



## **The Employee Retention Credit: Update for the Restaurant Industry**

Navigating COVID-19 has been particularly difficult for those in the restaurant industry, given inconsistent mask mandates, a spike in Delta variant cases, questions surrounding requirements for employee and patron vaccinations, as well as labor and supply shortages. One silver lining, however, has been the Employee Retention Credit (ERC). But questions still remain about this tax incentive and its status as a COVID-19 government relief program. Where are we now with the ERC and which businesses still qualify?

If your restaurant business is currently or was previously impacted economically by COVID-19, you may be eligible to take advantage of this credit. While there remains general industry-wide confusion about the ERC's operative and computational rules, intricate time frames thereof and how it interacts with other COVID-19 economic relief programs, it's important to be aware of the ERC and how it could potentially provide financial relief and support to your business. The following information summarizes the availability of the ERC for restaurant employers and provides general awareness of the updated qualifications and financial benefits.

### **What is the Employee Retention Credit?**

The ERC is an employer federal payroll tax credit based on wages paid (including tips) after March 12, 2020 and before January 1, 2022, by an employer whose business operations:

- Were fully or partially suspended due to a COVID-19 related governmental order; or
- Experienced a significant reduction in gross receipts.

The credit was enacted with the primary goal of providing assistance to economically impacted employers who retained employees during the coronavirus pandemic. The credit is best viewed, however, as five separate credits piecemealed together via separate legislation. The first credit is 50% of wages per employee up to \$10,000 of wages paid from March 13-December 31, 2020. The maximum credit is \$5,000 per employee. The next four credits are 70% of wages per employee up to \$10,000 of wages paid in each quarter in 2021. The maximum credit is \$7,000 per employee per quarter (i.e., \$28,000 in 2021).

## **BETTER TOGETHER**

A Limited Liability Partnership of Certified Public Accountants & Consultants

Riverwood 200 3300 Riverwood Parkway Suite 700 Atlanta, GA 30339 **phone** 770.396.2200 **fax** 770.390.0394

[www.btcpa.net](http://www.btcpa.net)



| <b>Employee Retention Credit Amount</b> |  |   |   |
|---|--|---|---|
|   | <b>2020</b>  | <b>Q1 2021 – Q2 2021</b>  | <b>Q3 2021 – Q4 2021</b>  |
| <b>Applicable Period</b>                | 3/13/2020 – 12/31/2020   | 1/1/2021 – 6/30/2021  | 7/1/2021 – 12/31/2021   |
| <b>Amount of Credit</b>                 | 50% of up to \$10,000 in Qualified Wages per employee or maximum \$5,000 credit per employee | 70% of up to \$10,000 in Qualified Wages per employee per quarter, or maximum \$7,000 credit per employee per quarter | 70% of up to \$10,000 in Qualified Wages per employee per quarter, or maximum \$7,000 credit per employee per quarter |
| <b>Single Employer Aggregation</b>      | Yes  | Yes   | Yes   |

**Note:** The term “Qualified Wages” includes amounts paid by an employer to provide and maintain a group health plan.

#### **Are Restaurant Employers Eligible for the ERC?**

The credit as originally enacted, was passed by Congress on March 27, 2020, under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Pursuant to the CARES Act, it was limited to only businesses that did not receive a Paycheck Protection Program (PPP) loan. Considering that the accommodation and food service industries were among the largest participant groups in the nearly \$800 billion of approved PPP loans,<sup>1</sup> this cast aside the use of the ERC for many restaurant businesses at the time.

However, nine months after the CARES Act on December 27, 2020, Congress passed the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Relief Act).<sup>2</sup> The Relief Act retroactively rescinded the CARES Act limitation that prevented PPP loan recipients from benefiting from the ERC. It also extended and enhanced the ERC for Q1 and Q2 2021. Then on March 11, 2021, Congress passed the American Rescue Plan Act of 2021 (ARPA), extending the ERC to Q3 and Q4 2021.<sup>3</sup>

As a result of these legislative changes, the ERC has been made widely available for an extended time period to restaurant businesses that meet the Eligible Employer criteria of having experienced supply-side or demand-side economic harm due to COVID-19, but continued to pay

<sup>1</sup> SBA Paycheck Protection Program (PPP) Report, Approvals through 05/31/2021.

