

## Construction Companies and Real Estate Developers Can Still Find Cash Relief from Employee Retention Credit

By Mary Lundstedt, Esq.

The construction industry—always vital and essential in the American economy—was significantly impacted during the pandemic, but it still has the opportunity to access critical cash relief in a refundable employee payroll tax credit—the Employee Retention Credit (ERC). Launched in March 2020, the ERC remains one of the biggest relief opportunities—up to \$26,000 per employee during 2020 and 2021—available to eligible businesses that have been negatively impacted by the COVID-19 pandemic. And even for those businesses already beginning to recover, employers can retroactively claim the ERC based on hardships experienced during 2020 and the first three quarters of 2021.

With credits often exceeding the initial payroll tax liabilities themselves, the ERC has already awarded millions of dollars to a broad spectrum of employers, including those in the construction industry. And unlike the Paycheck Protection Program (PPP) loans, the ERC was never limited by available federal funds, so any business that qualifies and applies can still find ERC relief!

Employers should also remember: (1) that the ERC is available even if they already received Paycheck Protection Program (PPP) loans, and (2) businesses that started up after February 2020 may qualify under specific ERC provisions that can provide up to \$100,000 in refundable credits in 2021.

### ERC Eligibility

Employers in construction are typically eligible, because government orders restricted their operations.

Common examples include, but are not limited to:

- Inability to access equipment
- Capacity limitations/reduction in crew size
- Limitations upon the permit/inspection process (and corresponding backlogs)
- Job site restrictions





**\* Note that orders creating qualifying partial suspensions were more common than many employers and tax practitioners realize.**

Another way for employers in the construction industry to be eligible is by showing that the business suffered a reduction in gross receipts.

1. Tax Year 2021 (Quarters 1, 2, and 3):

Employer is eligible if business's gross receipts are more than 20% down from the gross receipts in the same calendar quarter of 2019.

2. Tax Year 2020 (Quarters 1 through 4)

Employer is eligible if business's gross receipts are more than 50% down from the gross receipts in the same calendar quarter of 2019.

### **Conclusion**

Whether or not Congress replenishes other forms of pandemic related relief for those businesses in the construction industry, the ERC remains available now. Numerous government orders restricted a broad range of ordinary business operations in the industry—and you may be one of many employers entitled to substantial cash benefits. If you operate a construction business, don't wait to find out if you qualify! Contact our team at (410) 497-5947 or schedule your free evaluation with our team [HERE](#).

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