

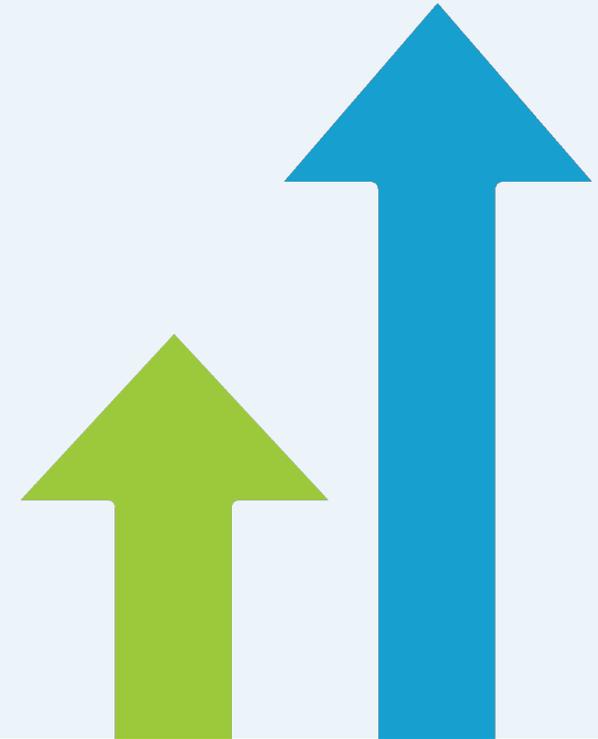
**eZERC** → presents:

# How Nonprofits Can Qualify for the Employee Retention Credit & Other COVID-19 Relief Funds



# THIS IS **What you'll learn**

- 1 Employee Retention Credit (ERC) 101
- 2 How to Qualify and Apply
- 3 Why NPOs Are Missing the ERC Opportunity
- 4 What to Look Out For In an ERC Advisor



# Introducing *today's emcee*



## **Adam Fisher, Esq.**

General Counsel

- Tricera Capital, 2021 – 2022
- McDermott Will & Emery, 2017 – 2021
- Greenberg Traurig, 2015 – 2017
- Bilzen Sumberg, 2014 – 2015

EZ-ERC's team of Managing Directors bring 50+ years of combined Tax Advisory and Big Consulting Experience



## **Kenny Dettman, CPA**

CEO & Managing Director

*Former Tax Partner at  
Alvarez & Marsal*



## **Maxwell Burns, CPA**

Managing Director

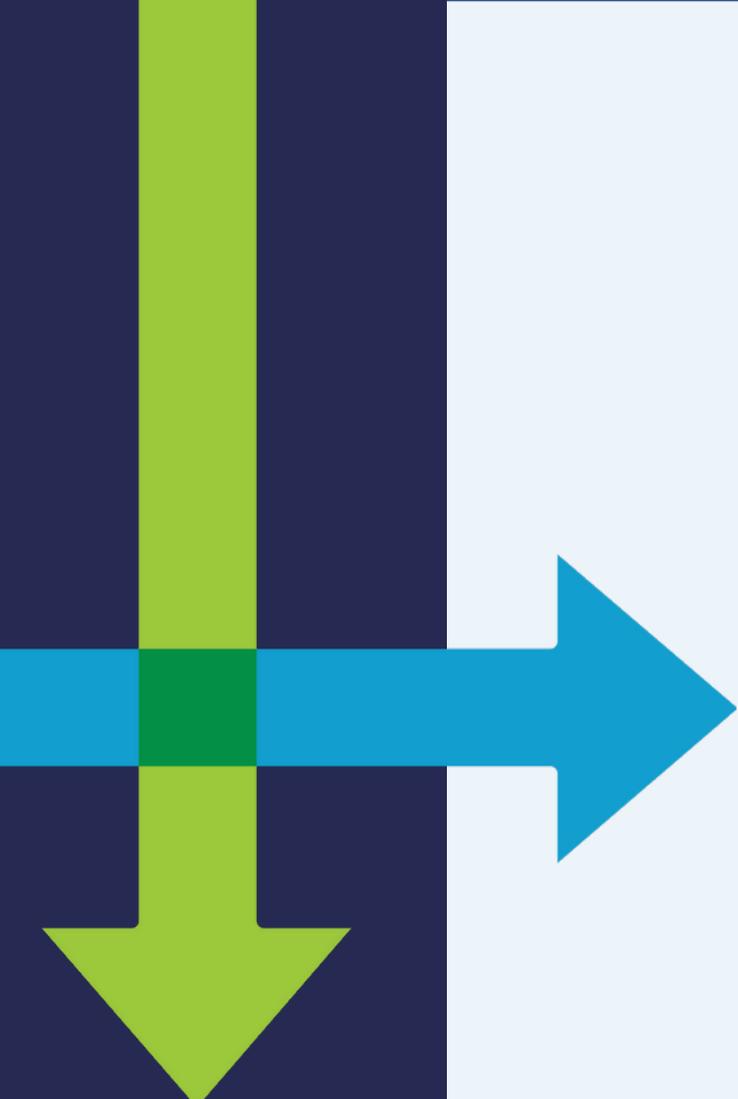
*Tenures at KPMG, Alvarez &  
Marsal, and RSM*



