



Many missions | 100 counties | One voice

Reinstating the Employee Retention Tax Credit

Background

The Employee Retention Tax Credit (ERTC), one of the most successful forms of relief during the pandemic, enabled nonprofit and for-profit employers to retain and hire staff when layoffs were excessive. Its retroactive repeal in November 2021 was based on faulty data and imposed tremendous burdens on employers, particularly charitable nonprofits suffering unique workforce challenges, and workers who had to be laid off as a result of employers suffering unanticipated losses.

The Challenge

Repeal of the ERTC in the fourth quarter of 2021 was based on an incorrect presumption that the program was underutilized. On the contrary, the Government Accountability Office found that employer usage tripled in 2021 from 2020. Repeal occurred with the enactment of the Bipartisan Infrastructure and Jobs Act on November 15, 2021, halfway through Q4 2021. This resulted in a **retroactive repeal of a tax benefit** and severe disruptions to nonprofit finances and budgeting. Nonprofits and businesses retained and hired workers based on the promise of the \$7,000 refundable payroll tax credit per employee for the fourth quarter.

Why it Must Be Reinstated

The ERTC is, and has always been, a disaster relief provision that helps employers keep workers on the payroll during trying times. For charitable nonprofits, the times remain challenging as more residents seek support and relief. Resources aren't keeping up with demand and inflation, and

Legislative Solution

Employee Retention Tax Credit Reinstatement Act ([H.R. 6161/S.3625](#))

Additional Relief:

- Extend this refundable payroll tax credit through 2022.
- Modify nonprofit eligibility beyond the current "gross receipts" test and definition of eligible payroll expenses.

competition for workers imposes costs nonprofits cannot bear.

Legislative Solution

Without restoration of the promised relief, layoffs at community-based nonprofits will be necessary, harming the economic recovery and causing a reduction in the vital services on which our fellow residents and communities rely.

Nonprofits typically cannot raise prices to pay higher wages, causing many workers to leave the sector. As a result, waiting lists for services are growing, or nonprofits are canceling services entirely or shutting down. *The ERTC has helped nonprofits bridge the gap during this economic crisis.*

It has been suggested that restoring the ERTC for Q4 2021 would be difficult for the IRS to administer given its widely reported backlog and other challenges. However, the IRS is reportedly on track to close its backlog this year, and Congress has provided the IRS adequate funding to handle FY 2021 tax filings.

What You Can Do

The ERTC must be restored for the fourth quarter of 2021, and Congress should provide additional relief for nonprofits.

Will you cosponsor the **Employee Retention Tax Credit Reinstatement Act** (H.R. 6161/S.3625) and urge your leaders to include this essential relief from the nonprofit workforce shortage in any bill moving through Congress?

Will you support additional ERTC relief for charitable nonprofits – such as **extending the ERTC through 2022** and fixing provisions to ensure **more nonprofits are eligible**?