The CACUBO webinar on the Employee Retention Credit will begin shortly.
Thanks for joining!!!!!!!
Today’s Presenters

• Marty Mickey, VP-Finance, National Louis University
• Lauren Denton, Senior Manager, BKD

DISCLAIMER
The interpretations and thoughts contained herein are those of the speakers presenting and are subject to change and may or may not be appropriate for your institution. Consultation should be held with your own CPA firm to validate the position you are taking in a certain area.
• During the COVID crisis, the CACUBO Board thought it would be helpful to present webinars in which our members could share how they are coping in various areas of interest.
• Since the pandemic started, we have hosted 10 webinars on:
  • CARES Act/HEERF I and HEERF II (2 on this topic)
  • Reopening Strategies (3 on this topic)
  • Diversity, Equity and Inclusion
  • Managing a Remote Work Force
  • COVID testing
  • Enrollment Management and Marketing During a Pandemic
  • Online Curriculum Development and Delivery
• Today, we will hear from panelists who will share thoughts on the Employee Retention Credit
• We will send out a survey afterwards to solicit your thoughts and what topics might be of interest for future webinars. Also, if you would be willing to present on a topic in a future webinar, please let us know in the survey or e-mail me at mmickey@nl.edu.
AGENDA

GENERAL OVERVIEW & ELIGIBILITY

HOW TO CLAIM & THINGS TO CONSIDER

EXAMPLES & LESSONS LEARNED
Employee Retention Credit (ERC)

• Refundable tax credit against certain employment taxes equal to a certain percentage of qualified wages paid to employees after March 12, 2020
• Extended through December 31, 2021
• Clarifies determination of gross receipts for certain tax-exempt organizations
• Group health plan expenses considered qualified wages even when no other wages are paid to employee
• Employers who receive PPP loans may still qualify for ERC with respect to wages that aren’t paid for with forgiven PPP proceeds – no “double-dipping”
Employee Retention Credit (ERC)

- CAA expands ERC for calendar quarters after December 31, 2020
  - Increases credit rate from 50% to 70% of qualified wages
  - Increases limit on per-employee creditable wages from $10,000 per year to $10,000 per quarter
  - Expands eligibility by reducing required year-over-year gross receipts declines from 50% to 20% & provides safe harbor allowing employers to use prior quarter gross receipts to determine eligibility
  - Increases 100-employee delineation for determining relevant qualified wage base to employers with 500 or fewer employees
WHO QUALIFIES FOR THIS CREDIT?

2020 (March 13–December 31)

START HERE:
Did your organization receive an SBA Paycheck Protection Program Loan?

YES

Under the Taxpayer Certainty and Disaster Tax Relief Act of 2020, PPP loan recipients may now claim an Employee Retention Credit for eligible wages (wages not included in the PPP loan forgiveness calculation) paid in 2020 and 2021.

NO

Was your business fully or partially closed during any 2020 calendar quarter due to governmental orders resulting from COVID-19?

YES

On average, how many full-time employees did you employ in 2019? (see below for FTE definition)

MORE THAN 100 FTEs

100 OR FEWER FTEs

NO

If your business remained open, were gross receipts during any quarter in 2020 less than 50 percent of what they were for the same quarter in 2019?

YES

You likely do not qualify for the Employee Retention Credit.

NO

You may qualify for the Employee Retention Credit. Qualified wages are those wages, including health care costs, (up to $10,000 per employee) paid to employees who are not providing services because operations were suspended or due to the decline in gross receipts, regardless of whether or not employees are providing services.
WHO QUALIFIES FOR THIS CREDIT?

2021 (through June 30)

START HERE:
Did your organization receive an SBA Paycheck Protection Program Loan?

NO

Was your business fully or partially closed during the first or second quarter of calendar 2021 due to government orders resulting from COVID-19?

NO

If your business remained open, were gross receipts during the first or second quarter in 2021 less than 80% of what they were for the same quarter in 2019?*

NO

On average, how many full-time employees did you employ in 2019? (see below for FTE definition)

YES

MORE THAN 500 FTEs

You may qualify for the Employee Retention Credit. Qualified wages are generally those wages, including certain health care costs, (up to $10,000 per employee per quarter) paid to employees who are not providing services because operations were suspended or due to the decline in gross receipts.

500 OR FEWER FTEs

You may qualify for the Employee Retention Credit. Qualified wages are those wages, including health care costs, (up to $10,000 per employee per quarter) paid to any employee during the period operations were suspended or the period of the decline in gross receipts, regardless of whether or not employees are providing services.

