

THE LAW FIRM OF THE FUTURE

## Should Your Firm Apply for Employee Retention Tax Credits (ERTCs)?

November 16, 2022

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by

***Lance G. Einstein, Esq.***

Co-Managing Partner, MendenFreiman

***Uri Gutfreund***

SVP and Managing Principal, Ames & Gough

***John Remsen, Jr.***

President, TheRemsenGroup

**MPF WEBINAR**

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# Lance G. Einstein

CO-MANAGING PARTNER

Lance Einstein is a partner in MendenFreiman's tax controversy, tax planning and compliance, and estate planning practice areas. He joined the firm in 2019 and has extensive experience representing clients that have controversies and compliance issues with the Internal Revenue Service and various state tax agencies. His experience includes representing individuals and businesses during audits, collection issues (levies, liens, installment agreements, and offers in compromise), foreign asset reporting, penalty abatements, and appeals. He also works closely with clients and CPAs in devising strategies to minimize potential taxes, penalties, and interest.

Lance assists clients with devising and implementing estate plans that accomplish their goals with minimal disruption and tax costs. He has experience preparing wills, trust agreements, powers of attorney, health care directives, and partnership agreements. Lance is licensed to practice in both Georgia and Florida, which allows him to deal with issues that arise for clients with business dealings in both states.

Lance has experience in trust and estate administration and business law, including choice-of-entity formation and organization.

Prior to joining MendenFreiman, he was a partner at Gomel Davis & Watson, LLP.

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## Contact Information

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**"Our business is establishing and maintaining trusted client relationships through excellent representation, professionalism, and uncompromised client service."**

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## EDUCATION

- University of Miami School of Law, LL.M. Taxation, 2007
- University of Miami School of Law, J.D., 2006
- University of Georgia, B.B.A., Accounting, 2002

## BAR ADMISSIONS

- State Bar of Georgia
- The Florida Bar
- Georgia Supreme Court

## FEDERAL COURT ADMISSIONS

- United States Tax Court

## REPRESENTATIVE MATTERS

- Represented individuals and businesses in resolving their tax debts with the IRS, State of Georgia and various other states through offers in compromise, installment agreements, innocent spouse relief and penalty abatements with savings ranging in the thousands to millions of dollars.
- Negotiated settlements for businesses with the IRS and State of Georgia for the nonpayment of employment and sales taxes and associated trust fund taxes against individual related parties, with savings ranging from the thousands to millions of dollars.
- Represented businesses and individuals in audits before the IRS to minimize potential tax, penalties and interest — and in some cases obtaining losses and refunds.
- Represented individuals and businesses with foreign reporting and compliance issues, including filing voluntary and streamlined disclosures.
- Represented high-net-worth individuals in planning their estates while minimizing estate and trust taxes.

## PROFESSIONAL AFFILIATIONS AND MEMBERSHIPS

- State Bar of Georgia, member
- The Florida Bar, member
- Atlanta Bar Association, member
- North Atlanta Tax Council, Board of Directors

## AWARDS AND RECOGNITION

- Super Lawyers Rising Stars – 2011, 2013, 2015-2019
- Georgia Trend Legal Elite – 2015-2016, 2018-2021
- Super Lawyers – 2020-2022
- Best Lawyers – 2023

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# MPF Webinar Series: The Law Firm of the Future



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ADVANCING THE BUSINESS OF LAW

The MPF Webinar Series: Building the Law Firm of the Future  
**Should Your Firm Apply for Employment Retention Credits (ERCs)?**  
An MPF Webinar with Lance Einstein  
November 16, 2022 – 2:00-3:00pm ET




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## Welcome




**Uri Gutfreund**  
Senior Vice President and Managing Principal, Ames & Gough



**John Remsen, Jr.**  
President and CEO, Managing Partner Forum  
President, TheRemsenGroup




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## MPF Webinar Series: The Law Firm of the Future




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### Our Guest Speaker



**Lance G. Einstein, Esq.**  
Co-Managing Partner  
MendenFreiman



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### UPCOMING PROGRAMS IN 2022

