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# Employee Retention Credit

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# Agenda

## Introductions

## ERC Refresh

- Legislative History/Journey
- Qualifying Employers
  - Gross Receipts
  - Partial Shutdown
- Large Employers
- Aggregation

## What We've Learned from IRS Audits

## Best Practices

## Other Credits:

- WOTC
- FEZ



# The Four Essential Elements of the CLA Promise



## Driven by **Our Values**





# Employee Retention Credits (ERC)

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# History

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Product of CARES Act – 2020

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CAA – Updated to allow PPP and ERC simultaneously – no double dipping

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Notice 2021-20 – clarified “Partial Shutdown”

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Notice 2021-23 – clarified large employer rules

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Notice 2021-49 – clarified tax return reporting

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Rev Proc 2021-33 – affirmed Notices and created safe harbor to exclude ERC coordinated grants

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Unfortunately, nothing provides “Everyone Receives Credit” 😊



# Employee Retention Credit



The ERC is a fully refundable payroll tax credit for qualified wages (including allocable qualified health plan expenses) that eligible employers pay their employees.

For 2020, the credit amount is 50% of qualified wages (including allocable qualified health plan expenses) up to \$10,000 for the year for each eligible employee.

For 2021, the credit amount is 70% of qualified wages (including allocable qualified health plan expenses), up to \$10,000 per quarter for each eligible employee.



## What organizations are eligible?

Fully or partially suspended operations due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings due to COVID-19; or

Experienced a significant decline in gross receipts during the calendar quarter

Have 3 years to amend from date of filing original 941



# Employee Retention Credit Overview

	2020	2021
<b>Covered Dates (payroll paid during period)</b>	3/13/20 – 12/31/20	1/1/21 – 9/30/21
<b>Employer size-based restrictions*</b>	Over 100 fulltime employees can only include paid but not working	Over 500 fulltime employees can only include paid but not working
<b>Quarterly Revenue Decline vs. same quarter 2019 OR</b>	>50%	>20%
<b>Partial or full government shut-down</b>	Actual dates organization was shut-down by government order	
<b>Maximum eligible wages + healthcare cost per employee</b>	\$10,000/year	\$10,000/quarter
<b>% wages + healthcare eligible for credit</b>	50%	70%
<b>Maximum annual credit/employee</b>	\$5,000	\$21,000

*\*FTE measured by number of FTE in 2019 according to ACA definition of fulltime employee*





# Large vs. Small Employer: Fulltime Employee Count

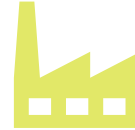


**2020 credits limited to those with 100 or fewer fulltime employees in calendar 2019; 2021 credits 500 or fewer.**



**Fulltime employee count calculated by:**

2019 employees by month  
Count employee working 130+ hours a month as a 1; <130 as 0  
Total each month and average over 12 months



**Note- this is different than headcount or FTE used for PPP!**



# Large vs. Small Employer

- Small employers can use all qualified wages and qualified health toward the credit
- Large employers can only use qualified wages or health for employees not working
  - Furloughed with pay
  - Furloughed without pay but paid healthcare
  - IRS Notice 2021-20 states leave time subject to a preexisting policy is not eligible



# Credit Calculation

## Qualified Wages

- Medicare wages (gross wages less certain pretax deductions, mainly health)
- Severance is excluded
- Should agree to Line 5c on the quarterly 941

## Qualified Health

- Employee pre-tax health deductions (medical, dental, vision)
- Employer portion of the above
- Employer HRA or FSA contributions
- Excluded:
  - After tax deductions
  - Employer HSA contributions



# Consider Other Funding or Credits

- Exclude:
  - Wages used to obtain PPP forgiveness (note: wages in PPP period included in application in excess of amount needed can be used)
  - Wages/health that were used to claim FFCRA credits
    - Reported as qualified sick leave and qualified family leave wages or health on the 941
  - Wages/health funded by restricted grants
    - Some ambiguity in definition of “double dipping”
    - Restricted philanthropic grants may be: see if funder will release restriction or allow shifting to cover non-payroll costs



# IRS Examination Considerations



Ability to prove that the employer experienced a significant decline in gross receipts or that they were subject to a full or partial suspension of operations.



If under a full or partial suspension of operations, the IRS may also request:

- a) Copy of the governmental order which caused the full or partial suspension of operations defined by Notice 2021-20 and others; and
- b) Records used to determine whether the order had a more than nominal effect on the employer's operations.



Computation of the average number of full-time employees in 2019. This will show whether the employer was a large employer subject to limitations of available wages.



Credit computations including wage amounts, and how qualified health plan expenses were computed.



