

**Tuesdays @ Ten**

# Understanding the Employee Retention Credit (ERC)

November 1, 2022

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# Meet the Presenters



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Corinna is a managing director in **FORVIS**' New York City office, where she leads its Advisory Services & Emerging Outsourced Accounting Services practices. Corinna brings more than 25 years of experience as a finance executive, where she has provided interim- & outsourced-CFO services to a wide range of organizations



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# Agenda

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● **Meet the Presenters**

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● **What is the Employee Retention Credit (ERC)?**

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● **Eligibility Requirements**

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● **Full-time Employees & Qualified Wages**

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● **Housekeeping Items**

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# What Is the Employee Retention Credit?

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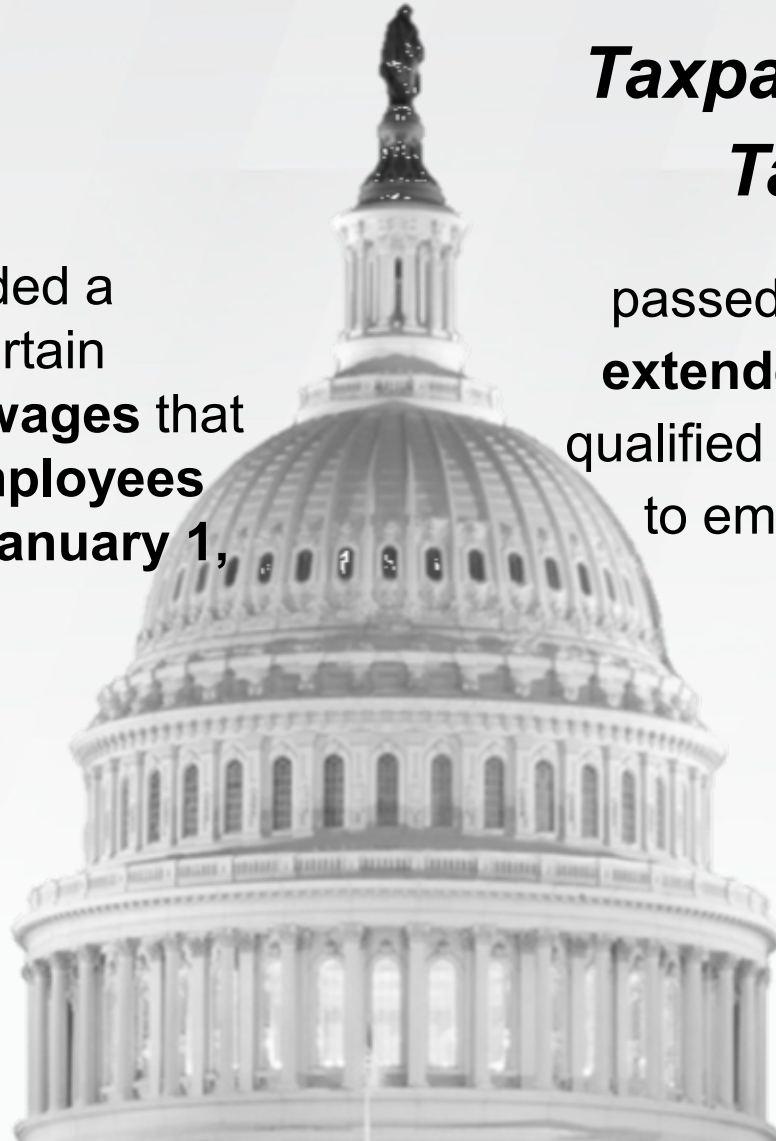
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## ***CARES Act***

passed on March 27, 2020 provided a **refundable tax credit** against certain employment taxes for **qualified wages** that an **eligible employer** pays to **employees** after **March 12, 2020**, & before **January 1, 2021**

