 as compared to Q4 2019, Q1 2019, Q2 2019 or Q3 2019

ERC	**2021 Rules** (3 Credits)
Credit Type	Refundable Payroll Tax Credit to Eligible Employers - Credits are larger than the initial payroll tax liabilities
Credit Applicability	Qualified Wages Paid after December 31, 2020 and on or before October 1, 2021
Credit Amount	70% of Qualified Wages (maximum $10,000 per employee per quarter)
Maximum Credit	$21,000 per employee

Filing Topics

Income Tax Effects: Wage deductions for income tax purposes must be reduced and by the amount of the 2021 credits on the 2021 income tax returns.

Gross Receipts Test/PPP Forgiveness: PPP forgiveness does not create gross receipts for purposes of the ERC Eligible Employer tests.

Monetization:

- Refund claims are currently subject to a processing moratorium that will be lifted in 2024
- Amended claims for prior quarters in 2021 can be reflected on currently filed Forms 941 to speed up the timing of refunds
- When receiving the ERC refund, the typical journal entry includes a debit to the Payroll Tax Liability and a credit to Compensation Expense and Benefits Expense (as applicable)

PEOs: Companies that use a PEO can claim the ERCs.

R&D Tax Credit: Wages included in the ERC calculation may not also be treated as qualified research expenses (QREs) in computing the research credit.

Qualification: Employers may qualify for the ERC in the second, third or fourth quarters of 2021 based on declines in gross receipts in the first, second and third quarters of 2021.

IRS ERC Audit: Resolution of ERC IRS Information Document Requests (IDRs) through our guidance, enabling your company to overcome documentation deficiencies from previous ERC applications and secure tax credit.

Industry Insight

Private Equity Funds are often passive investment vehicles that break aggregation among brother-sister portfolio companies. Therefore the portfolio companies owned by these funds may not have to be aggregated in computing the number of employees or applying the gross receipts test.

Law Firms may qualify for ERCs due to court closures and jury trial restrictions in 2020 (under the government mandate test).

Tax-Exempt Entities are not subject to the same controlled group aggregation rules as taxable entities. These employers cannot reduce gross receipts by the basis of assets in applying the gross receipts test.

Government Contractors can claim the ERC. Our process includes an analysis of T&M versus Firm Fixed Price funding to analyze what portion of the ERCs stay with the taxpayer versus what has to be returned to the government.

Cherry Bekaert's ERC Team

- The team has helped more than 1,500 employers explore their ERC eligibility
- We have identified over $650 million in employee retention credits
- We have worked with more than 975 employers to file multiple ERC claims
- We use our proprietary technology platform to provide each client with an audit-ready deliverable

Let Us Be Your Guide Forward

Martin Karamon, J.D., LL.M.
Partner, Tax Credits & Incentives Advisory Leader
martin.karamon@cbh.com
240.316.4517

Carolyn Smith Driscoll, J.D., LL.M.
Director, Tax Credits & Incentives Advisory
carolyn.driscoll@cbh.com
213.813.1226

Deborah Walker, CPA
Director, Tax Services
dwalker@cbh.com
202.257.5609

cbh.com

About Cherry Bekaert

Cherry Bekaert
Your Guide Forward

v. 05.03.2024 Brochure_ERC_Fact-Sheet_748356449