

# ABOUT KBKG



Established in 1999 with offices across the US, KBKG provides turn-key tax solutions to CPAs and businesses. By focusing exclusively on value-added tax services that complement your traditional tax and accounting team, we always deliver quantifiable benefits to clients.

Our firm provides access to our knowledge base and experienced industry leaders. We help determine which tax programs benefit clients and stay committed to handling each relationship with care and diligence. Our ability to work seamlessly with your team is the reason so many tax professionals and businesses across the nation trust KBKG.

## SERVICES OVERVIEW



### Research & Development Tax Credits

Federal credit worth approximately 10% of every qualified dollar spent on developing brand new or improving existing products, processes, software, and formulae.



### Cost Segregation for Buildings and Improvements

Any building improvement over \$750,000 should be reviewed for proper classification of the individual components for tax depreciation, and retirement purposes.



### 45L Credits for Energy Efficient Residential Developments

Newly constructed or renovated apartments, condos, and tract home developments that meet certain criteria are eligible for a \$2,000 credit per unit.



### 179D Incentive for Energy Efficient Commercial Buildings

Federal deduction worth \$1.80 per square foot of energy-efficient buildings. Available to architects, engineers, design/build contractors and building owners.



### IC-DISC

The Interest Charge Domestic International Sales Corporation (ICDISC) offers significant Federal income tax savings for making or distributing U.S. products for export. IC-DISC benefits are available to qualified producers or distributors that are either directly involved in exporting, or selling products to distributors or wholesalers who resell for use outside of the U.S.



### Transfer Pricing Services

The cross-border transfer prices of goods, royalties, services, and loans drive how much income tax a multinational company pays by country. We assist US and international companies in establishing, documenting, and defending transfer pricing practices for the IRS and international tax authorities.



### Fixed Asset Review

While a cost segregation study focuses on buildings, a comprehensive Fixed Asset Tax Review encompasses all fixed assets a company owns including real property, machinery, furniture, fixtures, and equipment.



### Repair vs. Capitalization Review §263(a)

Taxpayers often capitalize major building expenditures that should be expensed as repairs and maintenance such as HVAC units, roofs, plumbing, lighting and more. Retirement loss deductions for demolished building structural components are also identified.

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# INDUSTRY MATRIX FOR TAX SAVING OPPORTUNITIES



At KBKG, we are committed to identifying all possible tax saving opportunities for our clients and CPA partners. Our detailed Industry Matrix helps quickly determine which tax credits and deductions apply by industry at a glance. Our chart alone provides some insight to ensure that businesses are seeking out all potential benefits; however, KBKG's certified engineers and technical experts perform a thorough assessment during the engagement process to be sure all possible incentives are identified and considered.

INDUSTRY	R&D TAX CREDITS	REPAIR/ ASSET RETIREMENT	45L TAX CREDITS	179D TAX DEDUCTIONS	COST SEGREGATION / FIXED ASSET	IC-DISC	*TRANSFER PRICING	EMPLOYEE RETENTION TAX CREDIT
Affordable Housing		✓	✓	✓	✓			✓
Agriculture, Forestry & Fishing	✓				✓	✓	✓	✓
Architecture & Engineering	✓			✓	✓	✓		✓
Auto Dealerships		✓		✓	✓			✓
Cannabis	✓				✓			✓
Communications & Utilities	✓	✓			✓	✓		✓
Construction	✓				✓			✓
Film & Music	✓				✓	✓	✓	✓
Financial Services	✓	✓			✓		✓	✓
Government Contractors	✓			✓	✓	✓		✓
Healthcare	✓	✓		✓	✓		✓	✓
Home Builder			✓					✓
Hotels	✓	✓		✓	✓		✓	✓
Manufacturing & Distribution	✓	✓		✓	✓	✓	✓	✓
Mining	✓				✓	✓	✓	✓
Multifamily Developers		✓	✓	✓	✓			✓
Oil & Gas	✓	✓			✓		✓	✓
Pharmaceutical	✓	✓		✓	✓	✓	✓	✓
Professional Services	✓	✓			✓		✓	✓
Real Estate		✓		✓	✓			✓
Restaurants		✓			✓			✓
Retail	✓	✓		✓	✓			✓
Technology/Software	✓				✓	✓	✓	✓
Transportation	✓				✓		✓	✓
Wholesale Trade	✓	✓		✓	✓	✓	✓	✓

\*May apply to any industry as long as the company has cross border subsidiaries. Industries indicated are more likely to have multinational business.