- MPF Webinar Series – Third Wednesday @ 2pm ET
- The MPF 2023 Leadership Conference – May 3-4, 2023
- *The MPF Weekly* – Friday mornings
- MPF Website – [www.ManagingPartnerForum.org](http://www.ManagingPartnerForum.org)
- MPF Listserv and Zoom MPIEs



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## MPF Webinar Series: The Law Firm of the Future



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### TODAY'S WEBINAR

- Registrant Survey Results - 82 managing partners and law firm leaders
- Today's Topic - **Should Your Firm Apply for Employment Retention Credits (ERCs)?**
- Audience Polling Questions, Question Box
- Next MPF Webinar – December 21, 2022




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### AUDIENCE POLLING QUESTION #1


#### How many lawyers are with your firm?



Lawyer Count	Percentage
Less than 10 lawyers	7.14%
10-25 lawyers	33.33%
26-50 lawyers	16.67%
51-100 lawyers	28.57%
More than 100 lawyers	14.29%



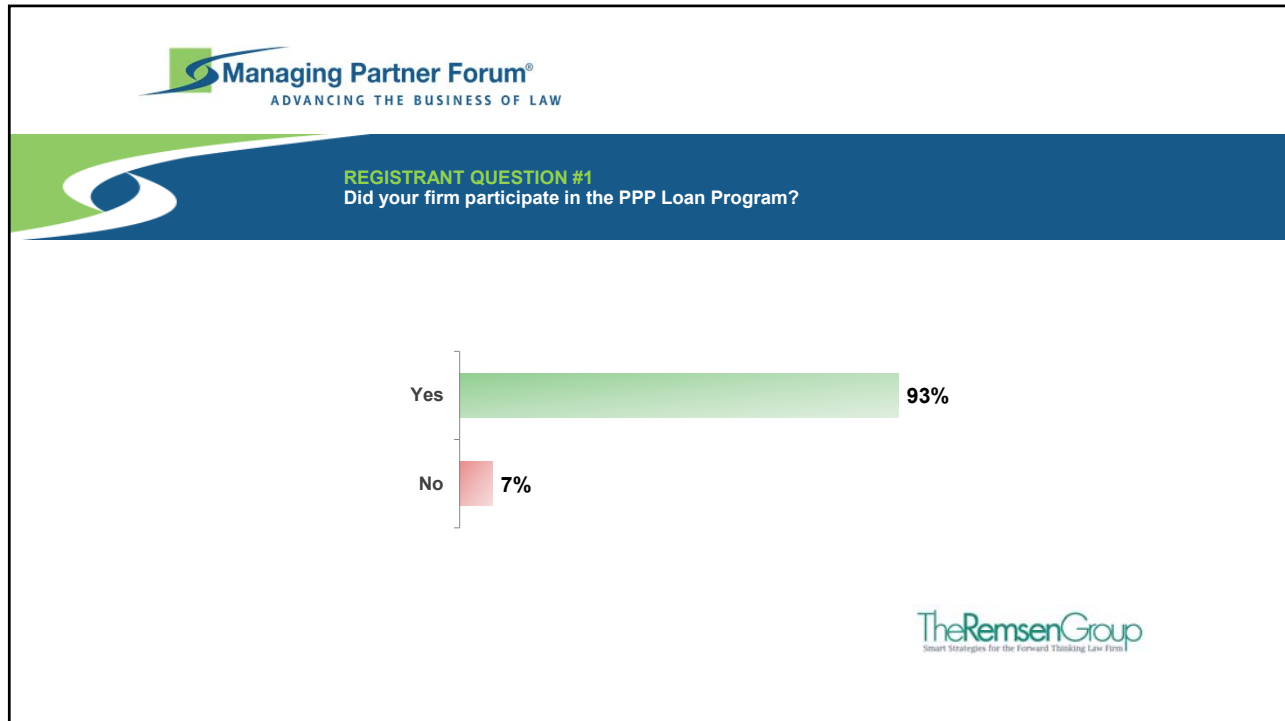
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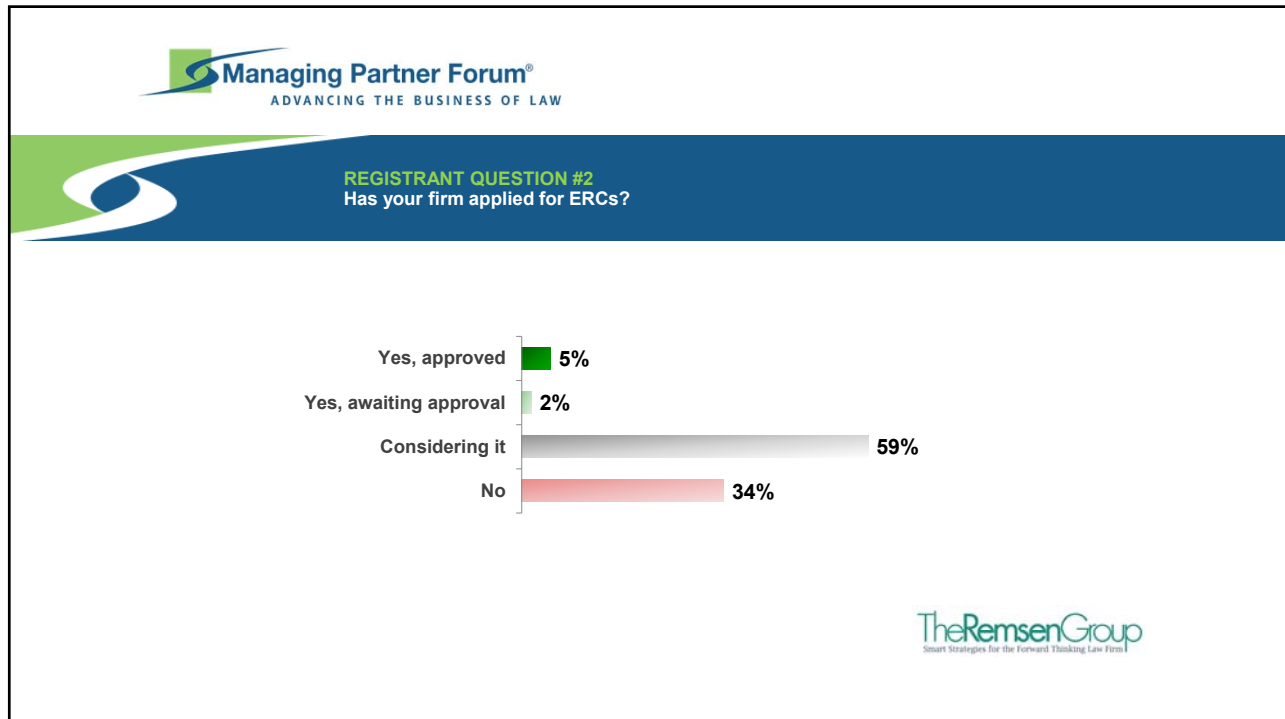
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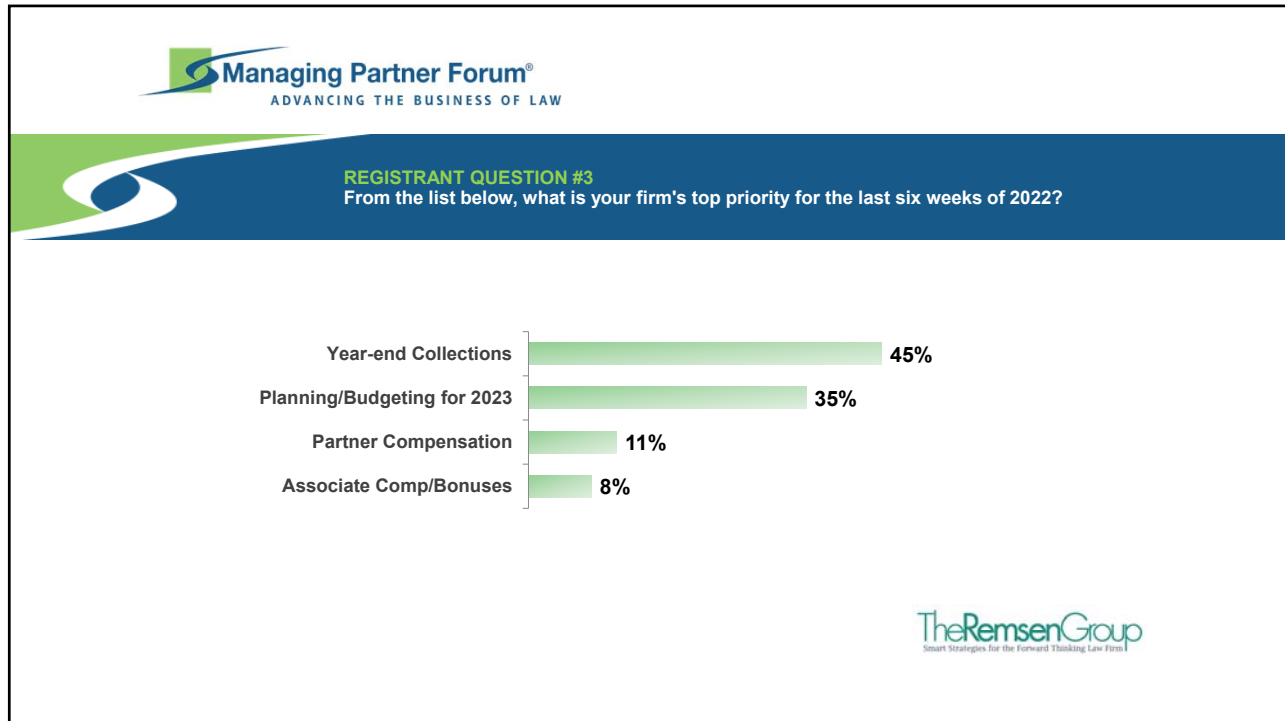


