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Employee Retention Credit: Top 10 Mistakes Of Business Owners And Their Advisors

1. ***"I can't claim ERC if I've already claimed PPP (or if my PPP loans were forgiven)."***

   ~ Now you can claim both! Congress, in the Consolidated Appropriations Act (CAA) of 2021, removed the limitation of only claiming one or the other. PPP will only account for 2.5 times your monthly payroll expenses and is meant to be spread out over 6 months. This leaves plenty of uncovered wage expenses for claiming ERC.

2. ***"My business did not have a drop in revenue or gross receipts of 50% or more."***

   ~ The CAA has changed the qualifications so that a reduction of 20% now qualifies. BUT remember, there is also another way to qualify for the ERC – if your business has been subject to a partial or full suspension due to a government order – see the next point…

3. ***"My business was NOT shut down during the pandemic."***

   ~ A partial suspension order by the government (federal, state or local) of your business could potentially qualify. With over 100 pages of new guidance, almost all businesses qualify. NOTE: the partial or full suspension is an alternative way to qualify for the ERC — separate from the reduction in gross receipts test.

4. ***"My advisor told me my company was deemed an essential business, so I don't qualify because of business suspension."***

   ~ Even if your business is deemed essential, an impact or change in your business may still qualify you. For example, even if you were open but your vendors were closed down or you can't go to a client's job site, you may still qualify. Or alternatively, if part of your business was considered non-essential and was impacted by a government-ordered suspension – you may also qualify. The scenarios discussed above in Mistake 3 could apply here as well.

5. ***"My company has grown during the pandemic; this isn't something I should take."***

   ~ Great news! If your company has grown during quarantine, but experienced a full or partial suspension, there are expenses that may qualify.

6. ***"My advisor said that since my sales have rebounded for us in Q1 of 2021, I can't qualify for this credit."***

   ~ With the introduction of the CAA, you have the option to look at one quarter prior to determine qualification. This means we can determine eligibility based on lost revenue in 2020. Also, if you were subject to a full or partial suspension, you may qualify regardless.

7. ***"We were in losses, or do not have any tax liability."***

   ~ This is a refundable credit. In practice, this means that any credit overage above tax liability is sent to the taxpayer/business owner as a refund.

8. ***"My company has grown to over 500 employees, so we are not eligible for the ERC."***

   ~ The employee count restriction is based on full time equivalent (FTE) employees, which is a more involved calculation than just counting everyone in the office. We helped a business with 640 employees and the FTE calculation put them at under 500. Furthermore, if you paid any employees to NOT work, or to work less than the hours for which they were paid, then the employee count restriction *would not apply* for those employees.

9. ***"I'm a charity and the ERC is only for businesses."***

   ~ The ERC also may provide significant benefit to charities – churches, nonprofit hospitals, museums, etc. Charities can be particularly good candidates for the ERC.

10. ***"My advisor said it's too much work for them, but I don't know how to file properly."***

    ~ Clearly, the best practice is for a business to provide contemporaneous documentation now – when first determining whether they qualify. To avoid headaches and heartaches down the road – businesses need to have counsel to properly and fully document and paper how the business qualifies for the ERC. That's where **JORNS & ASSOCIATES** comes in to help guide you and your business through the ERC weeds. We focus on ERC 100% of the day, every day.