*An election is available to use the immediately preceding calendar quarter (e.g., for first quarter of 2021, an employer may elect to compare gross receipts of fourth quarter 2020 to the fourth quarter of 2019)
ERC Eligibility Guidance

- IRS FAQs – last updated June 2020
- Notice 2021-20
  - Full or partial suspension guidance
  - Essential vs. Non-essential Business
    - Facts & circumstances as to whether essential business may have a partial suspension of operations
  - More than a nominal portion of business operations must be suspended by a government order to qualify
    - Gross receipts for that portion of the business operations is not less than 10% of total gross receipts (both determined using gross receipts of the same calendar quarter in 2019); or
    - The hours of service performed by employees in that portion of the business is not less than 10% of total hours of service performed by all employees in the employer’s business (both determined using number of hours of service performed by employees in the same calendar quarter in 2019)
ERC Eligibility Guidance

• Orders from an Appropriate Government Authority
  • Orders, proclamations, or decrees from the federal government or any state or local government if they limit commerce, travel, or group meetings due to COVID-19
  • Statements from a government official do not rise to the level of a government order
  • CDC recommendations not a government order
  • Important to understand and document the relevant government orders, look to the most restrictive if multiple

• Continuance of Comparable Operations – various factors
  • Telework capabilities
  • Portability of employee’s work
  • How critical employer’s work space is to its trade or business
How to Claim the ERC

• Credit is allowed against the employer’s share of Social Security tax

• Report each quarter on Form 941
  • Advance credit is obtained by filing Form 7200

• Fully refundable credit
  • If the credit exceeds the employer’s share of Social Security tax on all wages, the excess is treated as an overpayment & refunded

• Consider amending payroll tax returns
  • Be aware of potential costs here
Utilization of Employee Retention Credit – Overview and Lessons Learned By One College

• With the exception of one vertical (culinary), we have been fully virtual ever since the pandemic began and the work of our employees in several areas has been curtailed.
• We began capturing time eligible for the ERC right after the credit was announced in April 2020.
• Our biggest hurdle was budget heads thinking that if they claimed an employee for the credit, then that employee would be put on a furlough list because they weren’t needed.
• We viewed this as our version of the Paycheck Protection Program which we weren’t eligible for.
Types of Employees for Which Credit Was Claimed For at Least Part of the Year

- Facilities
- Security
- Maintenance
- Copy Center
- Mailroom
- Dining room personnel
- Administrative Assistants
- Student Life personnel
- Library personnel
- Outreach personnel who could not pivot

We only claimed folks who were unproductive and forced to stay at home for a week or more
Example of Form We Use To Capture Credit

<table>
<thead>
<tr>
<th>Name of Budget Head:</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Department:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Month: March</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Please Indicate an "X" in Full Days in Which the Employee Was Not Able to Provide Service Due to Switch to Virtual Learning and an "H" in any days in Which the Employee Was Able to Only Provide Services for Half the Day

<table>
<thead>
<tr>
<th>Employee Name:</th>
<th>John Doe</th>
<th>Jane Doe</th>
<th>John Doe</th>
<th>Jane Doe</th>
<th>John Doe</th>
<th>Jane Doe</th>
<th>John Doe</th>
<th>Jane Doe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, March 12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Friday, March 13</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Saturday, March 14</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
</tr>
<tr>
<td>Sunday, March 15</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
</tr>
<tr>
<td>Monday, March 16</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tuesday, March 17</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, March 18</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, March 19</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Friday, March 20</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Saturday, March 21</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
</tr>
<tr>
<td>Sunday, March 22</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
</tr>
<tr>
<td>Monday, March 23</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tuesday, March 24</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, March 25</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, March 26</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Friday, March 27</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Saturday, March 28</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
</tr>
<tr>
<td>Sunday, March 29</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
<td>Weekend</td>
</tr>
<tr>
<td>Monday, March 30</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tuesday, March 31</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
941 Form on Which Credit is Claimed

### Part I: Answer these questions for this quarter.

<table>
<thead>
<tr>
<th>Question</th>
<th>Formula</th>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Number of employees who received wages, tips, or other compensation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Wages, tips, and other compensation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 Federal income tax withheld from wages, tips, and other compensation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 If no wages, tips, and other compensation are subject to social security or Medicare tax</td>
<td><a href="#">Check and go to line 6.</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5a Taxable social security wages</td>
<td>$ \times 0.124 $</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5a (i) Qualified sick leave wages</td>
<td>$ \times 0.062 $</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5a (ii) Qualified family leave wages</td>
<td>$ \times 0.062 $</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5b Taxable social security tips</td>
<td>$ \times 0.124 $</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5c Taxable Medicare wages &amp; tips</td>
<td>$ \times 0.029 $</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5d Taxable wages &amp; tips subject to Additional Medicare Tax withholding</td>
<td>$ \times 0.009 $</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5e Total social security and Medicare taxes. Add Column 2 from lines 5a, 5a(i), 5a(ii), 5b, 5c, and 5d</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5f Section 3121(q) Notice and Demand—Tax due on unreported tips (see instructions)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6 Total taxes before adjustments. Add lines 3, 5e, and 5f</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7 Current quarter’s adjustment for fractions of cents</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8 Current quarter’s adjustment for sick pay</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9 Current quarter’s adjustments for tips and group-term life insurance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10 Total taxes after adjustments. Combine lines 6 through 9</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11a Qualified small business payroll tax credit for increasing research activities. Attach Form 8974</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11b Nonrefundable portion of credit for qualified sick and family leave wages from Worksheet 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11c Nonrefundable portion of employee retention credit from Worksheet 1</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Claim the credit here on Form 941
ERC - Things to Consider

