

More Covid Relief “Free” Money! Employee Retention Credits (ERC)...



THE E&A CFO GROUP

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Employee Retention Credit—What is it?

Covid relief program targeted for businesses with <500 full-time employees.

It's a refund, **NOT** a
loan.

Tax credit claimed on amended quarterly payroll tax forms. IRS pays in 6-9 months.
(Cap of \$5,000/EE for all of 2020; \$7,000/EE per quarter for up to 3 quarters in 2021)

For most, it's ~ \$19,000/employee.
(5 employees = \$95,000 credit; 21 employees = \$380,000)

Only for non-owner/non-family employees.
(Just one employee can generate a \$19,000 credit)

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I Don't Qualify, Do I?

Can have both ERC and PPP, but can't use same wages for both.

Need < 100 FT (not FTE) employees in 2020 or < 500 FT employees in 2021.

Rules differ for 2020 and 2021, and for “new businesses”.

Qualify by quarter within year by any one of 3 rules:

- Revenue drop; **OR**
- Partial or full suspension of operations due to government order; **OR**
- Supply chain disruptions due to government order.

Possible to qualify even if revenue increased.

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Why Haven't I Heard of It?

Rules changed almost as much and as often as PPP. Major enhancements occurred at the end of 2020.

Huge misconceptions among both public and practitioners (see Forbes article.) on timeframe, interaction with PPP, “and” versus “or” tests, etc.

Came after PPP and sounded complicated; Covid fatigue.

Timing was bad and delays in receiving funds.

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What's required of claimant?

Very little substantiation sent to IRS

Only requires separate Form 941-Xs for each quarter with notation:
"Claiming Employee Retention Credit"

To prepare claim, need 2020 and 2021 qtrly. Forms 941 and payroll registers.

- Description in your files as to what test(s) qualified you.
- For revenue-based claims, 2019 thru 2021 qtrly. financial statements.

For suspension-based claims, a description of the disruption, how it impacted the business, and the government order imposed.

What Are the Rules?

| | | |
|-------------------------------------|-------------|-------------|
| Full time headcount. | <u>2020</u> | <u>2021</u> |
| Revenue decrease from <u>2019</u> . | <100 | < 500 |
| | 50%* | 20%** |

Only need to satisfy one test. Can qualify under different tests in different quarters.

Vast majority qualify under the suspension/disruption rule.

Any government-ordered “more than nominal, full or partial suspension of ordinary operations”.

Vast majority qualify under the suspension/disruption rule.

Domestic supply chain disruption (includes U.S. ports).

More art than science if not revenue based, but fairly easy to qualify.

3-year statute of limitations; penalties can be harsh. The best defense is to be right.

*** If occurred in any quarter of 2020, applies to all quarters**

**** If occurred in Q1-21, automatically qualifies for Q2-21**

What Is A “Full Or Partial Suspension of Normal Operations?”

A change in a business’s operations resulting from a Federal, state, county, or city government order that adversely impacted how you conduct business.

The cumulative effect of any group of government restrictions/mandates, such as:

- Occupancy limits with a “real” impact.
- Remote work/education, if significant investment required.
- Meaningful inefficiencies caused by sanitation requirements.
- Limited waiting room capacity
- Reduction in hours of business.
- Changes in business practices (e.g. Schools implementing contact tracking)
- Immigration restrictions
- Itinerant labor limitations.
- Working condition changes.
- Meaningful travel limitations.
- Changes in business practices (eg. Schools implementing contact tracing.)

What Does a Service Provider Do?

Pretty Much All Providers
(e.g., National “ERC Mills”)

Determines eligible employees.
Calculates revenue test eligibility.
Determines credit amount for each employee by quarter.
Computes total credit amount by quarter.
Provides limited Do-It-Yourself guidance for a complex IRS Process.

Value-Added Provider

(E&A; or a local trusted tax professional trained in ERCs) Delivers all of the above plus:
Researches applicable government orders via national database.
Develops and bullet-proofs suspension of operations rationale.
Recommends client-specific course of action.
Creates and files Forms 941-X for each quarter.
Audit protection and/or fee indemnity

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What Are the Next Steps?

Determine number of full-time non-owner/owner family employees by quarter in 2019, 2020 and 2021.

Check revenue by quarter in 2020 and 2021 against 2019.

Identify things done differently due to Covid government order, why, and their significance.

Gather quarterly payroll records and payroll tax returns for 2020 and 2021.

Other providers' typical pricing is 20-30% of credit. E&A's is 10% of credit.

Examples of Success

High probability:

Schools (any), daycare, retirement homes, most NFPs, churches, hospitality & recreation, dental practices, banks, elective medical practices, salons, importers from Asia.

Likely:

Urban/suburban retail stores; legal practices that must have court access/process servers; vendors to directly impacted companies; some skilled trades; users of itinerant workers.

Possible:

Rural retail stores, recruiters, home health companies, architects, auto repair, companies requiring travel, pharmaceutical reps, real estate agents investment advisors.

Unlikely:

Remote workers, IT-related, contract/real estate/IP attorneys, traditional farm operations.

“No way”:

Those who don't investigate. Gretzky: “You miss 100% of the shots you don't take.”

E&A ERC Experience

Almost \$45 million of ERC claims filed, of which > \$23 million has been received by clients. E&A has yet to have the IRS deny a claim.

While most claims total \$100,000 to \$1 million, 13 exceed \$1 million, of which 3 exceeded \$2 million, and the largest claim to date is \$4 million.

E&A has generated ERC claims totaling \$25 million for faith-based educational institutions in 5 states.

E&A has worked on claims for entities in 15 states so far and has built the infrastructure to serve clients anywhere.

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E&A Profile/CEO Bio

The E&A CFO Group: Operating from Missouri for the last 27 years, E&A has served clients in/from 80+ countries and 46 states/territories by helping solve the accounting, tax, and managements needs of organizations as their trusted advisor. Specifically related to ERC, E&A has handled ERC claims in states from coast to coast and Hawaii. E&A now is 100% focused on ERC.

E&A's team includes highly talented and experienced tax and financial professionals.

Joseph Eckelkamp, CPA Inactive: Founded E&A in 1996 after having served as CFO, Vice President of Finance, or Controller at several companies, including financial institutions, a data services company, and a technology company. Joe started his career with a "Big 4" CPA firm.

Joe earned BSBA and MBA degrees from St. Louis University and attended executive programs at Harvard. Awards include the SBA's Accountant Advocate for Small Business award for a 4-state region. He's also been named a St. Louis Unsung Hero and one of the "100 People in St. Louis to Know to Succeed" by St. Louis Small Business Monthly.

He's authored articles for general audiences and for the profession as well as speaks regularly on business topics. He has served on numerous boards of directors and currently serves as Chairman of Chaminade College Preparatory School's Board of Trustees.

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Why Didn't My CPA Tell Me About ERC?

- They were likely fully focused in December 2020/January 2021 on the upcoming Covid-disrupted tax season and didn't grasp the impact.
- Incredible confusion in the trade press, the media, and elsewhere.
- Tax-Professionals—expected to “get it later” but other tax issues arose.
- Initial rules were so restrictive it wasn't expected to be worthwhile.
- Non-ERC trained professionals were highly reluctant to pursue clients.
- Not confident in their waiting for greater clarity or expert guidance.
- Their skepticism and inherently conservative nature.