## **Victoria Beck, Esq.**

Compliance Counsel

*Tenures at Hill Wallack LLP  
and Parker McCay P.A.*



# ERC 101

# 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) |

# ERC Timeline

## MARCH 2020

ERC created as part of the CARES Act

- ❖ March 13, '20 – Dec 31, '20
- ❖ \$5k max per year
- ❖ PPP Exclusion
- ❖ 100 FTEs
- ❖ 50% Revenue Test
- ❖ Full/Partial Suspension

## DECEMBER 2020

Extended and expanded through the Consolidated Appropriations Act of 2021

- ❖ Q1 '21 – Q2 '21
- ❖ \$7k max per quarter
- ❖ PPP Fix w/ Double Dip
- ❖ 500 FTEs
- ❖ 80% Revenue Test

## MARCH 2021

Further extended through the American Rescue Plan

- ❖ Same Rules as CAA
- ❖ Q3 '21 – Regular
- ❖ Q4 '21 – RSB
- ❖ Extended Statute
- ❖ Notice 2021-20, -23, -49

## APRIL 15, 2024

Filing deadline for all quarters in 2020

- ❖ Additional statute if fraud, gross negligence
- ❖ Income tax may extend further based on 280C

## APRIL 15, 2025

Filing deadline for all quarters in 2021

- ❖ Extended to 2027 for ARPA quarters
- ❖ Creates possible income tax whipsaw

# CARES Act

## Paycheck Protection Program (PPP)

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- The first COVID-19 relief taken by most organizations
- Forgivable loan
- Only to be used for qualified expenses – payroll, rent, etc.

## Employee Retention Credit (ERC)

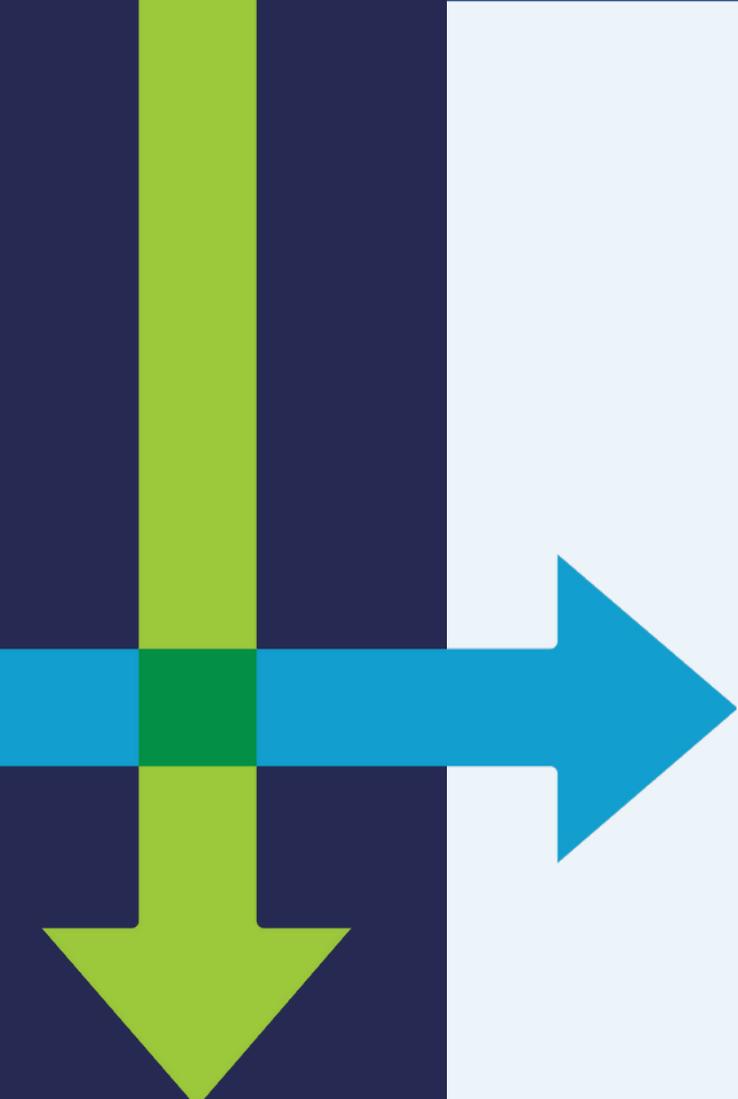
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- Unlike PPP, no allocation of funds by the Small Business Administration – ERC is from U.S. Treasury
- Unlike PPP, ERC is a cash refund that can be used in any manner
- Credit earned on wages not utilized for PPP forgiveness (i.e., no double dipping)