• Who is considered full time?
  • 30 hours per week/130 hours per month

• What areas have had to modify operations?
  • Dining: 6 feet limits, capacity limits
  • Classrooms – has virtual replaced in-person?
  • Conferences
  • Camps
  • Athletics
  • Advancement
  • Study abroad
  • Talk to your “COVID Task Force” on campus

• Does the institution have multiple locations?
• Maintain all required documentation
ERC - Examples

Emergency Order under MCL 333.2253 – Gatherings and Face Mask Order
Order Announced: January 22, 2021
Dates in Effect: February 1-February 21, 2021

2. General capacity limitations at gatherings.

(a) Indoor gatherings:

(1) Are prohibited at residential venues, except where no more than 10 persons from no more than 2 households are gathered. Such gatherings should be held consistent with guidance issued by the Department of Health and Human Services for such gatherings; and

(2) Are prohibited at non-residential venues, except where no more than 10 persons from no more than 2 households are gathered.

3. Gathering restrictions for entertainment and food service facilities.

(b) Gatherings are permitted at food service establishments under the following conditions:

(1) Persons are not gathered indoors except in custodial settings, medical facilities, school and university cafeterias, shelters, and soup kitchens. If attendees are seated at tables, persons must be 6 feet apart, or members of a household may share a table and tables must be spaced a minimum of 6 feet apart;
Emergency Order under MCL 333.2253 – Gatherings and Face Mask Order
Order Announced: January 22, 2021
Dates in Effect: February 1-February 21, 2021

5. Gathering restrictions for other facilities. In addition to the gathering limitations set forth elsewhere in this order, the following limitations apply to gatherings in the following facilities:

(a) A gathering at a retail store, library, or museum must not exceed 30% of total occupancy limits established by the State Fire Marshal or a local fire marshal. Nevertheless, a retail store, library, or museum may permit one customer at a time to enter if strict adherence to the 30% total occupancy limit would otherwise result in closure. Spaces for indoor dining, including food courts, must be closed.

(b) At exercise facilities:

(1) Gatherings must not exceed 25% of the total occupancy limits established by the State Fire Marshal or a local fire marshal; and

(2) There must be at least 12 feet of distance between each occupied workout station;

(3) Indoor gatherings for group fitness activities or classes are prohibited. Outdoor gatherings for group fitness activities or classes are permitted.
Example 1: Employer D, a restaurant business, must close its restaurant locations to in-room dining due to a governmental order closing all restaurants, bars, and similar establishments for sit-down service. Employer D is allowed to continue food or beverage sales to the public on a carry-out, drive-through, or delivery basis. Employer D's business operations are considered to be partially suspended due to the governmental order closing all restaurants, bars, and similar establishments to sit-down service.

Example 2: Same facts as Example 1, except that two months later, under a subsequent governmental order, Employer D is permitted to offer sit-down service in its outdoor space, but its indoor dining continues to be closed. Indoor dining is more than a nominal portion of operations. Employer D’s business operations are considered to be partially suspended. The following month, Employer D is permitted to offer indoor dining service provided that all tables must be spaced at least six feet apart. This spacing constraint has more than a nominal effect on business operations.
Question 18: What factors should be taken into account in determining whether a modification required by a governmental order has more than a nominal effect on business operations?

Answer 18: The types of modifications that are contemplated by Q/A–17 are those required by a governmental order as a condition of reopening a physical space for business or service to the public. Examples of these modifications include: limiting occupancy to provide for social distancing, requiring services to be performed only on an appointment basis (for businesses that previously offered walk-in service), changing the format of service (for example, restrictions on buffet or self-serve, but not prepackaged or carry-out), or requiring employees and customers to wear face coverings.

The mere fact that an employer must make a modification to business operations due to a governmental order does not result in a partial suspension unless the modification has more than a nominal effect on the employer’s business operations.
ERC - Action Items & Resources

• Action Items
  • Determine what government orders were in place & the dates they were effective
  • Summarize quarterly gross receipts for 2019, 2020, & the first two quarters in 2021 as they are completed
  • If you believe your organization will qualify, determine the number of full-time employees
  • If more than 100/500 full-time employees, gather information about employees that may have been paid while not providing services

• Resources
Thank You!