

## Healthcare Industry: Small and Private Practices Still Have Time to Claim ERC Relief

Our nation's healthcare system is sustained and enhanced by numerous small private practices, including physical therapy centers and medical and dental practices. Throughout the pandemic, and even in the aftermath, so much of this vital support system struggled (and in some cases continues to struggle) to survive and keep employees on payroll. Significantly, practices like these—even those owned through private equity—may be eligible for much-needed cash relief in the form of the refundable employee payroll tax credit known as the Employee Retention Credit (ERC).

Since the last time, Frost Law wrote about the ERC in this context, an increasing number of employers have heard about ERC, but we understand that a great deal of confusion persists. There are still many employers that have questions about qualifications and how the application process works. Moreover, many people are unaware of the fact that private practices in the healthcare industry owned through private equity may also be eligible for ERC. And some employers don't yet understand that they may qualify for ERC even if they already received PPP Loans.

With this in mind, we urge our readers to read below for a better understanding of ERC and encourage all private practices in the healthcare industry to consider reviewing their ERC eligibility with a trusted tax professional before the window for claiming this relief closes.

### Are You Eligible?

Congress launched the ERC early in the pandemic, intending it to be a vital relief measure—up to \$26,000 per employee during 2020 and 2021—available to businesses, including those occupying various parts of the healthcare industry, that were negatively impacted by the COVID-19 pandemic. And even for 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 in the healthcare industry should remember that: (1) the ERC is available even if they already received Paycheck Protection Program (PPP) loans; (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; (3) practices owned through private equity may still be eligible; and (4) even small or family-owned healthcare practices may be eligible for qualified wages paid to unrelated employees.

### **a. Governmental Orders**

Employers in the healthcare industry are typically eligible because governmental orders restricted their operations. Commons examples include, but are not limited to:

- A practice with waiting rooms subject to capacity restrictions.
- A practice, including a physical therapy center, that enforced social distancing and/or capacity mandates and experienced a decline in the number of patients able to be treated each day.
- Any practice where hospital access restrictions disrupted its own ability to perform medical procedures.
- Those medical device companies subject to orders preventing them from physically entering premises in order to install and/or service their devices (i.e., robotic surgery equipment).
- Any practices required to close and later required to re-open subject to restrictions which limited how many patients they could treat.
- Doctors subject to orders delaying or preventing them from performing elective procedures.
- Practices forced to implement mandatory cleaning procedures that reduced operating time

And the list goes on. In fact, orders creating qualifying partial suspensions were more common than many employers and tax practitioners realize.

### **b. Gross Receipts**

Another way for employers 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.

1. Tax Year 2020 (Quarters 1 through 4):
- 2.

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**

Less than a full year remains for employers to access the 2020 ERC and less than two years to access the 2021 ERC. We urge all small private practices that kept their employees on payroll during the pandemic to review eligibility for this much-needed cashflow opportunity with a trusted tax professional.

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