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As Pandemic Aid Dries Up, Businesses Chase Covid Tax Credit

The hottest business tax break is the employee-retention tax credit, a pandemic-aid provision that expired more than a year ago

By *Ruth Simon* [Follow](#) and *Richard Rubin* [Follow](#)

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A temporary tax break for small businesses has spawned a cottage industry of advisory firms tapping into federal pandemic aid, raising alarms at the Internal Revenue Service that some claims are going beyond what the law allows.

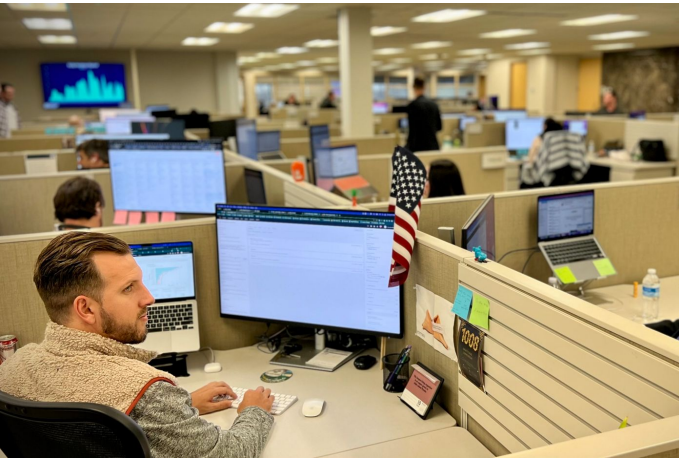
The Paycheck Protection Program and other federal aid programs long ago shut their doors. But small businesses and nonprofits battered by Covid-19 can still use a lesser-known lifeline, the employee-retention tax credit, or ERC. Businesses can claim up to \$26,000 per employee in refunds by amending payroll tax returns from 2020 and 2021.

An array of firms have popped up with the express goal of getting more businesses to file ERC claims. They are using radio spots, online ads and cold calls to compete with one another and with traditional accounting firms, payroll companies and tax credit specialists. The IRS has already paid out more than \$58 billion in ERC claims.

Howard Makler, chief executive of Innovation Refunds, said his firm spends nearly \$10 million monthly on marketing and it has completed more than 4,000 ERC filings totaling \$1.35 billion. His business was focused on helping companies secure research and development tax credits when he learned about the ERC. “It was a larger opportunity,” he said. “We felt the ERC would be more valuable not only to ourselves, but to the companies that we serve.”

For small businesses that qualify, the ERC offers a welcome cash infusion as owners struggle with inflation, rising interest rates and tight labor markets. For those who stretch claims beyond the eligibility criteria, however, that move could be the first step toward a painful IRS audit.

The IRS had handled more than 450,000 claims through March and had up to 281,000 more to process as of early November. The agency says it views the ERC as a serious compliance issue; it has started audits, training 300 revenue agents on how to examine the credit. The IRS has sent some employers detailed requests for lists of employees and proof of eligibility, according to document requests viewed by The Wall Street Journal. IRS criminal investigators are looking into the claims.



Innovation Refunds says that it is spending almost \$10 million a month to market its ERC services.

PHOTO: INNOVATION REFUNDS

The IRS issued an October warning to employers to be wary of advertising, saying some advisers are taking improper positions on ERC eligibility and size. In its statement, the agency warned that “improperly claiming the ERC could result in taxpayers being required to repay the credit along with penalties and interest.”

“It’s a bit of a gold rush,” said Gary Romano, president of Civitas Strategy, which has processed more than \$125 million in ERC refunds for child-care providers. His consulting firm charges a flat fee—about \$800 per ERC filing. Some ERC advisers collect 25% or more of the refund, industry participants say.

Paychex Inc., a payroll processor, said it has helped about 45,000 clients secure more than \$9.2 billion in ERC claims. “There are many who just don’t understand that they are potentially eligible for this, and we’re slowly but surely contacting as many of them as is in our ability,” said Tom Hammond, a Paychex vice president. Paychex has said it charges a flat ERC fee averaging about \$4,000.

