

Employee Retention Tax Credit (ERTC): Take Advantage, But Avoid Scammers



Gene Marks

CPA, Columnist, and Host

Gene Marks:

Hey, everybody, this is Gene Marks, and welcome to this week's edition of The Week in Review. This is brought to you by the Paychex Thrive Podcast. Thank you very much to Paychex and thank you very much for joining me this week.

Listen, not a whole lot of news going on in the world of small business right now as we are entering the holiday season, but there is something that I do want to talk with you about. It's newsworthy because it happened just very recently, a few weeks ago, and it has to do with the employee retention tax credit or ERTC. In late October, the IRS released a warning about fraudsters and scamsters that are taking advantage of small businesses and around this employee retention tax credit.

Now, let me first of all, make sure that we're all aware of what this is. Okay? During the pandemic, there were a couple of stimulus bills that introduced the employee retention tax credit or ERTC, and effectively what the government told small businesses is like, hey, if you were impacted by the pandemic in either any quarter, just about any quarter in 2020 or 2021, well tell you what, and you kept your employees employed, you kept them coming to, you know, to your business, you're paying payroll, we're going to give you a credit back. We're going to give you money. We're going to give you a bonus for doing that – for avoiding your employees getting on the unemployment rolls. Right. And the credit was pretty, pretty generous.

It really depended on the quarter that you claimed it in, in the year that you claimed it in, but it could be tens of thousands of dollars per employee if you were eligible and you applied the right way. Now, this is a credit against your payroll taxes. So, for example, if you are eligible, say, and I don't know, the third or fourth quarter of 2020, whatever payroll taxes that you might have paid that quarter, you could take this credit against them, and if the credit exceeded the payroll taxes that you owed, the government would give you money back.

So, in a lot of cases, employers who paid their payroll taxes got it refunded and then some by the government. It was pretty lucrative program for a lot of businesses. Now, by the way, this is not to be confused with the Paycheck Protection Program – that was a whole separate program and salaries and compensation could not overlap. There were a lot of rules around this as well.

But here's what's been happening because of the timeline for when this credit expires – It expires going out, you could still go back even through 2023 and a little bit of 2024 and amend your payroll tax returns if you think you're eligible in 2020 or 2021. And your eligibility is, you had to prove that you were quote unquote, impacted by COVID, which means that you were either partially or fully shut down. The rules have been tightened a little bit, but they're still fairly loose. So, a lot of businesses have been saying, hey, man, we've been impacted. Here's the reason why we're going to apply for this credit, and the government is giving the money back.

This leads me to the IRS is statement that they just released. They are concerned: They warned employers to be wary of third parties who are advising them to claim the employee retention tax credit when they may not even qualify.

Some of these third parties, you might be getting spam emails from them or calls or text messages or saying, "Hey, you could be getting tens and thousands of dollars of this tax credit back. All you need to do is talk to us."

Well, a lot of these companies, they're fraudsters, and what they ask for is like fees in advance to do the work to see if you're qualified, and then once, of course, you pay them the fees, they run away, and you can't find them anymore. They're preying on a lot of unsuspecting small businesses who think that they could be eligible for this tax credit.

So, here's my advice, because it's really important. You might be eligible for the employee retention tax credit. Your revenues or because there's different factors for eligibility – but it's based on revenues, it's also based on whether you are shut down like a restaurant. I mean, if you're a restaurant and you were part of a lockdown or your restaurant was closed, and basically in the last three quarters of 2020 or the first three quarters of 2021, you're definitely going to be eligible for this credit.

So, you should be looking into it. There's no doubt about it, and you've got some time because you can still amend your returns, but that timeline is going to start to disappear. So, you want to jump on that as soon as possible.

Clearly, you don't want to go with any of these services that are emailing you or calling you about it. You want to go to a reputable place. So, two places that you want to talk to; either talk to your accountant if you have a good accountant who's involved with your payroll taxes or that you trust can give you some advice. A lot of CPAs and a lot of accounting firms are giving services for the employee retention tax credit.

The other place is talk to your payroll company, and, you know, in this case, obviously, this is a Paychex podcast. This is a tax credit that is certainly, certainly available to you. Paychex themselves have been processing tens of thousands of these forms and getting credits back for their clients all across the country. When you work with a reputable payroll service firm, what they will do is – they don't want to, you know, risk their reputation – so if you're Paychex, you're going to go through and do the calculation the right way and check out the eligibility by the right definitions. They will be able to advise you straight up.

So, if you're a Paychex customer or you're not a Paychex customer, you could definitely take advantage of their service. I don't want to make this like I'm just selling Paychex here. If you don't want to take advantage of Paychex services, fine. But talk to an accountant or if you're using another payroll service, talk to them, as well.

Do not – please ignore – do not pay attention to any kind of mailings, your emails, your calls that you're getting from any of these third-party services that are promising to do this because it's really, you know, they're not doing it the right way, and they could get you into a lot of trouble.

Not only could you lose money by paying them a fee, but, you know, even if they accept the fee and they apply for your credit and you get money back, they're not doing it the right way, and you could be subject to returning that money with penalties and interest if that is the case.

So, bottom line is this, okay, the employee retention tax credit is definitely something that you should be looking into, particularly if you're in a business that was locked down in any of the last three quarters of 2020 or the first three quarters of 2021. Talk to your accountant or talk to your payroll service company about this. You do have some time to go back and amend your payroll tax returns for 2020 and 2021. If you're eligible and you go back and amend it, you really could be getting significant money back from the government. I mean, jeez, you might as well take advantage of it as soon as you can. So, do it if you can.

My name is Gene Marks. You have been listening to The Week in Review, our podcast from Paychex Thrive podcast. Hopefully, you've gotten some good information from this and this will help you run your business. If you have any advice or if you'd like to suggest any guest, please visit us at payx.me/thrivetopics. That's P-A-Y-X dot M-E/thrivetopics.

Thanks so much for listening. I hope this information helps. We will see you again next week. Take care.

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