



Breweries Can Still Find Cash Relief from Employee Retention Credit

By Mary Lundstedt, Esq.

Breweries across the nation struggled throughout the pandemic. Many breweries were initially closed due to governmental orders, only to reopen subject to suffocating capacity restrictions and social distancing requirements. Remarkably, some breweries were even subject to governmental orders which conditioned their reopening upon their provision of food, as well as drink.

Whether your brewery experienced a revenue loss or was one of the breweries that actually noticed their patrons drinking more beer than previously, you still have the opportunity to access significant cash relief in a refundable employee payroll tax credit—the Employee Retention Credit (ERC). 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 breweries. 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!

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 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.

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.



Info@AskFrost.com





ERC Eligibility

Breweries are typically eligible because government orders restricted their operations. Common examples include, but are not limited to:

- Mandated closures
- Post-lockdown requirements to serve food as a condition for re-opening
- Capacity limitations
- Orders creating cascading supplier chain issues
- Restrictions on employees' hours
- Mandated, time-consuming sanitization procedures

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

Another way for breweries to establish eligibility 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, the ERC remains available now. Numerous government orders restricted a broad range of ordinary business operations in the brewing industry—and you may be one of many employers entitled to substantial cash benefits. If you operate a brewery, don't wait to find out if you qualify!

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