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# IDENTIFYING VALUE-ADDED TAX OPPORTUNITIES



KBKG SERVICE	DESCRIPTION & HIGHLIGHTS	APPLICABLE CLIENTS & INDUSTRIES	HOW MUCH IS IT WORTH?	TAX CONSIDERATIONS
<b>RESEARCH &amp; DEVELOPMENT TAX CREDITS (FEDERAL &amp; STATE)</b>	<p>Federal and State tax credit – designed to promote innovation. Expenses incurred in the United States and that meet the qualification criteria can result in a credit.</p> <p>Qualifying expenses can include wages paid to employees, supplies used in the research process, and payments made to contractors for performing qualified research.</p>	<p>Clients developing brand new products, processes, software, or formula.</p> <p>Clients materially improving existing products, processes, software or formula.</p> <p>Clients that employ those with technical backgrounds including:</p> <ul style="list-style-type: none"> <li>• Manufacturing</li> <li>• Software Development</li> <li>• Architecture</li> <li>• High Tech</li> <li>• Food &amp; Beverage</li> <li>• Equipment or tools</li> <li>• Life Sciences</li> <li>• Agriculture</li> </ul>	<p><b>Federal Benefit - Roughly 10% of their total Qualified R&amp;D Expenses</b></p> <p>Ex.: Client has \$1M/year of wages related to R&amp;D. Benefit = \$100k in gross credits per year.</p> <p>Many states also allow an R&amp;D credit. For example, CA R&amp;D Credit is worth an additional 7.5% of Qualified R&amp;D expenses.</p>	<ul style="list-style-type: none"> <li>• Dollar-for-dollar reduction in income tax liabilities.</li> <li>• 1-year carryback / 20-year carryforward of unused credits.</li> <li>• Qualified small businesses can reduce alternative minimum tax liabilities.</li> <li>• Qualified start-up companies can offset up to \$250,000 in payroll taxes.</li> </ul>
<b>COST SEGREGATION (FEDERAL &amp; STATE)</b>	<p>Allows <b>taxpayers who have constructed, purchased, expanded, or remodeled any kind of real estate</b> to accelerate depreciation deductions by reclassifying building components into shorter tax lives.</p>	<p>Any <b>building with over \$750k</b> of depreciable tax basis (excluding land).</p> <p>Any <b>leasehold improvement with over \$500k</b> of depreciable tax basis (excluding land).</p> <p>Any smaller <b>residential rental property with over \$150k</b> of depreciable tax basis (excluding land) can utilize KBKG’s online software to generate a cost segregation report.</p>	<p>Net Present Value is roughly <b>5% of the total building cost</b>.</p> <p>Ex.: \$2M office can yield an after-tax NPV of \$100k.</p>	<ul style="list-style-type: none"> <li>• Reduces AMT</li> <li>• Starting in 2018, unused deductions carryforward.</li> <li>• Must recapture personal property and bonus eligible assets upon the sale of a building.</li> </ul>
<b>TRANSFER PRICING (INTERNATIONAL)</b>	<p>Federal credit for developers of <b>apartments, condos, or spec homes</b> that meet The transfer prices of goods, royalties, services, and loans drive how much income tax is paid by country. Corrections to transfer pricing may lead to significant improvements in a company’s global effective tax rate.</p> <p>Savings dependent on differences in tax rates between countries and can be significant.</p> <p>Tax reform provides incentives for companies to generate income in the US with lower rates certain energy efficiency standards.</p> <p>Units must be certified by a qualified professional to be eligible.</p>	<p>All US and foreign-owned multinational companies.</p> <p>Transfer pricing rules apply to goods, services, royalties, loans and other cross-border transactions in all industries</p> <p>Companies with supply chain restructuring programs, new R&amp;D facilities, or international subsidiaries are often best placed to realize benefits.</p>	<p>US tax reform has created opportunities to improve global effective tax rates through changes to transfer prices, e.g.</p> <ul style="list-style-type: none"> <li>• Foreign Derived Intangible Income (“FDII”) allows C-Corporations to pay a 13.125% rate on some export income</li> <li>• Changes to transfer prices of imported goods may also lead to tax savings at the 21% rate.</li> <li>• Substantial benefits when correcting transfer pricing to utilize tax net operating losses.</li> </ul>	<p>Companies without transfer pricing documentation can face additional tax, interest, non-deductible penalties and double tax for all open tax years.</p> <p>Tax authorities are concerned about multinational companies paying their “fair share” of income tax in each country where they operate.</p>