<sup>2</sup> Enacted as Division EE of the Consolidated Appropriations Act, 2021.

<sup>3</sup> On August 10, 2021, the Senate passed the Infrastructure Investment and Jobs Act that contains a provision ending the ERC for Q4 2021. A House vote on the bill is scheduled later this month but does face some opposition, making the bill’s passage uncertain at this time.



employees, regardless of having received a PPP loan or not. Below is a summary chart of the Eligible Employer testing.

| <b>Employee Retention Credit Eligibility</b> |   |   |   |
|--|---|---|---|
|  | <b>2020</b>   | <b>Q1 2021 – Q2 2021</b>  | <b>Q3 2021 – Q4 2021</b>  |
| <b>Applicable Law</b>                        | CARES Act, as amended   | Relief Act  | ARPA  |
| <b>Applicable Period</b>                     | 3/13/2020 – 12/31/2020  | 1/1/2021 – 6/30/2021  | 7/1/2021 – 12/31/2021   |
| <b>Eligibility Test (Eligible Employer)</b>  | Employer’s business is fully or partially suspended by government order due to COVID-19 during the calendar quarter; or | Employer’s business is fully or partially suspended by government order due to COVID-19 during the calendar quarter; or | Employer’s business is fully or partially suspended by government order due to COVID-19 during the calendar quarter; or |
|  | Employer’s gross receipts are below 50% of the same quarter in 2019 (i.e., 50% reduction in gross receipts).            | Employer’s gross receipts are below 80% of the same quarter in 2019 (i.e., 20% reduction in gross receipts).            | Employer’s gross receipts are below 80% of the same quarter in 2019. (i.e., 20% reduction in gross receipts).           |
| <b>Single Employer Aggregation</b>           | Yes   | Yes   | Yes   |

**Is My Restaurant Business an Eligible Employer? Does It Qualify for the Credit?**

There is an abundance of ERC nuances, limitations and qualifying criteria to navigate to understand whether a restaurant qualifies as an Eligible Employer. Furthermore, each restaurant business is unique under the eligibility rules and cannot, nor should not, be compared to others. Remember, a business just needs to meet one of the Eligible Employer tests and can pivot between the two on a quarter-by-quarter basis.

**What Does It Mean to Have a 50% or 20% Reduction in Gross Receipts?**

A demand-side quantitative analysis must be performed, meaning a comparison of quarterly gross receipts as determined for income tax purposes against the same quarter in 2019. Starting with the first calendar quarter in 2020, determine if gross receipts are less than 50% of gross receipts for the same calendar quarter in 2019. For each 2020 calendar quarter, the employer will be an Eligible Employer for the entire quarter where this test is satisfied. Notwithstanding



this test for each 2020 quarter, the employer will continue to be an Eligible Employer in each successive 2020 calendar quarter following a qualifying quarter (meeting the less than 50% of gross receipts test) until the first day of the quarter following the first quarter in which gross receipts rise above 80% for the same calendar quarter in 2019. So, at minimum, automatic Eligible Employer status is granted in the 2020 calendar quarter following the quarter where gross receipts are less than 50% of gross receipts for the same calendar quarter in 2019.

