

# Speed Dating With Tax Credits and Incentives



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# Presenter – Randy Crabtree, CPA

**Randy Crabtree** , co-founder and partner of Tri-Merit Specialty Tax Professionals.

He is a widely followed author, lecturer and podcast host for the accounting profession.

Listed in Accounting Today as Someone to Watch in the 2021 Most Influential People in Accounting list.

Since 2019, he has hosted the bi-weekly The Unique CPA podcast, which ranks among the world's 5% most popular programs (Source: Listen Score).

A frequent contributor to Accounting Today's Voices and the AICPA Tax Adviser, he is a regular presenter at accounting conferences and virtual training events hosted by CPA associations, state CPA societies, industry associations and top 400 CPA firms across the country.



Randy Crabtree, CPA  
Partner, Tri-Merit

# About Tri -Merit



- ▶ **Tri-Merit supports CPAs** by serving as an extension of their advisory team to **lessen the tax burden and increase cash flow for their clients** .
- ▶ We work with companies to uncover tax savings opportunities and the data needed to support claiming tax incentives and planning strategies including: **R&D tax credit** , **cost segregation** , **WOTC** – The Work Opportunity tax Credit, **179D** – the energy efficient commercial building deduction and **45L** – a credit for developers of energy efficient residential property and **ERC**.
- ▶ We are comprised of **engineers** , **scientists** , **CPAs** and **attorneys** .
- ▶ We have offices across the country and serve clients in every state.

## Specialty Tax Updates Going Into Tax Season

- ▶ R&D Tax Credit
  - New Filing Requirements
  - R&D Expense Capitalization
  - Interplay With ERC
- ▶ 179D – Energy Efficient Commercial Building Deduction
- ▶ 45L – Energy Efficient Home Credit
- ▶ Cost Segregation
- ▶ Work Opportunity Tax Credit (WOTC)
- ▶ Employee Retention Credit (ERC)

# R&D Tax Credit



- ▶ R&D tax credit planning opportunities:
  - Who can qualify:
    - » Manufactures, Software Developers, Architects, Engineers, any taxpayer meeting the 4-part test.
  - ▲ Innovation occurring in response to COVID-19.
    - » Pivoting to manufacturing new products, retail stores creating online stores, etc.
  - Be aware of the interplay between the ERC and the R&D tax credit

## ▲ R&D Tax Credits

- How to qualify
  - 4-part test to qualify
    - Permitted purpose.
    - Technological in Nature
    - Technical Uncertainty
    - Process of Experimentation
  - Overriding factor of economic risk
- Expenses that qualify
  - » Salaries and wages.
  - » Outside services.
  - » Supply costs. (potential increase due to 174 pilot/prototype rules)
  - » Rental of computer time.



- ▶ R&D Tax Credit Benefit
  - Benefit is about 6-10% of the qualified expenses.
  - Can be claimed on any open tax return.
    - » NOL years could be brought forward to the current year
  - Companies with \$50M or less in average gross receipts for the last 3 years that can claim the credit against AMT.
  - Companies can make an election to claim the credit against payroll taxes if they have:
    - » Less than \$5M in gross receipts in the current year.
    - » No gross receipts further back than the last 5 tax years.

# R&D Tax Credit – Industry Credit Examples

Industry	Annual Revenue	Annual Credit
Oil Pumps Manufacturer	\$35,000,000	\$250,000
Windows and Skylights Manufacturer	\$400,000,000	\$100,000
Injection Molding	\$10,000,000	\$110,000
Metal Stamping	\$30,000,000	\$160,000
Precision Tool and Die	\$10,000,000	\$65,000
Bond Trading Platform	\$2,000,000	\$250,000
Custom Software for Special Needs Testing	\$8,000,000	\$215,000
Arcade Game Manufacturer	\$45,000,000	\$275,000
Integrated Roadway Engineer	\$750,000,000	\$1,400,000
MEP Engineering	\$9,000,000	\$125,000
Food Manufacturer	\$25,000,000	\$100,000
Craft Brewery	\$2,000,000	\$60,000
Software for Remote Control of MED	\$10,000,000	\$185,000

- ▶ IRS release, IR-2021-203 (October 15<sup>th</sup>, 2021)
  - States that taxpayers will be required to file additional information when claiming the R&D tax credit on an amended tax return.
  - This was to begin immediately with a grace period until 1/10/22.

