



Employee Retention Tax Credit Reinstatement Act

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Background:

- The Employee Retention Tax Credit (ERTC) was included in the 2020 CARES Act, which was overwhelmingly supported by both parties. The ERTC, along with the Paycheck Protection Program (PPP), helped stabilize small businesses and non-profit organizations during the COVID-19 Pandemic.
- The ERTC was designed to promote small businesses to rehire employees they may have let go at the start of the pandemic or ensure that employees are retained while their companies recovered throughout this year. While less well known than the PPP, the ERTC has gained familiarity in recent months and is one of the only remaining tools for businesses that continue to be impacted by the pandemic.
- Originally, to be eligible for the ERTC, business owners had to demonstrate at least a 20% decline in gross receipts in either a given quarter compared to the same quarter in 2019 or the immediately preceding quarter. Alternatively, the business owner may have been eligible if the business is subject to a full or partial suspension of business operations due to a government order.
- Specifically, for this year's third and fourth quarters, employers can qualify for an enhanced ERTC as a "recovery startup business" or qualify as a "severely financially distressed employer." To claim the ERTC as a "severely financially distressed employer," the employer must have suffered at least a 90% decline in gross receipts in a specific quarter compared to the same quarter in 2019.
- The ERTC was scheduled to expire at the end of 2021, but the recently enacted *Infrastructure Investment and Jobs Act* disallowed this credit for the fourth quarter of 2021. Many small businesses have continued to take the tax credit into the fourth quarter, and now face a retroactive tax increase and a complex, frustrating process in reconciling the credit that they will now have to forfeit.

The Employee Retention Tax Credit Reinstatement Act of 2021:

- Reinstates the Employee Retention Tax Credit through the end of 2021, as it was originally written, to help struggling small businesses who were counting on the ERTC to pay their employees through the end of the year.
- The Employee Retention Tax Credit Reinstatement Act is endorsed by the National Federation of Independent Business (NFIB), National Automatic Merchandising Association (NAMA), National Association of Manufacturers (NAM), National Restaurant Association, International Franchise Association (IFA), Associated General Contractors of America (AGC), Associated Builders and Contractors (ABC), American Council of Engineering Companies (ACEC), National Association of Wholesaler-Distributors (NAW), International Health, Racquet & Sportsclub Association (IHRSA), and American Society of Travel Advisors (ASTA), National Tour Association (NTA), United States Tour Operators Association (USTOA), National Council of Non Profits, YMCA of USA, League of American Orchestras, United Way Worldwide, Performing Arts Alliance, Dance/USA, Opera America, Theatre Communications Group.

To co-sponsor or for questions, please contact Max Pedrotti (Max.Pedrotti@Mail.House.Gov) with Congresswoman Miller or John Laufer (John.Laufer@Mail.House.Gov) with Congresswoman Murphy.