



# Tax Update

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# Learning objectives



**After this presentation, you will have a better understanding of the:**

- ▲ Employee Retention Tax Credit
- ▲ Build Back Better Act Tax Provisions



# Employee Retention Credit

- ▲ Who is eligible? Organizations that:
  - Were fully or partially suspended from an appropriate governmental authority due to COVID-19, or
  - Had a significant decline in gross receipts from corresponding quarter in 2019
    - Greater than 50% during 2020
    - Greater than 20% in 2021

# Employee Retention Credit

- ▲ **Partial suspension – executive orders had more than a nominal effect on business operations**



A portion of an employer's business operations will be deemed to constitute more than a nominal portion of its business operations if either (i) the gross receipts from that portion of the business operations is not less than 10 percent of the total gross receipts (both determined using the gross receipts of the same calendar quarter in 2019), or (ii) the hours of service performed by employees in that portion of the business is not less than 10 percent of the total number of hours of service performed by all employees in the employer's business (both determined using the number of hours of service performed by employees in the same calendar quarter in 2019).

<https://www.irs.gov/pub/irs-drop/n-21-20.pdf>

# Employee Retention Credit

## ▲ Example:

- Employer H, a hospital, is considered to be operating an essential business under a governmental order with respect to its emergency department, intensive care, and other services for conditions requiring urgent medical care. However, the governmental order treats Employer H's elective and non-urgent medical procedures as non-essential business operations and prevents Employer H from performing these services. Employer H suspends operations related to elective and non-urgent medical procedures. Although Employer H is an essential business, Employer H is considered to have a partial suspension of operations due to the governmental order that prevents Employer H from performing elective and non-urgent medical procedures.
- <https://www.irs.gov/newsroom/covid-19-related-employee-retention-credits-determining-when-an-employers-trade-or-business-operations-are-considered-to-be-fully-or-partially-suspended-due-to-a-governmental-order-faqs>



# Employee Retention Credit

## ▲ What is it?

- Credit against applicable employment taxes for each calendar quarter
- Equal to 50% (70% in 2021) of qualified wages per employee; maximum credit of:
  - \$5,000 per eligible employee for 2020
  - \$7,000 per eligible employee per quarter in 2021

## ▲ Available through September 30, 2021

- Infrastructure Bill passed and eliminated the ERC effective October 1, 2021



# Employee Retention Credit

## ▲ Qualified wages:

- Less than 100 employees: all wages paid during shutdown and during depressed quarters
  - Effective January 1, 2021: less than 500 employees
- Greater than 100 employees: wages paid to an employee who is not providing services due to the suspension of the business or a drop in gross receipts
  - Effective January 1, 2021: greater than 500 employees



# Polling question

The Employee Retention Credit is available through:

- A. 9/30/2022
- B. 12/31/2021
- C. 9/30/2021
- D. 6/30/2021





# Build Back Better Act



Passed the House of  
Representatives in  
November 2021



Has not yet passed  
the Senate – will likely  
be revised or broken  
up

# Build Back Better Act Tax Provisions

## 1 | Expand the Net Investment Income Tax

- 3.8% tax on all income / gain from trade or business
- Does not apply to wages

## 2 | Modify Business Interest Expense Limitation

- Apply limitation at partner / shareholder level instead of partnership / S corp level
- Opt-out election available

## 3 | Make Permanent Excess Business Losses

- Make permanent the limitation on excess business losses for noncorporate taxpayers



# Build Back Better Act Tax Provisions

## 4 | Increased State and Local Tax (SALT) Deduction

- For individuals, increase the SALT deduction from \$10,000 to \$80,000 through 2030

## 5 | Roth Contributions and Conversions

- Prohibit Roth contributions
- Prohibit Roth conversions regardless of income level

## 6 | Cryptocurrency Rules

- Budget for cryptocurrency monitoring & compliance
- Apply wash sales rules



# Polling question

True or false?

The Build Back Better Act  
passed the House



# Thank you!

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