- ▶ IRS FAQs on Research Credit Claims (January 3rd, 2022)
  - Defined the information required when submitting a refund claim:
    - » All the business components related to the credit claim.
    - » For each business component:
      - identify all research activities performed
      - name the individuals who performed each research activity
      - the information each individual sought to discover.
    - » The total qualified employee wage expenses, total qualified supply expenses, and total qualified contract research expenses for the claim year

- ▶ Research Credit Claims Additional Information (January 3rd, 2022)
  - During the one-year transition period, taxpayers will be informed of a deficient claim for refund through Letter 6426C or 6428. The letter will indicate which of the five items of information are missing and provide 45 days to perfect the filing.
  - A declaration signed under the penalties of perjury verifying that the facts provided are accurate is required.
  - Employees can be grouped together if they sought to discover the same information for a business component.

- ▶ IRS Code Section 174 Expense Capitalization Rules
  - TCJA
    - » As of 1/1/2022 R&D expenses are now required to be capitalized and amortized over 5 years rather than immediately expensed.
  - Build Back Better Bill
    - » Was scheduled postpone the capitalization rules until 2026.
  - Taxpayers who conduct R&D will increase taxable income each year.
    - » If R&D expenses are consistent each year, then after 5 years taxable income will normalize.

## Example 1 – No increase in expenses

### Example 1 - Flat R&D Expenses

Tax Year	174 R&D expenditures	41 R&D Expenses	Ammortization expense	Net income old	Net income new	Increase in tax at 35%	280C Reduced R&D Tax Credit	Net Tax Increase
2022	\$ 1,000,000.00	\$ 800,000.00	\$ 100,000.00	\$ 1,500,000.00	\$ 2,400,000.00	\$ 315,000.00	\$ 41,080.00	\$ 273,920.00
2023	\$ 1,000,000.00	\$ 800,000.00	\$ 300,000.00	\$ 1,500,000.00	\$ 2,200,000.00	\$ 245,000.00	\$ 41,080.00	\$ 203,920.00
2024	\$ 1,000,000.00	\$ 800,000.00	\$ 500,000.00	\$ 1,500,000.00	\$ 2,000,000.00	\$ 175,000.00	\$ 41,080.00	\$ 133,920.00
2025	\$ 1,000,000.00	\$ 800,000.00	\$ 700,000.00	\$ 1,500,000.00	\$ 1,800,000.00	\$ 105,000.00	\$ 41,080.00	\$ 63,920.00
2026	\$ 1,000,000.00	\$ 800,000.00	\$ 900,000.00	\$ 1,500,000.00	\$ 1,600,000.00	\$ 35,000.00	\$ 41,080.00	\$ (6,080.00)
2027	\$ 1,000,000.00	\$ 800,000.00	\$ 1,000,000.00	\$ 1,500,000.00	\$ 1,500,000.00	\$ -	\$ 41,080.00	\$ (41,080.00)
<b>Total Tax Increase</b>						<b>\$ 875,000.00</b>	<b>\$ 246,480.00</b>	<b>\$ 628,520.00</b>

# R&D Tax Credit Form 6765

- ▶ Form 6765 Instructions

- ▶ Lines 5 and 24 of Form 6765 (Rev. December 2020) Wages for qualified services also do not include:
  - ▶ Wages paid to or incurred for any employee after December 31, 2020, and before July 1, 2021, if you use the same wages to claim the employee retention credit on an employment tax return such as Form 941, Employer's QUARTERLY Federal Tax Return; and.
  - ▶ Employee retention credit. Wages paid after June 30, 2021, and before January 1, 2022, and used to figure the credit for increasing research activities payments can't also be used to figure a coronavirus-related employee retention credit.



# §179D Energy Efficient Commercial Building Tax Deduction



# 179D—Energy Efficient Commercial Building Deduction

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- ▶ Two main users of the credit are:
  - Commercial building owners
  - Designers of government building
- ▶ Energy Policy Act of 2005
  - Created under the Energy Policy Act of 2005. Was set to Expire at the end of 2020.
- ▶ Consolidated Appropriations Act, December 27<sup>th</sup>, 2021
  - The deduction was made permanent

# 179D—Energy Efficient Commercial Building Deduction

- ▶ 179D Current Law
  - Made permanent in the CAA.
  - Deduction allowed for building owner or designer of government buildings.
  - Accelerated depreciation for energy efficient commercial buildings.
  - A 50% reduction in energy or more results in a \$1.80/SF deduction.
  - Partial Deductions
    - » HVAC | requires a 15% reduction\* in energy for 60¢/SF
    - » Lighting | requires a 25% reduction\* in energy for 60¢/SF
    - » Building Envelope | requires a 10% reduction\* in energy for 60¢/SF

# 179D—Energy Efficient Commercial Building Deduction

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- ▶ 179D BBBA Proposed Law
  - Adds allocation of deduction for tax-exempt entities.
  - Creates a base deduction of \$.50/SF increased by \$.02/SF for every energy percentage reduction in excess of 25% to a max of \$1.00/SF.
  - Adds a bonus deduction of \$2.50/SF, increased by \$0.10 per square foot for every energy percentage reduction in excess of 25%, up to a maximum of \$5.00 per square foot.
  - Replaces a lifetime deduction cap with a three-year cap.