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**TODAY'S CONVERSATION**

- Overview of ETC Program
- How to Assess for Your Firm
- Other Issues for Law Firms
- Questions/Answers
- Where to Learn More


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**TODAY'S CONVERSATION**

- Coronavirus Aid, Relief, and Economic Security (CARES) Act with a special section called the Employee Retention Tax Credit (ERTC), specifically added to help businesses, including professional service firms
- Fully refundable tax credit of **up to \$5,000 per employee** in 2020
- Up to **\$7,000 per employee** for each of the first three quarters in 2021
- Eligible employers are those that fully or partially suspended their business operations in 2020 and/or 2021 due to orders from an appropriate governmental authority limiting commerce, travel or group meetings due to COVID-19, or experienced a significant decline in gross receipts.
- Law firms may be eligible even if you received PPP funds.

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**AUDIENCE POLLING QUESTION #2**

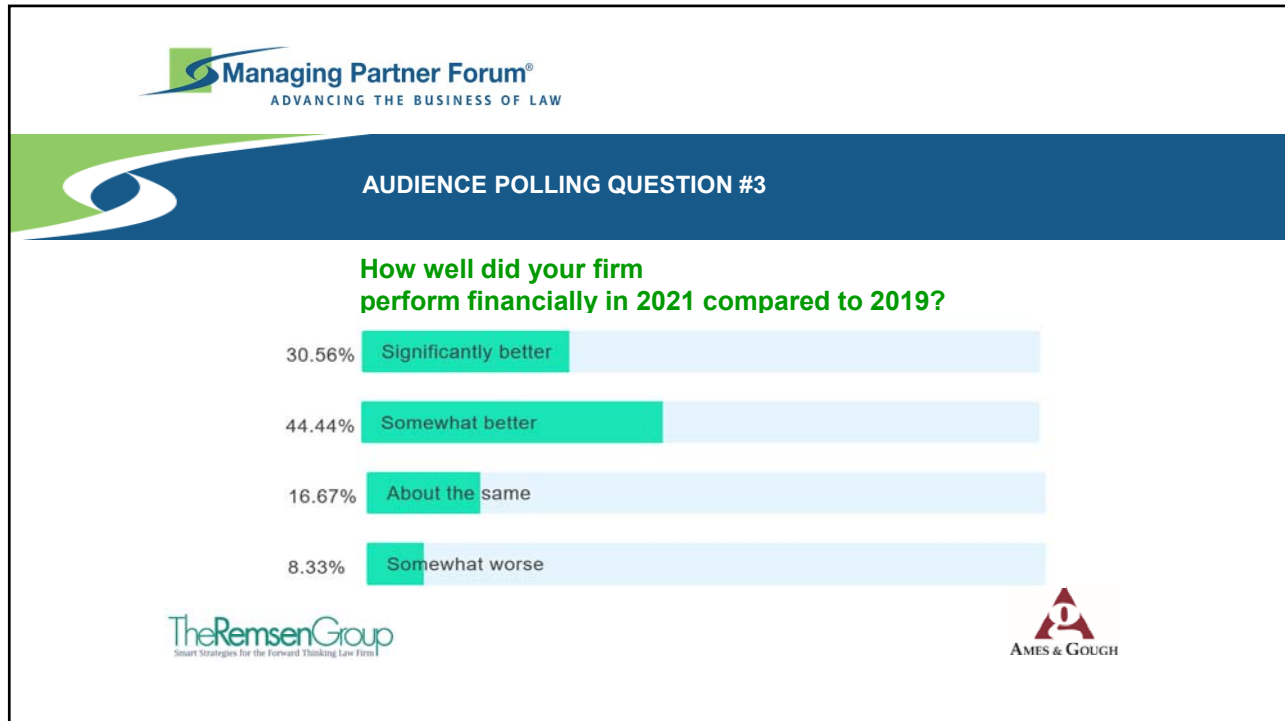
**How well did your firm perform financially in 2020 compared to 2019?**

