



New COVID-19 relief law extends employee retention credit

Many businesses have retained employees during the COVID-19 pandemic and enjoyed tax relief with the help of the employee retention credit (ERC). The recent signing of the American Rescue Plan Act (ARPA) brings good news: the ERC has been extended yet again.

The original credit

As originally introduced under last year's CARES Act, the ERC was a refundable tax credit against certain employment taxes equal to 50% of qualified wages, up to \$10,000, that an eligible employer paid to employees after March 12, 2020, and before January 1, 2021. An employer could qualify for the ERC if, in 2020, there was a:

- Full or partial suspension of operations during any calendar quarter because of governmental orders limiting commerce, travel or group meetings because of COVID-19, or
- Significant decline in gross receipts (less than 50% for the same calendar quarter in 2019).

The definition of "qualified wages" depends on staff size. If an employer averaged more than 100 full-time employees during 2019, qualified wages are generally those paid to employees who aren't providing services because operations were suspended or due to the decline in gross receipts. Qualified wages may include certain health care costs and are capped at \$10,000 per employee. These employers could count wages only up to the amount that the employee would've been paid for working an equivalent duration during the 30 days immediately preceding the period of economic hardship.

If an employer averaged 100 or fewer full-time employees during 2019, qualified wages are those wages, also including health care costs and capped at \$10,000 per employee, paid to any employee during the period operations were suspended or the period of the decline in gross receipts — regardless of whether employees are providing services.

Expansion and extensions

Under the Consolidated Appropriations Act (CAA), signed into law at the end of 2020, the ERC was extended through June 30, 2021. The CAA also expanded the ERC rate of credit from 50% to 70% of qualified wages. The law further expanded eligibility by:

- Reducing the required year-over-year gross receipts decline from 50% to 20%,
- Providing a safe harbor that allows employers to use previous quarter gross receipts to determine eligibility,
- Increasing the limit on creditable wages from \$10,000 in total to \$10,000 per calendar quarter (that is, \$10,000 for first quarter 2021 and \$10,000 for second quarter 2021), and
- Raising the 100-employee delineation for determining the relevant qualified wage base to employers with 500 or fewer employees (meaning wages qualify for the credit even if the employee is working).

Most recently, the ARPA further extended the ERC from June 30, 2021, until December 31, 2021. The 70% of qualified wages is also extended for this period, as is the allowance for up to \$10,000 in qualified wages for any calendar quarter. This means an employer could potentially have up to \$40,000 in qualified wages per employee through 2021.

Valuable break

We can help you determine whether your business qualifies for the ERC and, if so, how much the credit may reduce your tax bill.

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