

Employee Retention Tax Credit

The **Employee Retention Tax Credit (ERTC)** was created under the Coronavirus Aid, Relief, and Economic Security Act (CARES) in March 2020. It provides a refundable payroll tax credit to eligible employers equal to 50% of the first \$10,000 of eligible wages and health care expenses per employee in 2020 (or maximum of \$5,000 per employee).

The **Consolidated Appropriations Act (CAA)** and the **American Rescue Plan Act (ARPA)** amended and extended the ERTC. Due to these changes, many more employers will be able to qualify and obtain these tax credits. Under the CAA, employers that received the **Paycheck Protection Program (PPP)** loan can also qualify for the ERTC whereas prior to the CAA they could not qualify. One major point however is **employers are not able to use the same wages for the ERTC and the PPP loan forgiveness**.

Employers can also determine if they qualify in 2020 and retrospectively claim the credits for 2020. The CAA also made the ERTC more accessible to employers to qualify and increased the overall credit that can be obtained. Eligible employers are entitled to an ERTC equal to 70% of the first \$10,000 in eligible wages and health care expenses per employee per quarter (or maximum of \$28,000 per employee for 2021). The ARPA extended the ERTC through December 31, 2021.

Employers are eligible for the ERTC if they experienced **either** (1) the full or partial suspension of the operation of their trade or business during any calendar quarter because of governmental orders limiting commerce, travel, or group meetings due to COVID-19 **or** (2) a significant decline in gross receipts by quarter compared to the same quarter of 2019.

For 2020, a significant decline in gross receipts is defined as 50% or more and for 2021 a significant decline in gross receipts is defined as 20% or more. As mentioned above the lowering of the threshold of gross receipts reductions will expand the pool of eligible employers that will qualify in 2021.

Furthermore, the size (determined using 2019 average full-time employees (based on average of 30 hours or more per week)) of the employer is very important as an employer that is determined to be a small employer (≤ 100 for 2020 or ≤ 500 for 2021 full-time employees) can use all employees for qualifying wages compared to an employer considered to be a large employer that can only use wages for those employees not providing services. For employers that have related party or common control entities, they must consider the affiliated group rules in determining these qualifications including full-time employees to determine the employer size test.

As your business advisor, HW&Co. can assist management with determining if you qualify for this credit along with helping you understand the complex rules. If you have any questions or concerns, please contact your HW&Co. Advisor