


**eERC** presents:

# ERC Facts, Misconceptions & a Home Health & Hospice Case Study



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## Introducing *today's hosts*



**Kyle Morabito, Esq.**  
CLO & Managing Director  
*Tenures at DLA Piper, McDermott Will & Emery, and Bilzin Sumberg*



**Maxwell Burns, CPA**  
Managing Director  
*Tenures at KPMG, RSM and Alvarez & Marsal*





**Lauren Ginsburg**  
Client Services  
*Tenure at Paycom*

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THIS IS  
**What you'll learn**

- 1 Employee Retention Credit (ERC) 101
- 2 Common ERC Eligibility Misconceptions in Home Health & Hospice
- 3 ERC Case Study
- 4 What to look for in an ERC advisor



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**ERC 101**



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## How much can an organization claim?

The **maximum** amount an employer can receive for any W2 employee is \$26,000.

Funds available per W2 employee are as follows:

TIME PERIOD	CREDITS AVAILABLE
March 13, 2020 – December 31, 2020	<b>\$5,000</b> (50% of the first \$10,000 earned in the period)
Q1 2021	<b>\$7,000</b> (70% of the first \$10,000 earned in the period)
Q2 2021	<b>\$7,000</b> (70% of the first \$10,000 earned in the period)
Q3 2021	<b>\$7,000</b> (70% of the first \$10,000 earned in the period)

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## How does an organization become **eligible** for the ERC?

### TEST #1 Substantial Decline in Gross Receipts Test

Did your gross receipts decline by:

▶ **50%** *Per quarter*  
comparing each quarter in 2020 to the same quarter in 2019?

▶ **20%** *Per quarter*  
comparing Q1, Q2 and Q3 of 2021 to the same quarter in 2019?

### TEST #2 Partial Suspension Of Operations Test

Was your organization's ability to provide goods or services restricted or modified by a COVID executive order?

If so, would your company have been able to provide

**10%** *in additional goods or services*

if such COVID executive orders were never enacted?

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## How EZ-ERC approaches the full or partial suspension analysis for healthcare organizations



### Four-Pronged Approach:

- 1 Can your operations be broken down into "portions" or "segments"?
  - *Services and/or procedures provided;*
  - *Locations where services are delivered, etc.*
- 2 What COVID-19 governmental orders imposing mandated restrictions affected your organization during the pandemic?
  - *Social distancing & capacity restrictions;*
  - *Increased sanitization & disinfection;*
  - *COVID-related absences & quarantine;*
- 3 What changes or modifications did you make to your business operations to comply with these governmental orders?
- 4 What was the impact? Was there a "more than nominal" (>10%) impact on the operations of the segment/portion?

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## Examples of Changes in Operations to Comply with Executive Orders



### Medical Personnel Facility Restrictions

- Restricted access to medical facilities of "essential personnel"
- "Interdisciplinary Teams" prevented from entering facilities (social workers, volunteers, chaplains, etc.)



### COVID Screening and Quarantine for Staff & Patients

- COVID screenings - requiring temperature checks, attestations on COVID-19 exposure and testing.
- COVID-related absences amongst staff for mandated quarantine period.
- Patients canceling home health services for entirety of quarantine period when testing positive.



### Restrictions on Visitors

Family and friends not permitted to visit loved ones in person in facilities.



### Restrictions on Hiring and Training

- Prevented from conducting in-person interviews
- Restrictions on conducting "hands on" training for new hires.



### COVID-19 "Wings"


Isolating services and personnel to "COVID Wings" in facilities.



### Enhanced Sanitation and Hygiene Procedure

Increased efforts toward sanitization of equipment, patient spaces, common areas, air, etc.

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# Common *ERC Eligibility Misconceptions* in Home Health & Hospice

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misconception:

Facilities that didn't experience revenue declines aren't eligible



Many U.S. healthcare facilities have *dismissed the possibility* of ERC eligibility due to stable or increased revenue over the tested eligibility period (i.e. 2020-2021)

There are two clear ways to know if you qualify for the ERC:

- the Significant Decline in Gross Receipts test (financial statement test); or
- the full or partial suspension of operations test (governmental order test).