Response	Percentage
Significantly better	18.42%
Somewhat better	36.84%
About the same	21.05%
Somewhat worse	15.79%
Significantly worse	7.89%

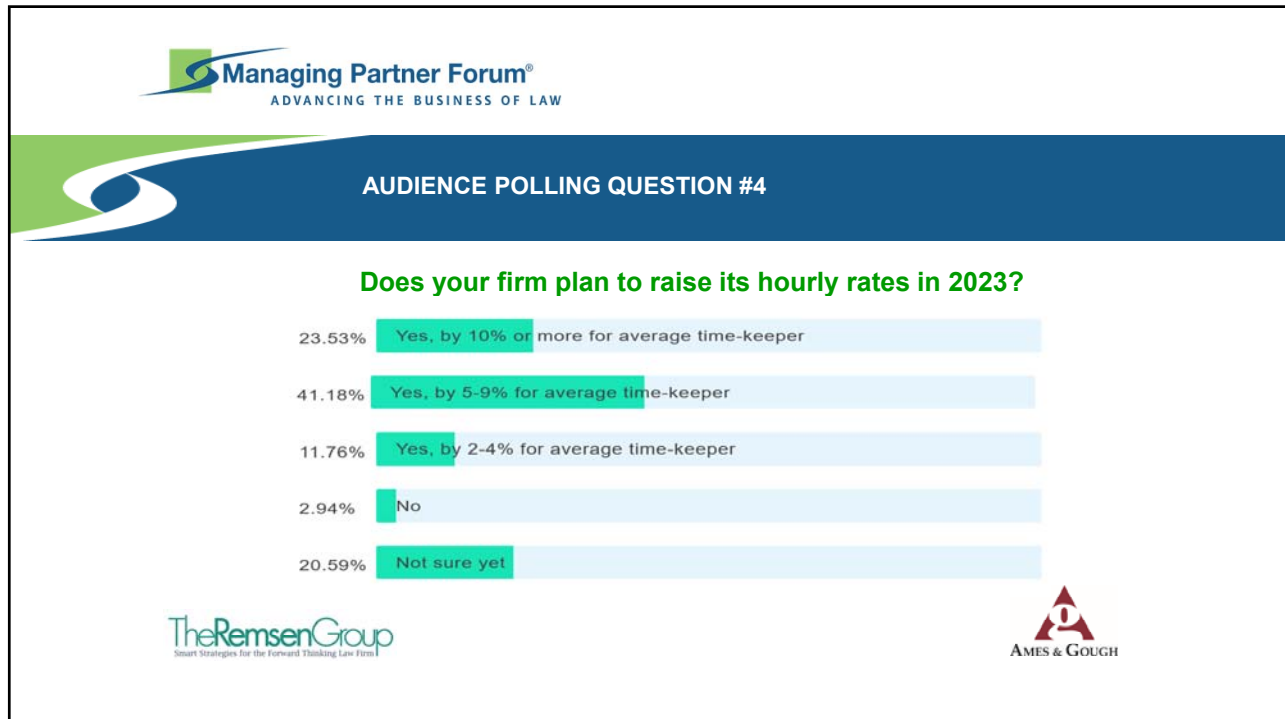
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### CONTACT US