**Example 1:** Restaurant Group A's gross receipts were \$1,000,000, \$1,900,000 and \$2,300,000 in the first, second and third calendar quarters of 2020, respectively. Its gross receipts were \$2,100,000, \$2,300,000 and \$2,500,000 in the first, second and third calendar quarters of 2019, respectively. Thus, Restaurant Group A's 2020 first, second and third quarter gross receipts were approximately 48%, 83% and 92% of its 2019 first, second and third quarter gross receipts, respectively. Accordingly, Restaurant Group A experienced a significant decline in gross receipts commencing on the first day of the first calendar quarter of 2020 (the calendar quarter in which gross receipts were less than 50% of those in the same quarter of 2019) and ending on the first day of the third calendar quarter of 2020 (the quarter following the first quarter in which the gross receipts were more than 80% of those in the same quarter of 2019). Thus, Restaurant Group A is an Eligible Employer during the first and second calendar quarters of 2020.

The same quarterly gross receipts comparison to 2019 is performed for each 2021 calendar quarter, except a greater than 20% reduction in gross receipts is used instead of 50%. For 2021 calendar quarters, however, the successive quarter Eligible Employer continuation test provided for 2020 quarters is eliminated. Instead, other alternative quarterly gross receipts tests for 2021 quarters have been established. This includes a useful quarter-by-quarter elective provision for an employer to use an alternative quarter to calculate gross receipts. Under this election, an employer may generally determine if the decline in gross receipts test is met for a calendar quarter in 2021 by comparing its gross receipts for the immediately preceding calendar quarter with those for the corresponding calendar quarter in 2019. For example, for the first calendar quarter of 2021, an employer may elect to use its gross receipts for the fourth calendar quarter of 2020 compared to those for the fourth calendar quarter of 2019 to determine if the decline in gross receipts test is met. Additionally, for example, if the first quarter qualified under the traditional quarterly gross receipts test, automatic decline in gross receipts qualification of the second calendar quarter of 2021 can be met if the employer elects to use the previous quarter gross receipts of the first calendar quarter of 2021 compared to the first calendar quarter of 2019.

Additional questions to consider include:

- Was the business started during 2019?
- Were any acquisitions of units made during 2019, 2020 or 2021?
- Was the business started after February 15, 2020?



- Are other U.S. businesses under common ownership or control (>50% “vote or value”) requiring aggregation as a single employer for ERC?<sup>4</sup>

### **Partial Suspensions of Business Operations due to COVID-19 Governmental Orders**

The Cares Act statute states the term Eligible Employer includes “any employer with respect to any calendar quarter, for which the operation of the trade or business is fully or partially suspended during the calendar quarter due to orders from an appropriate governmental authority limiting commerce, travel or group meetings (for commercial, social, religious or other purposes) due to the coronavirus disease 2019 (COVID-19).”

The statute is broad here, leaving the supply-side Eligible Employer analysis seeming highly subjective. Nonetheless, this test quickly becomes a fact-finding exercise. The statute is looking to identify if a business experienced a “full or partial suspension” of business operations and what relationship it had to COVID-19 government orders. IRS authoritative guidance echoes this analysis. As such, an objective narrative must be formed as to whether and which COVID-19 government orders restricted the business operations by more than a nominal amount as compared to pre-pandemic levels. The considerations here can be dauntingly numerous. But for restaurant businesses, many of the ERC-relevant COVID-19 government mandates imposing operational restrictions on the food, beverage and hospitality industries involved health safety and sanitation standards and social distancing of its workforce and patrons inside their establishments. Such measures included closing dine-in services, limiting building occupancy and following various other in-person operational health safety standards and facility sanitation protocols.

**Example 2:** Restaurant F must close its restaurant to onsite dining due to a governmental order closing all restaurants, bars and similar establishments for sit-down service. Restaurant F is allowed to continue food or beverage sales to the public on a carry-out, drive-through or delivery basis. On-site dining is more than a nominal portion of Restaurant F’s business operations (as compared to established pre-pandemic measures). Its business operations are considered to be partially suspended because, under the facts and circumstances, more than a nominal portion of its business operations (its indoor and outdoor dining service) is suspended due to the governmental order.<sup>5</sup>

**Example 3:** Same situation as Example 2, except that two months later, under a subsequent governmental order, Restaurant F is permitted to offer sit-down service in its outdoor space, but

---

<sup>4</sup> To be an Eligible Employer on the basis of a significant decline of gross receipts, the employer must take into account the gross receipts of all members of the aggregated group. Employers that are treated as a single employer under the common control rules of Internal Revenue Code (“IRC”) Section 52(a) or (b), or members of an affiliated service group or otherwise aggregated under IRC Section 414(m) or (o), are considered one employer for purposes of the employee retention credit.

