

Leisure and Hospitality Industry Can Still Find Cash Relief from Employee Retention Credit

By Mary Lundstedt, Esq.

The leisure and hospitality industry was hit particularly hard during the pandemic. Some facilities initially closed due to governmental orders, only to reopen subject to suffocating capacity restrictions and social distancing procedures. And many mixed-accommodation facilities remained open for the duration of the pandemic as “essential” businesses, but experienced partial governmental shutdown of certain services (e.g., in-person events and dining services).

Some industry-wide estimates approach \$100 billion lost in revenue, but the leisure and hotel industry 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 those in the leisure and hotel industry. And unlike the Paycheck Protection Program (PPP) loans and Shuttered Venue Operator Grants, 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 or Shuttered Venue Operator Grants, 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.

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ERC Eligibility

Employers in the hospitality and leisure industry are typically eligible, because government orders restricted their operations.

Common examples include, but are not limited to:

- Restrictions on public gatherings impacting events like wedding receptions, concerts, festivals, and more.
- Capacity limitations applicable to public and private spaces which caused cancellations of a variety of pre-planned events.
- Various in-house dining restrictions (e.g., table spacing, buffet service, etc.).
- A state or local order requiring employees to work remotely.

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

Another way for employers in the hospitality and leisure 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 leisure and hospitality 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 hotel (urban, suburban, or nonurban), event venue or any other business in the hospitality and leisure industry, 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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