

EMPLOYER RETENTION CREDIT – CAN YOU QUALIFY FOR BIG MONEY?

- 1) Determine eligibility:
 - a. Gross Receipts Reduction – (aggregation rules apply)
 - i. **2021 = 20% decline, measured by quarter**
 - ii. **2020 = 50% decline, measured by quarter**
 - iii. **Compare same quarter in 2021 versus same quarter in 2019**
 - iv. Can use the preceding quarter comparison to qualify in 2021
 - v. If you qualify *using* one quarter during 2021 you automatically will qualify for two quarters during 2021
 - b. Business suspension due to governmental order (full or partial)
- 2) Employee threshold count (based on 2019 employees) – (aggregation rules apply):
 - a. 2020 credit (100 EEs or fewer) and 2021 credit (500 EEs or fewer) = all wages eligible
 - b. Employee count above these amounts = only wages paid not to work count
- 3) Qualified Wages plus health insurance costs:
 - a. 2020 Credit - **\$10,000 per year per employee** (credit is 50% of qualified wages)
 - b. 2021 Credit - **\$10,000 per quarter per employee** (credit is 70% of qualified wages)
 - c. Majority owner and related party wages are not eligible
- 4) Remember to balance against PPP forgiveness
 - a. Can't use same wages for both PPP and ERC; optimize between the two
 - b. If you double dip, it defaults to ERC
 - c. PPP is a greater overall benefit
 - d. PPP2 permits supplier costs to count toward the 40% of non-payroll costs which will allow most businesses to better optimize between PPP and ERC
- 5) How to claim the credit
 - a. Refundable payroll tax credit offsetting company employment taxes
 - b. Claim on originally filed Form 941 or
 - c. Claim on amended filed Form 941X
- 6) Documentation:
 - a. Which eligibility test did you use? If gross receipts test, must be same basis as your tax return. If shut down test, document specific municipal or statewide order used and detail out how it impacted your business
 - b. Average full time EE count during 2019 supports our position of using all wages or only wages paid not to work
 - c. Clearly document which wages go toward PPP forgiveness and which go to ERTC to support no double dipping occurred in case of an audit