“ **As of December 2020, it was no longer the PPP or ERC, you could take both.** What is the ERC? It’s a payroll tax credit and it’s refundable, meaning it’s a cash credit. It’s available to businesses that either had a financial statement impact because of COVID-19 or had an operational impact, where they had to change or modify the way they did business as a result of the COVID-19 restrictions. ”

– Kenneth Dettman, CEO & Managing Director



# How to Qualify & *Apply*

## Eligibility

# Full-Time Employee Count Limitation:



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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Nonprofits are still subject to aggregation rules, NPOs must consider control and board of director compensation

# Eligibility

## 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 ability to provide goods or services restricted or modified by a COVID executive order?

If so, would your organization have been able to provide

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

if such COVID executive orders were never enacted?

# How EZ-ERC approaches the full or partial suspension analysis with nonprofits



## Four Pronged Approach:

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- 1 Can your operations be broken down into “portions” or “segments”?
- *Services provided;*
  - *Groups served;*
  - *Locations where services are delivered, etc.*
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- 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;*
  - *Change of format of the service, etc.*
- 

- 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



## Residential Programs & Housing

- Required to modify from double occupancy to single occupancy rooms.



## Meals & Food Pantry

- Required to pivot from buffet-style service to bagged meals.



## Childcare, Youth Mentoring, Educational Services

- Required to limit number of children in childcare centers.
- Pivot to virtual instruction, special services and therapies.
- Pivot to virtual mentorship & cancellation of events.



## Religious Organizations

- Required to restrict in-person fellowship including religious services, community events and group meetings.



## Social Clubs

- Required to limit in-person interactions including events, recreation and dining.

There's no harm in getting a second look if you're not confident that you've received your full credit.

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## A second look can lead to:



Refiling previously filed quarters to receive full credit.