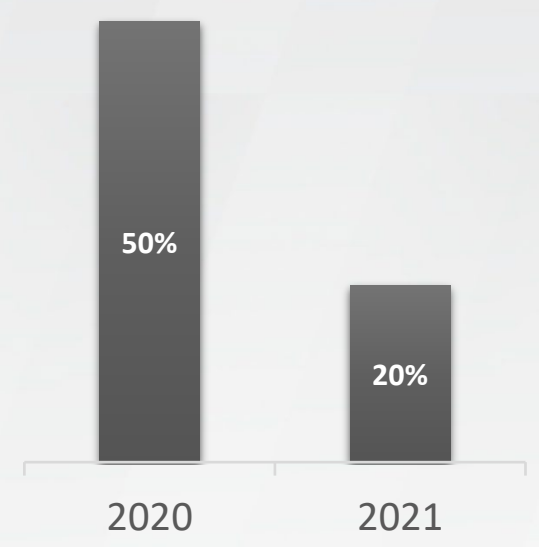
## ***Taxpayer Certainty & Disaster Tax Relief Act of 2020***

passed on December 27, 2020 **expanded & extended** the Employee Retention Credit for qualified wages that an eligible employer pays to employees between **January 1, 2021**, & **December 31, 2021**

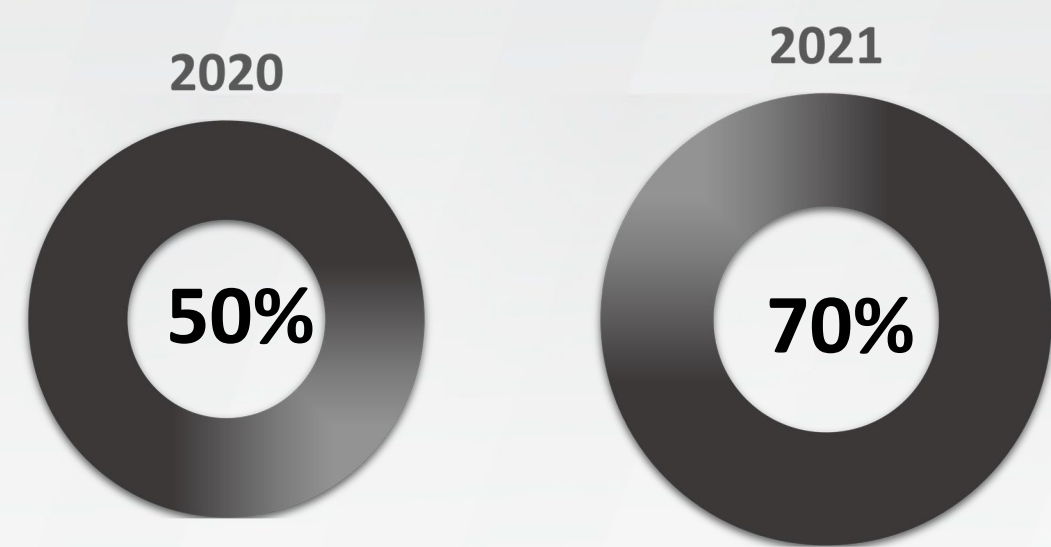


# What Is the Employee Retention Credit (ERC)?

## Decline in Gross Receipts



## Credit Percentage Applied to Applicable Wages



## Per-Employee Wage Limit

2020  
\$10,000/  
Year

2021  
\$10,000/  
Quarter

- Credit is against the employer's share of Social Security tax
- If the credit exceeds the employer's share of Social Security tax on all wages, the excess is treated as an overpayment & refunded

## Maximum credit Per Employee

**2020** \$5,000/Year

**2021** \$7,000/Quarter

# Eligible ERC Quarters

**2020**

- Quarter 1
- Quarter 2
- Quarter 3
- Quarter 4

**2021**

- Quarter 1
- Quarter 2
- Quarter 3



# Eligibility Requirements

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# Eligible Employers

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No limit for number of employees, although credit is much more lucrative for employers with  
**2020:** 100 or fewer full-time employees  
**2021:** 500 or fewer full-time employees



Trade or business requirement



**2020:** Governmental entities not eligible  
**2021:** Some Governmental entities eligible such as Colleges & entities with the function of providing medical care



