

Revisiting the Employee Retention Credit

Back in March of 2021, our firm released a newsletter article explaining the advantages of the Employee Retention Credit, Changes to the PPP Loans, and the Stimulus bill that was passed. As we receive an influx of questions regarding the Employee Retention Credit (“ERC”) from several of our clientele, we thought it would be a great idea to revisit the topic and discuss the potential benefits of properly claiming the ERC for your business. Let us look back on how the Employee Retention Credit began.

On December 27, 2020, the Consolidation Appropriations Act of 2021 was signed into law providing additional stimulus and financial support to millions of Americans and businesses. Part of the act contained what is called the Taxpayer Certainty and Disaster Act. Section 206 of this act permits suitable employers to take advantage of the Employee Retention Credit (ERC), a refundable tax credit available for those employers who paid qualified wages after March 12, 2020, up to January 1st, 2021. Many employers qualified if their business operations were entirely or partially suspended due to governmental orders related to the Covid-19 pandemic or who experienced a 50% decrease in gross receipts compared to the same quarter in 2019. The ERC was equal to 50% of qualified wages which include qualifying health plan expenses, up to \$10,000 in wages per employee in 2020. The highest credit available per employee was \$5,000 in 2020.



Luckily, Section 207 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 extended the credit to wages paid out during the period of January 1 through June 30, 2021. Soon after that, the American Rescue Plan Act extended the credit, yet again, to wages paid during the period of July 1st through December 31st, 2021. For 2021, employers can also claim the credit if they have had a 20% decline in gross receipts. Additionally, employers may use prior quarter gross

receipts to determine admissibility. Also, for 2021, the credit was increased to 70% of qualified wages and the wage limitation increased from \$10,000 per year to \$10,000 per quarter, allowing a maximum credit per employee of \$7,000 per quarter.

On November 15, 2021, the Infrastructure Investment and Jobs Act of 2021 came into effect thus ending the employee retention credit as early as September 30, 2021, for all business except recovery startup businesses. A recovery startup business must have started its business activity after February 15, 2020 and have average gross receipts of \$1 million or less with an ERC cap of \$50,000 for the third or fourth quarters of 2021. Additionally, the IRS has released multiple notices to provide additional guidance on how to implement the Employee Retention Credit rules. There is potential legislation to reinstate the Employee Retention Credit for the period October 1, 2021, to December 31, 2021. However, the likelihood of this passing is uncertain at this point.



Who Qualifies for the Employee Retention Credit?

The ERC is accessible to employers that had a reduction in business and paid qualified wages to their employees during 2020 or 2021. An employer with a reduction in business either had a full or partial suspension of operations or a significant decline in gross receipts may be eligible for the credit. Employers with a

significant decline in gross receipts would have a 50% decline in gross receipts in 2020 or 20% in 2021 compared to the same quarter in 2019. Special rules also apply to businesses that qualify as “severely financially distressed businesses” or “recovery start-up businesses,” as mentioned above. For each eligible quarter, the qualified wages would need to be calculated and the appropriate limitations applied. Please note there are several limitations around what wages are considered qualified. Additionally, there are special rules for employers who also received benefit from the Paycheck Protection Act (“PPP”). Also, additional limitations are applied for business with over 100 full time employees.

How to claim the Credit

To reap the advantages of the ERC, you must submit an amended Form 941 for the periods intended within 3 years of the original filing. It is also important to know that “The statute of limitations for assessments relating to the ERTC will not expire until five years after the date that the original return claiming the credit is filed or treated as filed. For example, if the Form 941 for the fourth quarter of 2021 claiming the ERTC is treated as filed on April 15, 2022, the return could be audited with respect to the ERTC as late as April 14, 2027.” If you are unsure on what to do, it is best to speak with your accountant to discuss the proper steps of claiming the credit. Please note that to the extent you are eligible for the credit, there may also be adjustments needed on your income tax returns as well.



Contact us Today!

If you are curious as to whether you may be able to utilize the ERC, do not hesitate to contact our office for additional information. We are more than happy to help you take advantage of all possible aid to be able to help put your business back on the right track. Call us today!

GRIFFING & COMPANY, P.C.
One Sugar Creek Center Blvd., Suite 650
Sugar Land, TX 77478
(281) 491-8866 Fax (281) 491-8998

info@griffing.com

www.griffing.com