<sup>5</sup> IRS Notice 2021-20 Section III.D. Q/A 17, Example 1.



its indoor dining service continues to be closed. During this period, Restaurant F is allowed to operate only its outdoor sit-down and carry-out service in accordance with the order. Indoor dining is more than a nominal portion of Restaurant F's business operations. Restaurant F's business operations are considered to be partially suspended because, under the facts and circumstances, more than a nominal portion of its business operations, its indoor dining service, is suspended due to a governmental order. The following month, under a further governmental order, Restaurant F is permitted to offer indoor dining service in addition to outdoor sit-down and carry-out service, provided that all tables in the indoor dining room are socially distanced and spaced at least six feet apart. This spacing constraint has more than a nominal effect on Restaurant F's business operations. During this period, even though Employer F resumed all categories of its business operations, Employer F's business operations continue to be partially suspended because, under the facts and circumstances, the governmental order restricting its indoor dining service has more than a nominal effect on its operations.<sup>6</sup>

Example 2 and 3 were common for the restaurant industry prior to the start of Q3 2021. But again, all restaurant businesses are unique, and a government mandated dine-in restriction may only be the tip of the iceberg in a partial suspension of operation analysis. The assistance of a professional tax advisor intimate with the ERC guidance is needed here. State, city and municipal jurisdictions varied in their levels and time periods of operational restrictions on the food, beverage and hospitality industries. Some key additional questions that should be considered here regarding a full or partial suspension of operations test are:

- Does the business operate in multiple locations outside of the same city, state or local jurisdiction?
- Are other U.S. businesses under common ownership or control (>50% "vote or value") requiring aggregation as a single employer for ERC?<sup>7</sup>

### **If My Restaurant Business is an Eligible Employer, What Wages do I Use to Compute the Credit?**

Qualified Wages are gross wages and compensation, including group health care costs, paid by an Eligible Employer to some or all employees after March 12, 2020 and before January 1, 2022. Specifically, Qualified Wages depend on a business's average number of full-time employees

---

<sup>6</sup> IRS Notice 2021-20 Section III.D. Q/A 17, Example 2.

<sup>7</sup> To be an Eligible Employer on the basis of a full or partial suspension of business operations, the employer must take into account the operations of, and government-imposed restrictions on, all members of the aggregated group. Employers that are treated as a single employer under the common control rules of IRC Section 52(a) or (b), or members of an affiliated service group or otherwise aggregated under IRC Section 414(m) or (o), are considered one employer for purposes of the employee retention credit.



(FTEs)<sup>8</sup> employed during 2019. Most notably for the restaurant industry, this count excludes part-time employees and the accumulation of part-time employees as full-time employee equivalents. Further guidance clarifies that qualified wages can include amounts paid by the Eligible Employer to maintain a group health plan for employees, to the extent that those amounts are excluded from the gross income of the employee.

With respect to wages paid during 2020, Eligible Employers for which the average number of FTEs in 2019 are 100 or fewer may qualify all wages paid by such employer to employees regardless of whether the employee performed services for the employer or not. For wages paid after 2020 and before January 1, 2022, Eligible Employers with 500 or fewer average FTEs in 2019 may also claim credits for all wages paid by such employer.