You do not need to satisfy both.

The suspension of operations test takes *specialized knowledge* and is difficult to assess without the support of a qualified advisor.

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misconception:

Our facility was never fully shutdown and therefore doesn't qualify



Since most U.S. healthcare facilities were considered essential and not fully shutdown they **dismissed the possibility** of ERC eligibility.

IRS Nationwide Tax Forum 2023

### Full or Partial Suspension of Business Operations

- Partial suspension: eligible employer continues some -- but not all trade -- or business operations
  - A supply concept, not a demand concept
  - If able to telework comparably, no suspension
  - Operations not able to be continued "in manner comparable to operations before COVID"
  - Modifications to operations must have (a) more than a nominal effect (10% impact on ability to provide goods or services) on (b) more than nominal portion of business operations (Safe harbor: 10% of revenue or hours in 2019)
- All members of aggregated group are eligible employers if one member of the group has business operations fully or partially suspended due to government order

The suspension of operations test takes **specialized knowledge** and is difficult to assess without the support of a qualified advisor.

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misconception:

Our organization is too large to qualify



Your organization can qualify for the 2020 credit if you had 100 or fewer average monthly full-time W-2 employees in 2019 and the 2021 credit based on an increased threshold of 500 employees in 2019.

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Not all employees count towards the limitation - only full-time W-2 employees from 2019 count.

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Full-time employees are those W-2 employees who work at least 130 hours per month.

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Aggregation rules must be considered to accurately determine which employees must be counted.

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misconception:

Our organization took non-PPP government funding and therefore we aren't eligible



This is a case-by-case consideration:

- ❖ Health and Human Services (HHS) has explicitly clarified that ERC **does not constitute "other assistance"** (i.e., reimbursement of payroll costs) and therefore it does not negate the availability of ERC.

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Miscellaneous: Should state and federal tax credits (e.g., employee retention tax credits) be reported as "other assistance received?"

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No. Tax credits are not considered a revenue source for purpose of reporting within the Provider Relief Fund report.

(Added 12/9/2021)

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**ERC Case Study**

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**CASE STUDY**

## East Coast Based Home Health & Hospice Organization

EZ-ERC has found eligibility for a Home Health & Hospice Org to claim an ERC in the amount of \$4.7 million.

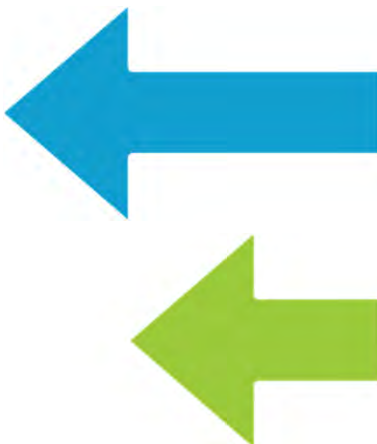


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### The Result for East Coast Based Home Health & Hospice Organization

- **FTE Count:** - 184 FTE
- **Partial Suspension (Q1 & Q2 of 2021):**
  - Facility based Hospice Care (owned and 3rd party facilities) represented 10% of revenue in 2019
  - Facility based visits were down between 31%-40% in Q1 & Q2 of 2021 vs Q1 & Q2 of 2019.
- **Declines in Gross Receipts (Q3 of 2021)**
  - Gross receipts were down 49% in Q3 of 2021 compared to Q3 of 2019
- **Eligible Employer:** Q1, Q2 & Q3 2021

**Total ERC Claim: \$4.7 million**



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# What To Look For In An *EZERC* Advisor

