

# THE EMPLOYEE RETENTION CREDIT (ERC)

PPP borrowers now eligible to obtain ERC!

## What is the ERC?

The ERC is a refundable federal payroll tax credit designed to encourage businesses to retain their employees through the COVID-19 pandemic. This credit was enhanced in the Consolidated Appropriations Act, 2021. The number of employees does not affect credit eligibility, and it is claimed on the quarterly Form 941 of employer's quarterly federal tax return.

### The ERC Legislation

- ✓ Section 3134 of IRS Code
- ✓ ERC or ERTC was created when the Cares Act of 2020 was passed by President Donald Trump, as a form of Covid relief for businesses with W-2 employees, as a payroll tax credit.
- ✓ This credit was enhanced in the Consolidated Appropriations Act, 2021. The number of employees does not affect credit eligibility, and it is claimed on quarterly Form 941 of employer's quarterly federal tax return.
- ✓ In 2021, Joe Biden signed the American Rescue Plan Act, which allowed businesses to get ERC, even if they received a PPP loan prior.

### \*\*The Business may still qualify...Even If...

- ✓ ...It *had* a decline in revenue and/or profits during Covid.
- ✓ ...It *had* increasing revenues and/or profits during Covid.
- ✓ ...It *had to be shut-down* during Covid.
- ✓ ...It *did* receive PPP funds.
- ✓ **\*\*See 2<sup>nd</sup> Page: 'Top Mistakes made by Business Owners and/or Their Advisors'.**

### Why is Cressida Capital right ERC Partner for you:

- ✓ ERC team with experienced CPAs to accurately calculate ERC amount.
- ✓ Our CPA specialist/preparer will thoroughly analyze all documentation.
- ✓ The CPA team guarantees all calculations will be accurate.
- ✓ The CPA team, as paid-preparers, guarantees all filings will be fully compliant with all federal rules and regulations.

### The ERC Basics

- ✓ An employer may be eligible to collect up to a certain amount per employee for both years combined.
- ✓ Claim by filing amended 941-X quarterly returns taking the ERC credit on the specified lines.
- ✓ Businesses that had employees from March 13 to December 31, 2020 & the first 3 Quarters of 2021 are potentially eligible for credits. (Non-Owner wages only)
- ✓ *Fully Refundable* tax credit against employer portion of Social Security/Medicare.
- ✓ Paid to you directly via Government check.
- ✓ Not a Loan and does not have to be paid back.
- ✓ **ANY business** having **full or part time W2 employees** in the specified 2020/2021 Quarters can be eligible.

### Scope of Engagement & Process

1. Provide contact information for Client CPA/Bookkeeper
2. Complete Client Business Questionnaire which will determine qualification & compliance.
3. *Provide all necessary documentation:*
  - Original 941 quarterly returns for 2020 (Q2,Q3,Q4).
  - Original 941 quarterly returns for 2021 (Q1,Q2,Q3).
  - Gross Payroll Reports per Employee per above quarters.
  - PPP Forgiveness Letter/s, if applicable.
  - Any Employee Health Benefits statements, if applicable
4. Wage Attribution between PPP and ERC will be calculated and total ERC credit amount determined.
5. 941-X amended returns will be filed.
6. Client ERC Checks typically processed & mailed in 3 - 4 months.

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## *Top Mistakes Made By Business Owners And/Or Their Advisors* (Adapted from Forbes article)

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### The Top Mistakes and Misunderstandings Surrounding the ERC

#### **1. I can't claim ERC if I've already claimed PPP (or gotten my PPP loans forgiven)**

Now you can claim both! Congress, in the Consolidated Appropriations Act (CAA) of 2021, removed the limitation on only claiming one or the other. PPP will only account for 2.5 times your monthly payroll expenses and is meant to be spread out over 6 months. This leaves plenty of uncovered wage expenses for claiming ERC.

#### **2. My business did not have a drop in gross receipts of 50% or more**

The CAA has changed the qualifications so that a reduction of 20% now qualifies. BUT remember there is also another way to qualify for the ERC – if your business has been subject to a partial or full suspension due to a government order – see the next point.

#### **3. My business was not shut down during the pandemic**

Even a partial suspension order by the government (federal, state or local) of your business could potentially qualify. For instance, a partial shutdown, a disruption in your business, inability to access equipment, having limited capacity, shutdowns of your supply chain or vendors, reduction in services offered, reduction of hours to accommodate sanitation, shut down of some locations and not others, and shutdowns of some members of a business are all scenarios that still potentially qualify for the ERC. The key considerations are – due to the government ordered partial (or full) suspension is/was your business not able to continue its activities in a comparable manner, and did that result in a more than nominal impact on business operations. Remember, the partial or full suspension is an alternative way to qualify for the ERC — separate from the reduction in gross receipts test.....MORE FOR YOU!

#### **4. My company was deemed an essential business, so I do not qualify because of business suspension**

Even if your business is deemed essential, an impact or change in your business may still qualify you. For example, even if you were open but your vendors were closed down or you can't go to a client's job site, you may still qualify. Or alternatively, if part of your business was considered non-essential and was impacted by a government-ordered suspension – you may also qualify. The scenarios discussed above in Mistake 3 could apply here as well.

#### **5. My company has grown during quarantine, this isn't something I should take**

Great news! If your company has grown during quarantine, but experienced a full or partial suspension, there are expenses that may qualify.

#### **6. Sales have rebounded for us in Q1 of 2021, I can't qualify for this credit**

With the introduction of the CAA, you have the option to look at one quarter prior to determine qualification. This means we can determine eligibility based on lost revenue in 2020. Also, if you were subject to a full or partial suspension, you may qualify regardless.

#### **7. We were in losses, or do not have any tax liability**

This is a refundable credit. In practice, this means that any credit overage above tax liability is sent to the taxpayer/business owner as a refund.

#### **8. My company has grown to over 500 employees, so we are not eligible for the ERC**

The employee count restriction is based on full time equivalent (FTE) employees, which is a more involved calculation than just counting everyone in the office. We helped a business with 640 employees and the FTE calculation put them at under 500. Furthermore, if you paid any employees to NOT work, or to work less than the hours for which they were paid, then the employee count restriction would not apply for those employees.

#### **9. I'm a charity and the ERC is only for businesses**

The ERC also may provide significant benefit to charities – churches, nonprofit hospitals, museums, etc. Charities can be particularly good candidates for the ERC.