However, Eligible Employers for which the average number of FTEs are greater than 100, large employers, may only qualify 2020 wages paid to an employee for time the employee was not performing services to the employer during the credit period. With respect to 2021 wages paid before January 1, 2022, the threshold regarding what constitutes a large employer is raised from over 100 average FTEs in 2019 to over 500 average FTEs in 2019 – a welcome qualifier for larger restaurant businesses with multiple locations and corporate headquarter overhead.

---

<sup>8</sup> Inclusive of the single employer aggregation rules previously mentioned (>50% “vote or value”), IRS guidance provides that the term “full-time employee” (“FTE”) for purposes of the Credit means an employee who, with respect to any calendar month in 2019, had an average of at least 30 hours of service per week or 130 hours of service in the month (130 hours of service in a month is treated as the monthly equivalent of at least 30 hours of service per week). An employer that operated its business for the entire 2019 calendar year determines the number of FTEs by taking the sum of the number of FTEs in each calendar month in 2019 and dividing that number by 12.



| Employee Retention Credit Qualified Wages |  |   |   |
|---|--|---|---|
|   | 2020   | Q1 2021 – Q2 2021                               | Q3 2021 – Q4 2021                               |
| <b>Applicable Law</b>                     | CARES Act, as amended  | Relief Act                                      | ARPA  |
| <b>Applicable Period</b>                  | 3/13/2020 – 12/31/2020   | 1/1/2021 – 6/30/2021                            | 7/1/2021 – 12/31/2021                           |
| <b>Qualified Wages (Small Employer)</b>   | Applicable to companies with 100 or fewer FTEs   | Applicable to companies with 500 or fewer FTEs  | Applicable to companies with 500 or fewer FTEs  |
|   | Wages plus certain health care costs, up to \$10,000 per employee, paid to any employee regardless of whether or not they are providing services |   |   |
| <b>Qualified Wages (Large Employer)</b>   | Applicable to companies with more than 100 FTEs  | Applicable to companies with more than 500 FTEs | Applicable to companies with more than 500 FTEs |
|   | Wages plus certain health care costs, up to \$10,000 per employee, paid to any employee that is NOT providing services                           |   |   |
| <b>Single Employer Aggregation</b>        | Yes  | Yes   | Yes   |

Solely for determining the credit on 2020 qualified wages paid, large employers may not exceed what wages the employee would have been paid for working an equivalent duration during the 30 days immediately preceding the period of economic hardship.

#### What Amount of ERC Money Can I Expect?

Results here vary widely. So, this question is best answered with a couple of comprehensive examples.

**Example 4:** ABC Restaurant Group has multiple locations and is an Eligible Employer for all 2020 quarters with 75 FTEs and 300 total employees. The group has exhausted its first draw PPP funds and qualified for full PPP loan forgiveness and will be allowed to qualify up to \$10,000 of 2020 wages per employee as Qualified Wages for the ERC. Between March 13, 2020 and December 31, 2020, ABC Restaurant Group paid \$6,000 of wages to each employee which was not paid with forgiven PPP funds. Under this scenario, the ABC Restaurant Group would be entitled to an ERC of \$900,000 (\$6,000 of wages \* 300 employees \* 50% credit) for 2020.

ABC Restaurant Group is also an Eligible Employer for Q1 and Q2 2021. It has exhausted its PPP second draw funds and qualified for full PPP loan forgiveness and will be allowed to qualify up to \$10,000 of Q1 and Q2 2021 wages per employee per quarter as Qualified Wages for the ERC.





Between January 1, 2021 and June 30, 2021, ABC Restaurant Group paid \$3,500 of Q1 wages to each employee and \$1,500 of Q2 wages to each employee which was not paid with forgiven PPP funds. Under this scenario, the ABC Restaurant Group would be entitled to an ERC of \$735,000 ( $\$3,500$  of wages \* 300 employees \* 70% credit) for Q1 2021 and \$315,000 ( $\$1,500$  of wages \* 300 employees \* 70% credit) for Q2 2021. In aggregate to-date, the ABC Restaurant Group is eligible for \$1,950,000 in ERC refunds.