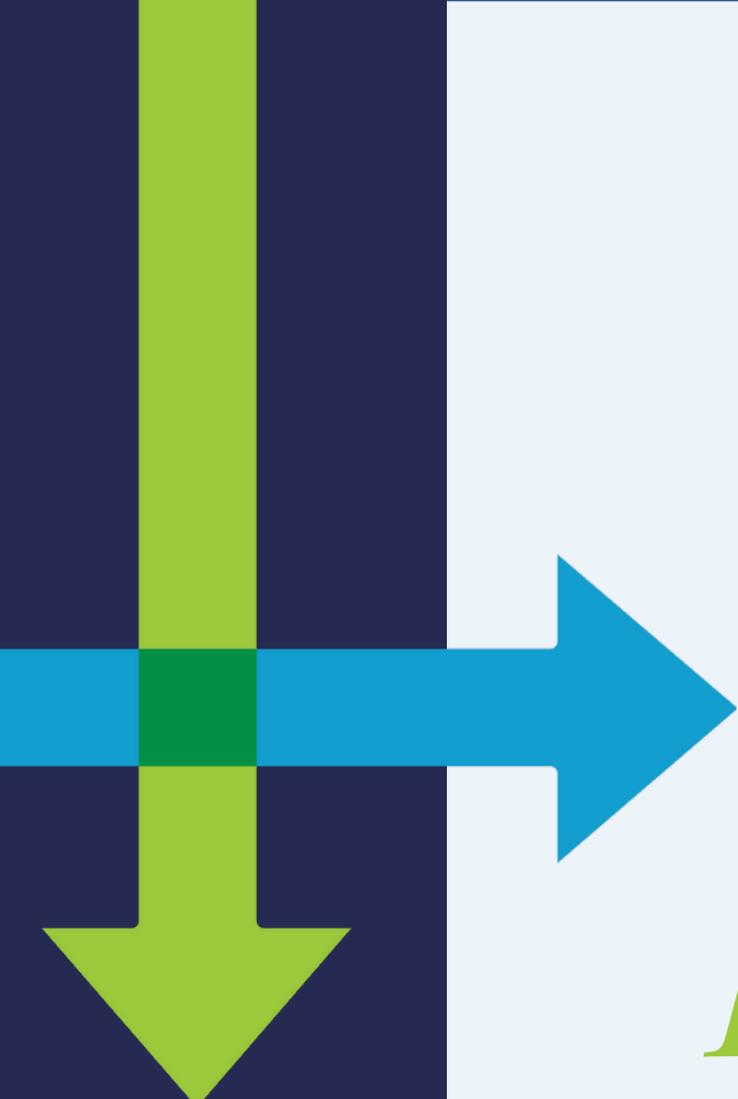


Filing for quarters you previously missed.

# If you've already filed for an ERC claim, but did any of the following, you should consider a second look:

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- "Blacked out" your entire PPP Covered Period from ERC eligibility;
- Did not evaluate a partial suspension through the end of local social distancing orders; and/or
- Assumed employers that were commonly managed by the same management group must be aggregated.



**Why NPOs  
Are Missing the  
*ERC Opportunity***

misconception:

Our organization  
received a PPP loan,  
so we don't qualify  
for the ERC

Even if you took a PPP loan, that does not automatically disqualify you from receiving the ERC.

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There are multiple ways, supported by examples provided by the IRS, to maximize the interaction of ERC and PPP.

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Note: To the extent the NPO received forgivable PPP loans in 2020 and/or 2021, it's important to ensure that ERC-eligible wages do not include wages utilized for PPP.



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 said that ERC does not constitute “other assistance” (i.e., reimbursement of payroll costs) and therefore it does not negate the availability of ERC.
- ❖ ERC is calculated based on the amount of wages but it is not a reimbursement of those wages or payroll outside of the Employer-Paid FICA reimbursement (i.e., the nonrefundable piece). It's a refundable payroll tax credit.

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Requirements are dependent on grants received.

*We recommend working with someone who understands the intricacies of federal and state funding.*

misconception:

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



Many U.S. charitable organizations 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.



# What To Look For In An *ERC Advisor*

# What to look for in a qualified advisor?



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## Accountants and Lawyers on Staff

Find a firm that has both accountants and lawyers on staff and relationships with top-tier law firms to prepare a legal analysis for your credit.

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## Full or Partial Suspension Knowledge

Find a firm that understands the nuances of the full or partial suspension of operations test and how to maximize your claim under the rules.

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## IRS Experience

Work with a firm that has experience working with the IRS and can support you under audit.

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## Tax Insurance Experience

Look for a firm that has relationships with insurance providers that can source tax insurance policies to protect your ERC claim.

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# What *differentiates* EZ-ERC from its competitors?

- **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;
- **Legal Guidance:** We work side-by-side with some of the top law firms in the country specializing in the ERC and even work several lawyers who were integral in writing the ERC legislation;
- **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;
- **Timing:** We can finalize and submit an ERC claim to the IRS within a month from the time a client signs our engagement; and
- **Price:** EZ-ERC generally charges 10-20% of the credit (competitors generally charge 25-30%).

