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TAXES

Employee Retention Credit — Still The One (The Latest Update)

Dean Zerbe

Contributor

I write about tax policy and how it affects business.

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The Employee Retention Credit (ERC) has proven to be one of the most effective tax policies in helping small and medium businesses and tax-exempt entities weather the economic impact of the pandemic. The ERC provides employers up to \$7,000 per employee per quarter in refundable tax relief for the first three quarters of 2021 (and a reduced benefit for 2020).

The IRS management anticipated that approximately 70%-80% of small and medium businesses (as well as tens of thousands of charities) were good candidates for taking the ERC. The reality is — to date the actual numbers of businesses and charities applying for the ERC — is far below that. Small and medium businesses (as well as tax-exempts/charities) are leaving billions of dollars on the table.

As I've written in the past – the ERC is a [misunderstood](#) tax benefit – with small and medium business owners and managers of charities either not knowing about the ERC or being wrong (or more likely outdated) about what they do know.

In addition, employers often don't appreciate that there are basically two ways you can qualify for the ERC: 1) reduction in revenues; and, 2) if your business/charity has had a more than nominal impact due to federal, state, local government or regulatory covid orders (easy example, think of occupancy, spacing, cleaning requirements as just a start of a long list).

Finally, some business owners and charity managers wrongly think ERC is only for entities that are in distress/under water. No. Congress viewed this provision as a means of encouraging businesses and charities to retain employees and hire new employees – helping to weather the economic hardships and costs brought by Covid.

In practice, alliantgroup has found that an extremely broad range of businesses are good candidates for the ERC – including restaurants, manufacturing, construction, food industry, healthcare – and when it comes to charities/tax exempts – churches, museums, food kitchens, schools, are just the start of the list.

ERC – Congress Reinstate Fourth Quarter 2021?

There has been more smoke lately about Congress looking at considering a covid/emergency relief bill – and that reinstating the fourth quarter of ERC is under consideration to be included in the package.

Senator Ben Cardin (D-MD) has been a leader on a possible covid relief and has been open to ERC. In addition, a bipartisan group of House members – led by Congresswoman Stephanie Murphy (D-FL) as well as Congresswoman Carol Miller (R- WV); and Congressmen Kevin Hern (R-OK) and Terri Sewell (D-AL) introduced [legislation](#) that would reinstate the fourth quarter of ERC. In the Senate – Senators Maggie Hassan (D-NH) and Tim Scott (R-SC) have dropped into the hopper similar [legislation](#).

As important, a coalition of over 70 associations and organizations has recently stated its [support](#) of extending ERC for the fourth quarter. Finally, individual business owners and charities are contacting their elected officials on the ERC and it is clearly having an impact.

Fingers crossed.

IRS Processing and Guidance

Processing of ERC credits for businesses and tax-exempts has been caught up in the general grind of work at the IRS. However, some members of Congress, notably Senator Kirsten Gillibrand (D-NY) have [written](#) to the IRS asking them to address this problem. My hope is that with the IRS senior management now focused on dealing with the filing backlog – that this issue will be resolved.

Separately, to the IRS' credit, they did recently issue a helpful [comparison sheet](#) – that is useful in illuminating the different changes that have been made overtime to the rules regarding ERC. One of the mistakes business owners and charitable managers have made is not understanding that Congress has changed the rules of the ERC several times in the short period of its existence – primarily for the better. In addition, IRS has put out a significant amount of taxpayer- friendly guidance on the ERC.

For many business owners and managers of tax-exempts – the ERC remains the go-to relief from the pandemic. Yet hundreds of thousands of businesses and charities across the country are failing to take advantage of the ERC. Billions of dollars are available for businesses and charities to retain employees and hire new employees. But you have to apply.

Check out my [website](#).



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