# 179D–Energy Efficient Commercial Building Deduction

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- ▶ Types of improvements
  - Completed new construction
  - Interior remodel.
  - Additions
  - Enlargements
  - Retrofits
  - Improvements

# 179D—Energy Efficient Commercial Building Deduction

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## ▶ Commercial Buildings

- Offices
- Retail
- Manufacturing
- Parking Garages
- Warehouses
- Storage Facilities
- Hospitals
- Hospitality
- Apartment Buildings (4 Stories or more)

## ▶ Government Buildings

- Schools and universities
- Police and fire stations
- Library
- Village offices
- Park district buildings

# 179D—Energy Efficient Commercial Building Deduction

- ▶ 179D Example -
  - 100,000 square foot building
  - HVAC all qualified @ \$0.60 for \$60,000 deduction.
  - Lighting all qualified @\$0.60 for \$60,000 deduction.
  - Envelope all qualified @\$0.60 for \$60,000 deduction.
  - Total deduction of \$180,000 at 37% created a tax savings of \$66,000
- ▶ For the building owner that is a time value of money benefit.
- ▶ For the designer of a government building, it is an additional deduction.
  - Schedule M adjustment

**§45L Credit For Developers of  
Energy Efficient Low -Rise Residential  
Properties**





# 45L—Energy Efficient Credit for Residential Developers

- ▶ Developers of residential property
- ▶ Was defined in the Energy Policy Act of 2005 and was set to expire at the end of 2020.
  - The CAA extended it through 2021
  - Was scheduled to get extended in the BBB
- ▶ Allows developers/contractors, that meet the requirements, to claim a \$2,000 credit per unit.
- ▶ The credit must be claimed on the return for the year the property was leased or sold.
- ▶ General business credit. Cannot offset AMT.

# 45L—Energy Efficient Credit for Residential Developers

- ▶ 45L Current Law
  - Must be three stories or less above grade.
  - Must show an annual level of heating and cooling energy consumption at least 50% below the annual level of heating and cooling energy consumption of a “comparable dwelling unit” and the building envelope component improvements must account for at least 1/5 of the 50% reduction.
  - Comparable dwelling unit is determined using 2006 IECC standards.

# 45L—Energy Efficient Credit for Residential Developers

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- ▶ 45L BBBA Proposed Law
  - Extend the credit through 2031
  - Increase the credit to \$2,500 for new single family and manufactured homes that meet certain energy-efficiency standards and \$5,000 for homes that are certified as zero energy ready homes.

# 45L—Energy Efficient Credit for Residential Developers

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- ▶ 45L Types of properties
  - Single family homes.
  - Apartments.
  - Assisted living facilities.
  - Student housing.
  - Condominiums.
  - Townhouse.
  - Manufactured homes. (special rules)
    - » A reduced credit of \$1,000 is available for manufactured homes with an Energy Star label or a heating or cooling consumption at least 30 percent less than a comparable house.

# 45L–Energy Efficient Credit for Residential Developers

- ▶ Example – Developer of apartment buildings.
  - In 2020 developed 120 units.
  - 100 units qualified @ \$2,000 for \$200,000 credit.

# Cost Segregation



- ▶ Commercial or residential rental property owners.
- ▶ Breaking down depreciable real estate into individual components and identifying which components can be depreciated quicker.
  - Accelerating depreciation, deferring income taxes.
    - » Taking assets otherwise depreciated at 27.5 or 39 years and reclassify them to 5, 7 or 15 years.
    - » Certain assets can be bonus or 179 eligible.
  - New construction, purchases, remodels, additions, improvements.

# Cost Segregation

Property Types	Typical % Eligible
Manufacturing/Processing	30-60%
Research & Development	30-60%
Automobile Dealerships	25-50%
Medical Office Buildings	30-50%
Golf Courses	20-40%
Offices	25-45%
Restaurants (Single or Multiple)	20-40%
Apartments	20-35%
Retail (Dept/Specialty Stores)	35-50%
Grocery Stores	20-30%
Hotels/Motels	20-45%
Senior Living/Assisted Living	15-25%
Strip or Regional Malls	5-30%
Tenant Improvements	5-50%



- ▶ Bonus Depreciation
  - Eligible property must have a 20-year useful life or less.
  - Eligible property receives 100% bonus if acquired and placed in service after 9/27/17 and before 1/1/23.
  - Bonus will phase down by 20% each year from 2023-2026
  - Used property now eligible

- ▶ Qualified Improvement Property (QIP)
  - Defined in the PATH act
  - Mistake on asset life in the TCJA
  - CARES Act fixes the mistake and now allows bonus on QIP.
  - Improvement to the interior of a nonresidential building.
    - » Must be made after the building was placed in service.
    - » Excludes enlargements, elevators, escalators and internal structural framework of the building.
    - » Improvements must be made by the entity claiming the deduction.

