

Enhancements and Extensions to the Employee Retention Credit

Allows Additional Nonprofit Organizations to Benefit

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The 2021 Consolidated Appropriations Act included \$900 billion in stimulus relief for the COVID-19 pandemic, including significant changes to the Employee Retention Credit. These changes will be beneficial to many nonprofit employers. Organizations that were previously ineligible may now find themselves eligible. They have the option to amend their previously-filed 2020 payroll tax returns to claim credit.

Expanded Eligibility

Organizations that took the credit for 2020 may be eligible for an increased amount in 2021. In particular, the credit is now available to nonprofit organizations that received Payment Protection Program loans. The legislation also extended the credit availability period through the second quarter of 2021. The eligibility requirements for 2021 have also been broadened, and the credit is available to certain governmental employers, including colleges and universities, organizations providing medical or hospital care, and tax-exempt organizations organized under an act of Congress (including federal credit unions).

Increased Credits

The CARES Act that passed in March 2020 provided a payroll tax credit to businesses and exempt organizations whose operations fully or partially were suspended due to a government shutdown order, or experienced a significant decline in gross receipts on qualified wages starting March 13, 2020. If gross receipts in any quarter in 2020 were 50% less than the same quarter of 2019, the organization was eligible for the credit for that quarter; **or** if the organization's operations were fully or partially suspended, the organization was eligible during the specific time period that the government order was in effect.

The new law has extended the credit to the first two quarters of 2021 and expanded 2021 eligibility to organizations that experienced a decline in quarterly gross receipts more than 20% compared to the same quarter in 2019.

Under the CARES Act, nonprofit employers with more than 100 employees could take the credit only on wages paid to employees paid but not providing services, whereas employers with less than 100 employees could take the credit on all wages.

Under the new law, the 100-employee threshold has increased to 500 employees for the first two quarters of 2021.

The maximum credit allowed in 2020 per employee is \$5,000 for the year, or 50% of an employee's qualified wages (whichever is less).

Effective January 1, 2021, the new law has increased the maximum credit to \$7,000 per employee per quarter, or 70% of qualified wages, whichever is less.

Under the original law, employers that received loans under the Paycheck Protection Program (PPP) were not eligible for the Employee Retention Credit.

The new law makes the credit available, retroactive to March 2020, to employers that received PPP loans. However, wages qualified for the credit only include those for which PPP loan proceeds were not used.

Professional Employer Organization

Nonprofit organizations that use a Professional Employer Organization (PEO) to report and pay federal employment taxes can also take advantage of the credit. The IRS has clarified that eligible employers that use a third-party payer are also entitled to the credit and are provided rules for claiming and reporting the credit based on the type of third-party payer used by the organization.

Contact Us

Please contact us to see if your organization qualifies for the credit, and to assist you to maximize the credit allowable for your organization, in particular if you have previously received funds from the Paycheck Protection Program.

If you have any questions with respect to the employee retention credit or other tax matters relative to nonprofit organizations, please contact Garrett M. Higgins, CPA, Partner at ghiggins@pkfod.com or a member of your client service team.

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