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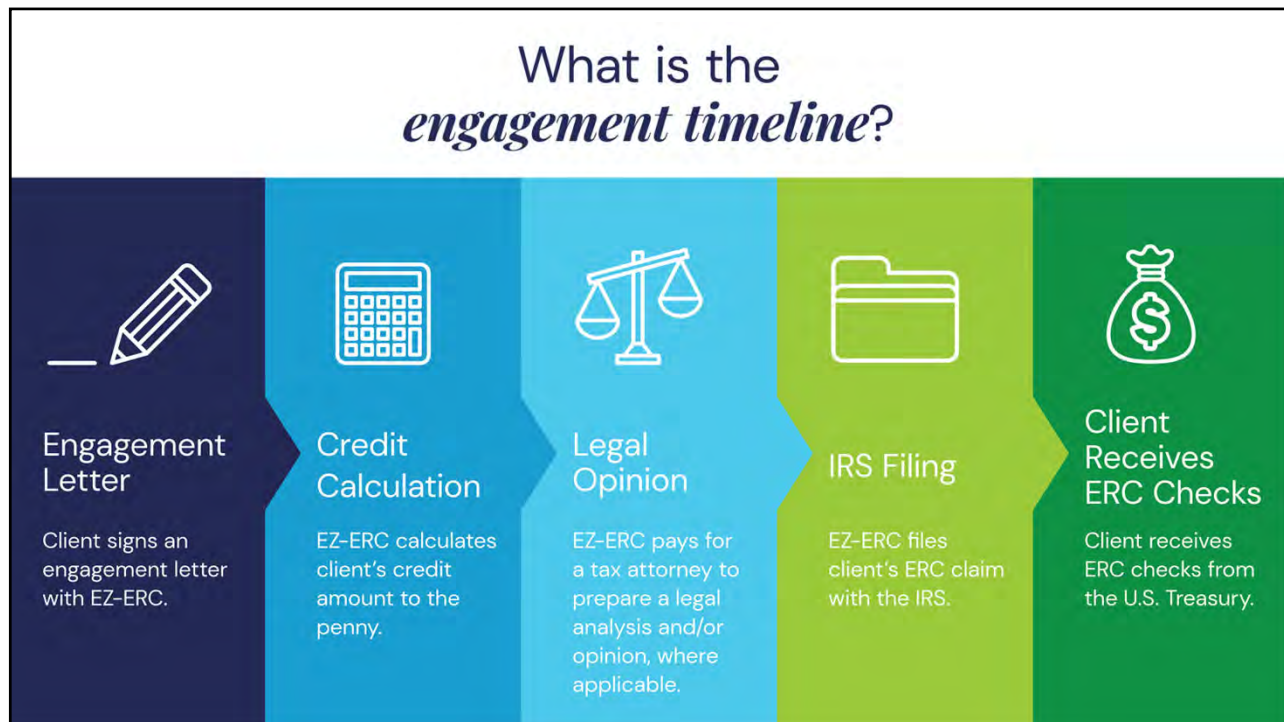
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## What to look for in a qualified advisor?

- 1. Tax Guidance:** Kenneth Dettman (former partner at Alvarez& Marsal and Co-Head of their ERC Taskforce) signs every ERC filing as paid preparer; thereby taking responsibility for our clients' ERC tax positions;
- 2. Legal Guidance:** We work side-by-side with some of the top law firms in the country specializing in the ERC and even work with several lawyers who were integral in writing the ERC legislation;
- 3. Legal Opinion:** EZ-ERC pays for a tax attorney to prepare a legal analysis and/or opinion, where applicable, substantiating our clients' ERC legal eligibility; thereby taking responsibility for our clients' ERC legal positions;
- 4. Timing:** We can finalize and submit an ERC claim to the IRS within a month from the time a client signs our engagement; and
- 5. Price:** EZ-ERC generally charges 10-20% of the credit (competitors generally charge 15-30%).

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# Q&A

For additional information or questions contact Lauren at  
Lauren.Ginsburg@ez-erc.com

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**SCO** Can you add some something like:

For additional information or questions contact Jesse at  
[jesse@ez-erc.com](mailto:jesse@ez-erc.com)

Stephanie Cornwell, 2023-08-01T17:29:25.531