**Example 5:** For a 2020 large employer, XYZ Restaurant Group has multiple locations, is an Eligible Employer for the first and second quarter of 2021 with 250 FTEs and 1,000 total employees and has exhausted its second draw of PPP funding with full loan forgiveness. Assuming the 250 FTEs are each paid \$10,000 during Q1 2021 and \$0 during Q2 2021 which were not paid with forgiven PPP funds, and the remaining 650 employees are each paid \$3,500 during Q1 2021 and \$0 during Q2 2021 which were not paid with forgiven PPP funds, XYZ Restaurant Group would be eligible for a total ERC of \$3,587,500 ( $\$10,000$  of wages \* 250 employees \* 70% credit +  $\$3,500$  of wages \* 750 employees \* 70% credit) for Q1 2021 and \$0 for Q2 2021.

#### **How Do the ERC and ERC Qualified Wages Interact with other COVID-19 Economic Relief Programs?**

Currently, there are no eligibility prohibitions on the ERC if the same business has received or will receive benefits under another government COVID-19 relief program or claims other federal enumerated tax credits. However, wages cannot be included to benefit more than one program or credit, meaning no “double dipping” on employee wages. For example, the same wages cannot be used for PPP loan forgiveness that were used to claim the ERC. Same for the use of Restaurant Revitalization Fund (RRF) grant proceeds. Maximization on the use of wages for ERC and other programs with overlapping time periods is key here. Whether doing this retroactively or prospectively, careful planning and wage “mapping” analysis across these programs should be done together with an ERC tax advisor who is also knowledgeable of the other federal wage grant programs and wage tax credits. The results in maximizing benefits under the various COVID relief programs and tax credits can be highly successful. This is particularly true with regards to PPP loan forgiveness for those businesses that have not submitted loan forgiveness applications yet. Requests and pressure from PPP lenders to submit PPP loan forgiveness applications may be mounting. However, it is recommended to be patient with this process and be firm with your lender to take the time necessary to do what is best for your business. For PPP borrowers who have not yet submitted loan forgiveness applications, loan payments become due after expiration of the 10-month deferral period.<sup>9</sup> Note that the SBA has indicated that PPP loan borrowers may submit a loan forgiveness application any time before the maturity date of

---

<sup>9</sup> Payments of principal and interest on PPP loans are deferred for 10 months beginning after the last day of the PPP borrower’s covered period.



the loan, which is either two or five years from the loan origination date. So, if borrowers decided to defer their loan forgiveness application and began making required payments – and later receives 100% loan forgiveness – the borrower will receive a refund of the payments made.

| <b>Interaction of Employee Retention Credit Qualified Wages</b> |                        |                        |                        |
|---|------------------------|------------------------|------------------------|
| <i>Note: Wages can only be used once</i>                        |                        |                        |                        |
|   | <b>2020</b>            | <b>Q1 2021 Q2 2021</b> | <b>Q3 2021 Q4 2021</b> |
| <b>Applicable Period</b>  | 3/13/2020 – 12/31/2020 | 1/1/2021 – 6/30/2021   | 7/1/2021 – 12/31/2021  |
| PPP   | Yes                    | Yes                    | Yes                    |
| RRF   | Yes                    | Yes                    | Yes                    |
| Shuttered Venue Operators Grant (SVOG)                          | Yes                    | Yes                    | Yes                    |
| Work Opportunity Tax Credit (§51)                               | Yes                    | Yes                    | Yes                    |
| Paid Family and Medical Leave Credit (§45S)                     | Yes                    | Yes                    | Yes                    |
| R&D Tax Credit (§41)  | No                     | Yes                    | Yes                    |
| Indian Employment Credit (§45A)                                 | No                     | Yes                    | Yes                    |
| Active Duty Member Wage Credit (§45P)                           | No                     | Yes                    | Yes                    |
| Empowerment Zone Employment Credit (§1396)                      | No                     | Yes                    | Yes                    |
| Tip Credit (§45B)   | No                     | No                     | No                     |

There are a couple of notable exceptions. For 2020 only, the same employee wages can be used to claim both the ERC and Research & Development Tax Credit. Also, the Tip Credit for an employer's FICA tax paid on reported tip wages does not interact with the ERC.