- ▶ Example – remodel of medical office.
  - Total costs were \$2,464,000 originally classified as 39-year
  - After cost seg – 5/7-year \$862,000, 15-year \$148,000, 15-year QIP \$1,208,000 and 39-year \$246,000.
  - First year accelerated depreciation \$2,224,300 compared to \$63K without a cost seg study.

# Work Opportunity Tax Credit



# Work Opportunity Tax Credit (WOTC)

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## ▶ WOTC

- Typically, employers that have at least 50 new hires per year are the best candidates
  - » Restaurants, Manufacturers, Nonprofit, etc.
- New hire credit
- Was set to expired at the end of 2020 but was extended until 2025 in the CAA
- Incentivizes the hiring of individuals from targeted demographic groups who faced barriers to gaining/sustaining employment or with special employment needs

# Work Opportunity Tax Credit (WOTC)

## ▶ WOTC

- Credit is between \$2,400 and \$9,600 per eligible employee
- Employees need to work at least 120 hours to qualify
- Need to apply within 28 days of hire
- For profit businesses offset federal income tax
- Nonprofit can qualify for veteran categories and use the credit to offset employer portion of SS taxes

# Work Opportunity Tax Credit (WOTC)

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## ▶ Employee Target Groups

- SNAP Recipients - \$2,400
- Long-term Unemployed - \$2,400
- Temporary Assistance for Needy Families (TANF) - \$2,400
- Long-term TANF - \$9,000
- Supplemental Security Income Recipients - \$2,400
- Vocational Rehabilitation Recipients - \$2,400
- Ex-felons - \$2,400
- Designated Community Residents - \$2,400
- Summer Youth Program - \$1,200

# Work Opportunity Tax Credit (WOTC)

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## ▶ Veteran Target Groups

- Veterans receiving SNAP - \$2,400
- Service-related Disability - \$4,800 - \$9,600
- Temporary Assistance for Needy Families (TANF) - \$2,400
- Long-term Unemployed - \$5,600
- Short-term Unemployed - \$2,400



# Employee Retention Credit



# The Employee Retention Credit

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## ▶ ERC Guidance

- Coronavirus Aid, Relief, and Economic Security (CARES)
- Consolidated Appropriations Act (CAA)
- American Rescue Plan Act of 2021 (ARP)
- FAQs ERC Under The CARES Act (FAQs)
- IRS Notice 2021-20 (21-20)
- IRS Notice 2021-23 (21-23)
- IRS Notice 2021-49 (21-49)
- Revenue Procedure 2021-33 (21-33)
- Infrastructure Investment and Jobs Act

# The Employee Retention Credit

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- ▶ **Infrastructure Investment and Jobs Act and Current Updates**
  - IJJA Eliminates the ERC for the 4<sup>th</sup> quarter of 2021.
  - The Recovery Startup Business (RSB) credit remains in effect in the 4<sup>th</sup> quarter.
  - The Build Back Better bill was originally scheduled to reinstate the 4<sup>th</sup> quarter ERC but that now looks highly unlikely.
  - **New bipartisan bill introduced in the house would reinstate the 4<sup>th</sup> quarter. The “ERTC Reinstatement Act”**
  - IRS is supposedly training an additional 30 employment tax auditors to deal with ERC claims.
  - IRS has said no additional blanket guidance will be issued.

# The Employee Retention Credit

	2020	2021
Credit Calculation	50% of up to \$10,000 of <b>eligible</b> wages per employee per year. (3/13-12/31)	70% of up to \$10,000 of <b>eligible</b> wages per employee per quarter (1/1/21-9/30/21)
Wages/Health Costs Capped	Annually	Quarterly
Maximum Credit Per Employee	\$5,000	<b>\$21,000</b>

# The Employee Retention Credit

## Qualifying Business

Any private-sector business or tax-exempt organization that carries on a trade or business and that meets EITHER of the following:

The business had a significant decline in gross receipts during any quarter.

50% in 2020

20% in 2021

Compared to 2019

The business was fully or partially suspended due to orders from the federal, state or local government limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID -19.



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