Congress created the employee-retention credit in 2020 as a companion to the PPP, which provided forgivable loans. The idea: Reward employers who kept workers attached to their jobs.

Smaller employers could get a refundable tax credit for paying active workers, while larger firms generally qualified only for paying people who didn’t work. Employers can get up to \$5,000 per worker for 2020 and \$7,000 per quarter for the first nine months of 2021. Businesses typically have three years to amend original tax returns, so the full credit is still available.

Hal Cranmer, owner of A Paradise for Parents, which operates four assisted-living homes in Arizona, received more than \$200,000 from the IRS in ERC after following up on a radio ad from Innovation Refunds. Mr. Cranmer paid 25% to Innovation Refunds for handling the claim. His accountant offered to do the job for much less, but estimated that the business qualified for a tax credit about half as large. Mr. Cranmer said he used the money to provide bonuses to employees and to reinvest in his facilities.

Websites such as ERTCadvisors.com, ERCfreefile.com and EnrollERC.com are soliciting small businesses. Many prepare documentation for tax filings or lend against expected refunds. They have jumped into the market, saying that many accountants were too overwhelmed, too conservative or too unfamiliar with legislative changes to focus on the ERC.



Workers at an assisted-living facility in Arizona owned by Hal Cranmer received bonuses after he received the employee-retention tax credit. PHOTO: ASH PONDER FOR THE WALL STREET JOURNAL

Jace Campbell left accounting years ago to work in marketing and consulting. He started his ERTC advisory firm in 2021 after seeing an opportunity to help dentists and orthodontists who were already his clients. John Souza of ERTC Express said he has been hiring mortgage underwriters to review ERC claims as the housing industry contracts.

In the chase for clients, executives from ERC advisory firms insist they follow the rules while whispering about competitors cutting corners. The tax-credit boomlet, they warn, is filled with unqualified advisers charging exorbitant fees.

Kenny Dettman, an accountant who founded EZ-ERC, said his firm typically charges 8% to 15% and has submitted \$513 million in claims. He said some rivals are using a cookie-cutter approach. “Copy, paste. Copy, paste. Copy, paste. Charge 35%,” he said. “It’s a hell of a business model until it catches up with you.”

To qualify for the ERC, employers must show a significant decline in gross revenue from 2019. They can also qualify if they experienced a full or partial suspension of operations because of government orders or were hurt by supply-chain disruptions caused by Covid-related government orders.

“The revenue decrease is science. The other two are art,” said David Goldin, managing member of Finance ERC. His firm recently began providing small businesses with up to 70% of the amount they anticipate from the ERC upfront, typically in exchange for 11% to 15% of the expected refund.

The ERC frenzy has already spawned some lawsuits. Marywood University of Scranton, Pa., sued Synergi Partners Inc. in June, claiming the tax-credit firm told the school it could get more than \$6 million and sent an invoice for the first half of its \$901,942 fee. Marywood’s outside accountants said the university wasn’t eligible.

Synergi said there was a difference of opinion regarding Marywood’s accounting firm and the suit has been dismissed. Marywood said there was a mutual resolution with terms it won’t disclose. “Our position as a company is: Look, if you don’t feel good about this, we’re not forcing you to take a credit,” said Ashley Hogsette, chief legal officer of Synergi Partners.

In addition to paying fees, employers who are claiming the credit typically refile income-tax returns and pay more to the IRS, lowering the value of the tax break. That is because they must relinquish the deductions for wages now

covered by the credit.

Byron Wells, the owner of STEAMspark, a childhood center near Dallas, said he paid his payroll firm \$1,200 to process ERC paperwork and still gets three to five calls a week from ERC advisory firms. “When they finish their pitch, I tell them I already got my money and didn’t pay what you are charging,” he said. “They normally disconnect.”

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Howard Makler, CEO of Innovation Refunds, says his company completed ERC filings totaling \$1.35 billion. PHOTO: INNOVATION REFUNDS