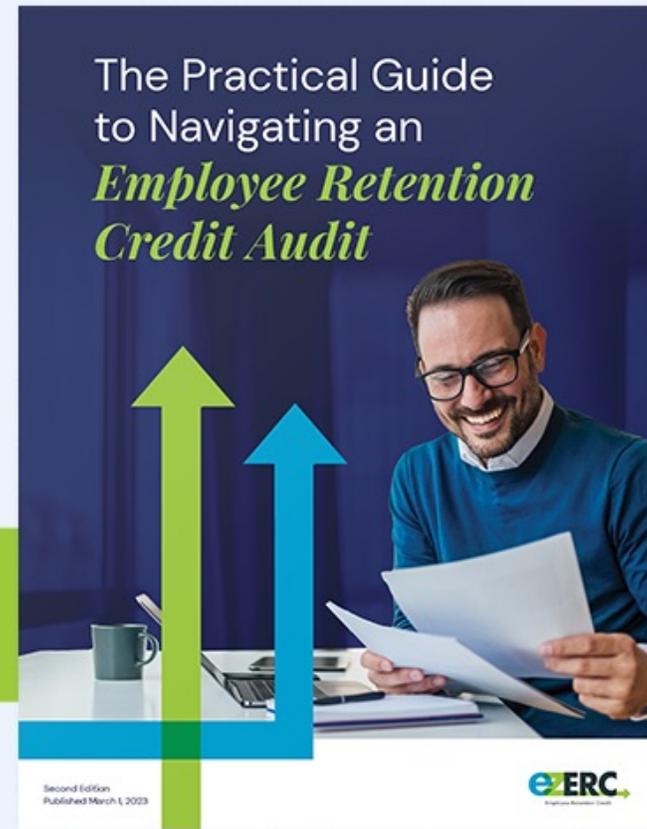
# Documentation Required

- Ownership and Related Party Information
- Full-Time Employee Count (2019)
- Gross Receipt Substantiation (2019–2021 Quarterly P&Ls)
- Payroll Tax Filings
- Payroll and Employer–Paid Health Information
- PPP Information
- Tax Return Support
- Other Wage–Based Tax Credits

# The *Unofficial* Audit Guide

## The Practical Guide to Navigating an *Employee Retention Credit Audit*

Key insights for ERC substantiation  
and audit protection



<https://www.ez-erc.com/practical-guide/>

# EZ-ERC & WTW

## *“Streamlined Tax Insurance”*

EZ-ERC has partnered with Willis Towers Watson (WTW) to develop a streamlined program to provide employer access to A+ rated tax liability with lower minimum coverage amounts/premiums.

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### *Key Features:*

- Available on total ERC between \$500k – \$5MM ADD TYPICALLY 50+ EMPLOYEES
- EZ-ERC “Eligibility Report” + tax opinion/analysis
- Customized pricing based on industry / eligible employer test used
- Possible to obtain with zero retention or underwriting fee (subject to industry)



# Testimonials



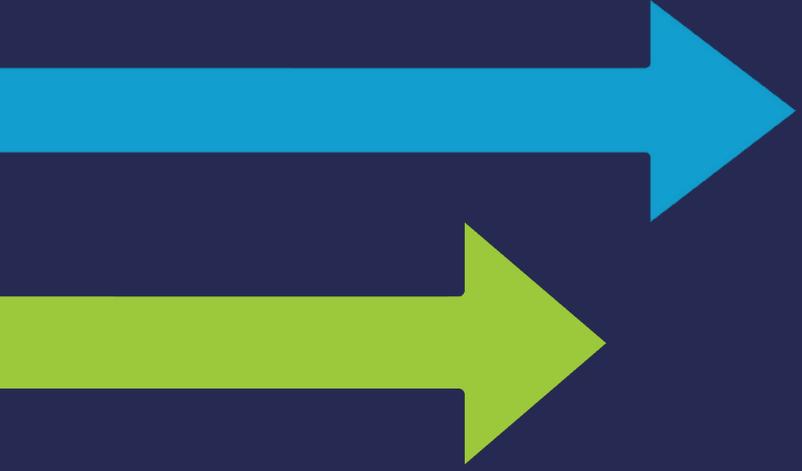
"My experience with EZ-ERC was one of those rare business collaborations in which my organization's needs were not only considered to be of the highest priority, but even after our work together had been completed, EZ-ERC continued to support us. Our credit came at a crucial time and made it possible for us to sustain operations and even grow. I have nothing but praise for the service, professionalism, and compassion demonstrated by the staff of EZ-ERC."

**- Dorinda Luzardo, CEO & Founder**  
Angel's Reach Foundation, Inc.



"EZ-ERC was exceptional to work with. Our representative carefully answered our many questions about the program and was extremely communicative throughout the process. The professionalism EZ-ERC's team demonstrated is why we consistently refer business owners and volunteer organizations their way. We highly recommend contacting EZ-ERC to see what credits are available to you!"

**- Abigail Shuck, Board Member**  
Boys and Girls Club of Johnson County



# Q&A

# *Contacts*



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