Tax-exempt organizations under Section 501(c) are eligible



Employers receiving a PPP loan may now also qualify for ERC; however, the same wages cannot be used for PPP loan forgiveness & ERC

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# Eligibility Criteria

Experienced **One** of the Following



A. Significant decline in gross receipts during the calendar quarter



B. Full or partial suspension of operations due to orders from an appropriate governmental authority

# Definition of Gross Receipts



A. Significant decline in gross receipts during the calendar quarter

## Taxable Entity

Total sales net of returns & allowances

All amounts for services

Interest

Dividends

Rents

Royalties

Annuities

## Tax-exempt Entity

Gross receipts from all operations, not just trades or businesses

Interest

Dividends

Rents

Royalties

Annuities

Contributions, grants, & similar amounts

Gross amounts for sale of assets & securities

Gross amounts received as dues or assessments

# Significant Decline of Gross Receipts



A. Significant decline in gross receipts during the calendar quarter

- Decline compared to 2019 calendar quarter
  - 2020 Calendar Quarter <50%
  - 2021 Calendar Quarter <20%
- Gross Receipts Definition
- Tax Basis Accounting

## ARPA Revisions

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# Full or Partial Suspension of Operations



**B. Full or partial suspension of operations** due to orders from an appropriate governmental authority

## **Did government order detrimentally affect your business?**

Full suspension of operations not required, essential businesses still eligible

Has to be a mandate, NOT recommendations

Were you required to change your business practices materially?

## **Did the orders detrimentally impact your business more than a nominal amount?**

Defined as >10%

Significant census/patient days decline

# IDD/BH Considerations

## Essential versus non-essential business

- Facts & circumstances as to whether essential business may have a partial suspension of operations
- More than a nominal portion of business operations must be suspended by a governmental order to qualify
- OPWDD programs – full & partial closures
- Impact of retainer funding

## Remote work rules

- SED programs

## Nominal Comparable



**B. Full or partial suspension of operations** due to orders from an appropriate governmental authority

# Full-Time Employees & Qualified Wages

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# Full-Time Employees (FTE)\*

**A full-time employee is defined as either**

- A. Having an average of at least 30 hours of service per week
  
- B. Having an average of 130 hours of service in the month

\*in calendar year 2019

# Qualified Wages – Small vs. Large Employer

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**2020: 100 or Fewer Full-Time Employees**  
**2021: 500 or Fewer Full-Time Employees**

- Take credit on all wages up to \$10,000 per employee
- Do not include severance payments regardless of number of full-time employees
- Wages paid to employees who are related individuals of the employer are not qualified regardless of number of full-time employees
- Include allocable health plan expenses

**2020: More than 100 Full-Time Employees**  
**2021: More than 500 Full-Time Employees**

- Take credit on wages paid up to \$10,000 per employee while not providing services
- Increase in pay while providing services does not qualify
- Include wages paid to hourly, exempt, & nonexempt salaried employees while not providing services
- Do not include wages paid pursuant to pre-existing vacation, sick, & other personal leave policies
- Include allocable health plan expenses