**Note:** State and local COVID-19 relief grants and tax credit interactions are out of [this article's](#) scope.

### **Is the ERC Taxable?**

Yes, ERCs are taxable. Although the amount of ERC is not included in the employer's income for federal income tax purposes, an income tax deduction for wages that equal the ERC amount is disallowed for the tax year to which the ERC wages relate. If you have an eligible 2020 ERC claim and have already filed your 2020 income tax return without this disallowance included, discuss with your tax advisor recommended corrective action.

### **What if I Haven't Claimed the ERC for Prior Quarters?**

Several steps will need to be taken. First, connect with your ERC tax professional and organize a plan to determine periods of Eligible Employer status and analyze amounts of Qualified Wages per quarter. This will include interactions with PPP, RRF, SVOG and federal wage credits summarized above. Then, a process for retroactively claiming the ERC can begin with the filing



of IRS Forms 941-X and possible retention of payroll tax obligations for Q3 and Q4 2021. An Eligible Employer that did not claim the credit on an originally filed Form 941 may file a Form 941-X for the relevant calendar quarters in which the employer paid Qualified Wages any time before the statute of limitations on the credit or refund expires. Generally, this is three years from the date the original Form 941 was filed. Current ERC refund request timelines via Form 941-X are unfortunately a concern, projecting to be anywhere between six to 12 months. Pandemic-induced processing backlogs coupled with an unprecedented time period of tax legislation, guidance updates and stimulus check processing, much on a retroactive basis, has stretched the IRS thin.



| Employee Retention Credit Refund Requests |   |   |  |
|---|---|---|--|
|   | 2020  | Q1 2021 – Q2 2021   | Q3 2021 – Q4 2021  |
| Applicable Period                         | 3/13/2020 –<br>12/31/2020   | 1/1/2021 –<br>6/30/2021   | 7/1/2021 –<br>12/31/2021   |
| Credit Monetization                       | Retroactive credits will be claimed on Amended Form 941-X and refunds requested.  | Retroactive credits will be claimed on Amended Form 941-X and refunds requested.  | <p>1) Credit can be claimed as payroll tax deposits are made. 6.2% of employer portion of Social Security, then rest of federal payroll tax liability, then remaining refunded on Form 941.</p> <p>2) For companies with 500 or fewer FTEs, companies can request an advance payment not to exceed 70% of average quarterly wages paid in 2019.</p> <p>3) Retroactive credits will be claimed on Amended Form 941-X and refunds requested.</p> |
| Refund Claim Period                       | <p>Generally, the statute of limitations allows a claim for refund within three years from the time the federal employment tax return was filed.</p> <p><b>Example:</b> 4th Quarter 2020 Form 941 = on or before April 15, 2024</p> | <p>Generally, the statute of limitations allows a claim for refund within three years from the time the federal employment tax return was filed.</p> <p><b>Example:</b> 4th Quarter 2021 Form 941 = on or before April 15, 2025</p> | <p>Generally, the statute of limitations allows a claim for refund within three years from the time the federal employment tax return was filed.</p> <p><b>Example:</b> 4th Quarter 2021 Form 941 = on or before April 15, 2025</p>  |



### **We're Here to Help**

The ERC is available to most restaurant businesses and provides a generous COVID-19 economic relief benefit that should not be overlooked. If your business has not yet captured the credit or evaluated qualification, it's not too late. Bennett Thrasher's Tax professionals can provide ERC analysis, advisory and consultation for your business. To learn more about our services, contact Betsi Barrett, Chris Frederick or Tim Watt by calling 770.396.2220.