

New Stimulus: Careful Planning Is Required To Maximize Benefits from the Enhanced Employee Retention Credit (ERC)

January 11, 2021



The ERC is a *refundable* payroll tax credit available to businesses affected by COVID-19 that continue to pay salaries to their employees. Whereas the original version of this provision (from the CARES Act) was very limited in scope, the current version has expanded the universe of taxpayers who qualify for the credit and, at the same time, has increased the amount of the credit.

2020 Refund Opportunities

If you did not claim ERC because you were a 2020 Paycheck Protection Program (PPP) loan recipient, you can now retroactively file a refund claim. See the following key information:

- The credit is 50% of qualified wages per employee capped at \$5,000 per employee per year for salaries paid from March 12, 2020 – December 31, 2020 (the credit for \$10,000 in qualified wages x 50% tax credit).
- You cannot claim the credit on wages paid with forgiven PPP loan proceeds

(no double dipping). As such, one should give thought to which expenses are included in PPP forgiveness applications so as to maximize the PPP forgiveness and ERC.

- Employers with 100 employees or less are eligible even if the employees paid were actually working. If your workforce exceeds 100, you can only claim the credit for wages paid to employees who were not working.
- Taxpayers are eligible if their business was suspended by a COVID-19 lockdown or if there was a 50% decrease in revenue compared to the same quarter in 2019.
- Refunds may be claimed with the 4th quarter payroll tax return which is due on January 31, 2021.

2021 Planning

The credit for 2021 has been substantially enhanced:

- The credit is 70% of qualified wages per employee capped at \$7,000 per employee per quarter for salaries paid from January 1, 2021 - June 30, 2021. Since this is per quarter, the maximum credit per employee is \$14,000.
 - As an example of the potential significance, a business with 200 employees (working or not) at \$14,000 per employee, could receive a 2021 credit of \$2.8 million!
- Employers with 500 employees or less are eligible even if the employees paid were actually working. If your workforce exceeds 500, you can only claim the credit for wages paid to employees who were not working.
- Taxpayers are eligible if their business was suspended by a COVID-19 lockdown or if there was a 20% decrease in revenue compared to the same quarter in 2019. This is a significant change from the 50% reduction mentioned above for 2020, making more taxpayers eligible for the credit.
- There is an advanced payment option in which the taxpayer can get a refund in advance based on wages paid in the same quarter in 2019.
- You still cannot claim the credit on wages paid with forgiven PPP loan proceeds. ***In certain situations, you may need to choose between taking a second PPP loan or claiming the credit in order to maximize benefits. Careful planning may allow you to take both.***

Some of these provisions are time sensitive and may require immediate action. To better understand how the ERC impacts your unique situation and to develop a strategy to maximize your overall benefits, please contact your Anchin Relationship Partner or our Anchin COVID-19 Resource Team at COVID19@anchin.com.