If a member of an aggregated group, computations and calculations that determined there was an aggregated group and how aggregation affected the determination and allocation of the ERC.



If a PPP loan was received, calculations allocating wages to the PPP loan forgiveness and ERC.



# Work Opportunity Tax Credit (WOTC)

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# Work Opportunity Tax Credit (WOTC)

Offset federal tax liability using WOTC.

When companies hire people from targeted categories and employ them for at least 120 hours, they can reduce federal tax liability by up to \$9,600 per eligible employee.

Current law allows claims on qualified employees hired through December 31, 2025. It also expands eligibility to include those who have been unemployed for a long period.



# How WOTC Impacts Tax Liability

Taxable employers claim the WOTC as a general business credit on Form 3800 against their income tax. The WOTC is calculated using Form 5884.

For flow-through organizations with members in AMT, WOTC will offset AMT.

To the extent that WOTC is not fully utilized, carry forward period is up to 20 years and carry back is one year.





# Work Opportunity Tax Credit (WOTC)

## Hiring qualifications

- Temporary, seasonal, part-time, and full-time workers who put in a minimum of 120 hours in their first 12 months of employment
- New employees who have not worked for the hiring employer at any other time
- Any job type is acceptable

## Entity requirements

- For-profit businesses of any size qualify
- Tax-exempt organizations qualify for the veteran target groups only, and can get a refund of payments made on Form 941

## Work Opportunity Tax Credit services

- Taking advantage of tax credits can be a full-time job. CLA works with employers to identify eligible employees, collect supporting information, submit the required tax forms, and compute the dollar amount of the credit.
- We integrate technological solutions into your hiring process to minimize the time spent collecting the data. Our innovative, automated process will help you maximize your efficiencies.



# WOTC Eligible Groups: 15-25% of new hires may qualify

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Long-term unemployment recipients (27 consecutive weeks or more)

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Short-term Temporary Assistance for Needy Families (TANF)

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Qualified veteran (discharged from active duty within one year of hire date)

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Disabled veteran

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Unemployed disabled veteran

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Unemployed veteran (four weeks)

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Unemployed veteran (six months)

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Qualified ex-felon

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Designated resident of a Rural Renewal County or Empowerment Zone (EZ)

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Vocational rehabilitation referral

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Food stamp recipient (Supplemental Nutrition Assistant Program or SNAP)

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Supplemental Security Income (SSI) recipient

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Long-term family assistance recipient

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# Credit Amount

TARGET GROUP	MAXIMUM TAX CREDIT
<b>VETERANS</b>	
Receives SNAP benefits	\$2,400
<b>VETERANS ENTITLED TO COMPENSATION FOR SERVICE CONNECTED DISABILITY</b>	
Hired one year from leaving service	\$4,800
Unemployed at least 6 months	\$9,600
<b>UNEMPLOYED VETERANS</b>	
At least 4 weeks	\$2,400
At least 6 months	\$5,600
<b>OTHER WOTC TARGET GROUPS</b>	
Short Term TANF Recipient	\$2,400
Long-Term TANF Recipient	\$9,000 (over two years)
SNAP (Food Stamp) Recipient	\$2,400
Designated Community Resident	\$2,400
Vocational Rehabilitation Referral	\$2,400
Ex-Felon	\$2,400
SSI Recipient	\$2,400
Qualified Long-term Unemployment Recipient	\$2,400



# Our Process

## STEP 1

- Identify eligible employees
- Either take the electronic survey; or
- Provide forms and instructions to include in the application package

## STEP 2

- Request any supporting data to submit along with applications (forms 8850 and 9061) and submit to the state for verification of eligibility within 28 days of the start date for any eligible employee.

## STEP 3

- Manage reporting and compliance process with the state – including accepted applications, appeals and denials

## STEP 4

- Collect data on eligible employees at year end to compute tax credit;

## STEP 5

- Compute and report tax credit on form 5884.

## STEP 6

- Identify any eligible candidates for related state tax credits and process as needed to submit to the state(s).





# Federal Empowerment Zone Credits

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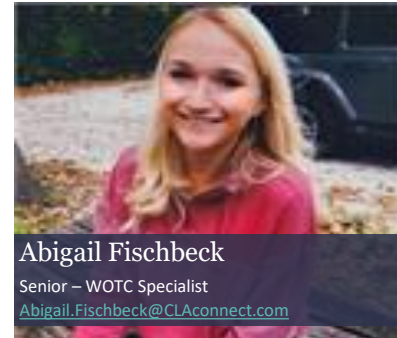
# Q&A

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# Our Team



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