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## IN THIS ISSUE

- Understanding the Employee Retention Credit for 2020 and 2021
- Tax Season 2022: Do Not Let the IRS Backlogs Delay Your Refund

# Understanding the Employee Retention Credit for 2020 and 2021

Small businesses are continuing to face challenges due to the COVID-19 pandemic. As such, the government has stepped up to provide key financial relief resources, including the [Employee Retention Credit \(ERC\)](#) which was established under the CARES Act.

Since ERC was initially established, it has since been extended and expanded by the Taxpayer Certainty and Disaster Tax Relief Act of 2020, the Consolidated Appropriations Act of 2021, and the American Rescue Plan Act of 2021. With the passage of the Infrastructure Investment and Jobs Act, the ERC program expired on September 30, 2021; but that does not mean you do not have a chance to claim the ERC credit if your business qualifies for it. You may do so retroactively (back to March 13, 2020).

On the following page we will explain how the credit works, eligibility requirements, and provide more information to help you better understand if the ERC is right for your business.

## WHAT IS THE EMPLOYEE RETENTION CREDIT?

The Employee Retention Credit is a refundable payroll tax credit available to employers who provided wages to employees throughout the COVID-19 pandemic. If eligible, recipients of the ERC may:

- **For Tax Year 2020:** Receive a credit of up to 50% of each employee's qualified wages, up to \$5,000/employee for the year (March 13, 2020 – December 31, 2020).
- **For Tax Year 2021:** Receive a credit of up to 70% of each employee's qualified wages, *per quarter* (January 1, 2021 – September 30, 2021).
  - This means an employer could claim up to **\$7,000 per quarter per employee, or a maximum of \$21,000 per employee for 2021.**

## AM I ELIGIBLE IF I RECEIVED A PPP LOAN?

As originally enacted under the CARES Act, employers had to choose between taking advantage of the Paycheck Protection Program (PPP) and claiming the ERC. Under the new legislation, businesses that received a loan

under the PPP can now qualify for the ERC tax credit. **While wages that have been paid with forgiven PPP funds cannot count as qualified wages for the ERC, the ERC is still available and, in most instances, the PPP will not reduce the amount of the ERC that can be claimed.**

## ELIGIBILITY REQUIREMENTS

An eligible employer for the ERC is any private-sector employer or tax-exempt organization carrying on a trade or business that experienced either:

- A full or partial suspension of operations during any calendar quarter due to orders from an appropriate government authority limiting commerce, travel, or group meetings due to COVID-19;
- A significant decline in gross receipts during the calendar quarter.

To qualify due to a **full or partial suspension**, all that is required is that at least a nominal portion of the employer's business operations were limited due to a federal, state, or local order, proclamation, or decree that affected the employer's operations. For example, a restaurant that had to limit seating

to allow for social distancing but otherwise could continue to offer dine-in, carry-out and/or delivery services was considered to have partially suspended operations. Another example of a qualifying partial suspension would be a law firm where at least 10% of the practice involved litigation during the period of time where a state judicial emergency was in effect, closing the courts for normal operations.

To qualify due to a **significant decline in gross receipts during a calendar quarter**, for 2020 there had to have been a decrease in gross receipts of more than 50% when compared to the gross receipts of the corresponding quarter in 2019. For 2021, that threshold was decreased significantly so that only a decrease of more than 20% when compared to the corresponding quarter in 2019 is needed.

## CONTACT US

We invite you to [contact](#) our dedicated team of [tax professionals](#) if you want to learn more about the ERC, determine if your business is eligible, and calculate your potential credit.