# Qualified Wages – IDD/BH Funding Considerations

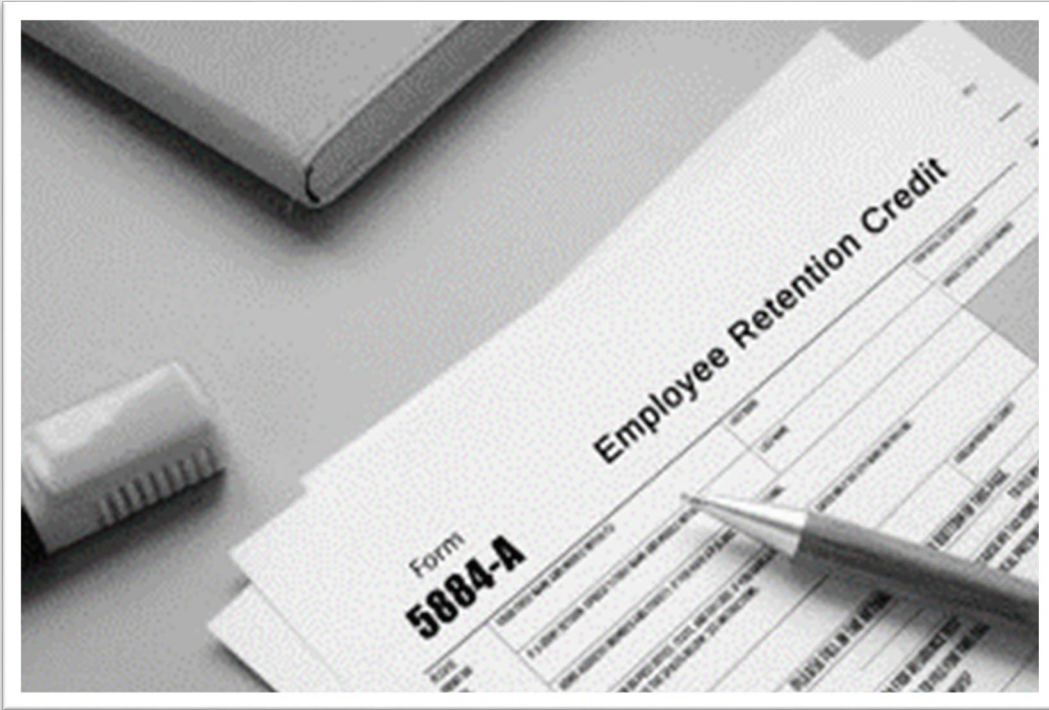
- Eligible payroll cost can only be used for one benefit (no “double dipping” with PPP)
- Third-party funding specific to payroll cost needs individual agency by agency analysis to determine if funder is allowing usage of covered payroll cost for ERC
  - Potential negative effect of ERC on existing NYS or Medicaid funding
- Don't jeopardize multiple year contracts funding for a one-time benefit
- Evaluation of PPP Eligible Payroll Costs

# Housekeeping Items

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# Claiming the Credit



- Report each quarter on Form 941
- Fund Credit by
  - Accessing federal employment taxes
  - Requesting & advance by filing form 7200
- Amend prior Form 941 by filing 941-X
- Do not report credit on first quarter 2020 Form 941

## ERC: Action Items

- Determine what governmental orders were in place & the dates they were effective
- Summarize quarterly gross receipts for 2019, 2020, & each quarter in 2021 as they are completed
- If you believe your organization will qualify, determine the number of full-time employees in 2019
- If more than 100/500 full-time employees, gather information about employees that may have been paid while not providing services
- Determine funding agency approach (if applicable) to using reimbursed payroll cost for ERC

# Financial Statement Treatment

- Record & recognize ERC as revenue per GAAP
  - Conditional grant & receivable when eligibility is determined\*
  - Reasonable estimate or if available exact dollar amount of ERC

\*filing amended Form 941 is considered administrative in nature

# ERC Summary

	2020	2021
Decline in Gross Receipts	50%	20%
Credit Percentage Applied to Applicable Wages	50%	70%
Per-employee wage limit	10,000/Year	10,000/Quarter
Maximum Credit per employee	\$5,000/Quarter	7,000/Quarter
Maximum number of full-time employees allowed to claim credit on ALL wages paid	100	500
Certain governmental employers eligible?	No	Yes
Eligible if obtaining PPP Loan	Yes, Retroactively	Yes



# 2020 vs. 2021 ERC Example

## ERC 2020

- CARES Act: Employer pays employee \$8,000 between April–June 2020 & \$8,000 July–September 2020
- Maximum credit with respect to wages would be \$4,000 for Q2 & \$1,000 for Q3
- Total of \$5,000

## ERC 2021

- CAA: Employer pays employee \$8,000 between January–March 2021 & \$8,000 between April–June 2021
- Maximum credit with respect to wages would be \$5,600 for Q1 & \$5,600 for Q2
- Total of \$11,200

# QUESTIONS

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