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# IDENTIFYING VALUE-ADDED TAX OPPORTUNITIES



KBKG SERVICE	DESCRIPTION & HIGHLIGHTS	APPLICABLE CLIENTS & INDUSTRIES	HOW MUCH IS IT WORTH?	TAX CONSIDERATIONS
<b>RESIDENTIAL ENERGY CREDITS / SECTION 45L</b> (FEDERAL / STATES CAN HAVE SIMILAR PROGRAMS)	<p>Federal credit for developers of <b>apartments, condos, or spec homes</b> that meet certain energy efficiency standards.</p> <p>Units must be certified by a qualified professional to be eligible.</p>	<p>Anyone that has built apartments, condos or production home developments (3 stories or less), in the last 4 years.</p> <p><b>Generally, more than 20 units.</b></p>	<p><b>Federal credit = \$2,000 per apartment/home unit.</b></p> <p><b>Many states have similar credits.</b></p> <p>Ex.: 100-unit apartment/condo can get \$200,000 of Federal Tax Credits.</p>	<ul style="list-style-type: none"> <li>• Credit is realized when unit is first leased or sold, not placed in service.</li> <li>• 1-year carryback</li> <li>• 20-year carryforward.</li> <li>• Does not reduce AMT.</li> <li>• Subject to passive activity loss rules</li> <li>• Credit reduces basis.</li> </ul>
<b>COMMERCIAL ENERGY DEDUCTIONS / SECTION 179D</b> (FEDERAL/ STATES CAN HAVE SIMILAR PROGRAMS)	<p>Federal deduction for <b>architects, engineers, and design/build contractors</b> that work on public or government buildings such as schools, libraries, courthouses, military housing etc.</p> <p><b>Also available to any commercial building owner.</b></p>	<ul style="list-style-type: none"> <li>• <b>179D for designers:</b> Architects, general contractors, engineers, electrical &amp; HVAC subcontractors.</li> <li>• <b>Any building owner or lessee:</b> That has constructed a commercial improvement greater than 50,000 SF since 1/1/2006.</li> </ul>	<p><b>\$.30 up to \$1.80 per square foot in federal tax deductions.</b></p> <p>Ex.: 100,000SF building is eligible for \$180,000 in deductions.</p>	<ul style="list-style-type: none"> <li>• Reduces AMT</li> <li>• Deduction reduces basis in real property.</li> <li>• Designers must amend open tax years to claim.</li> <li>• Owners can go back to 2006 with Form 3115 to claim missed deductions.</li> </ul>
<b>FIXED ASSET TAX REVIEW</b> (FEDERAL)	<p>Comprehensive review of a company's entire fixed asset listing and supporting documents to assign appropriate tax lives, identify retirements, and correct items that should be expensed.</p> <p>Includes cost segregation and repair analysis.</p>	<p>Operations with &gt; \$40M in real property or &gt; 500 lines of fixed assets.</p> <ul style="list-style-type: none"> <li>• Retail, restaurant, bank and hotel chains of 10 or more</li> <li>• Manufacturing</li> <li>• Utility companies</li> </ul>	<p>Net present value (NPV) of 5-8% of total building-related costs.</p> <p>Ex.: Manufacturing client has \$60M of 39-year fixed assets.</p> <p>NPV Cash value = \$3M -\$4.8M</p>	<ul style="list-style-type: none"> <li>• Reduces AMT</li> <li>• Starting in 2018, unused deductions carryforward.</li> <li>• Must recapture personal property and bonus eligible assets upon the sale of a building.</li> </ul>
<b>REPAIR V. CAPITALIZATION REVIEW "ASSET RETIREMENT STUDY"</b> (FEDERAL)	<p>New rules allow you to assign value to "structural" components removed from a building and write off the remaining basis. Regs also clarify repair expense treatment of many types of building costs such as HVAC or roof replacements.</p> <p>KBKG also provides compliance consulting for repair and disposition regulations.</p>	<p><b>Any building renovation costs &gt; \$400k</b></p> <p><b>Retirement Study</b> - Building is renovated AFTER owning it at least 1 year. Building should have <b>&gt; \$500K of remaining depreciable basis left.</b></p> <p><b>Repair Study</b> - renovations that include <b>roof, HVAC, windows, lighting, plumbing, ceilings, drywall, flooring, etc.</b></p>	<p>Additional Year 1 deductions of <b>15%-40% of renovation costs (on top of benefits from 1245 reclassification)</b></p> <p>Ex.: Client spends \$3M on structural renovations. Additional Year 1 deductions of \$450K-\$1.2M.</p>	<ul style="list-style-type: none"> <li>• Depending on project specifics, may require a separate 3115 if doing concurrently with a depreciation change.</li> </ul>
<b>IC-DISC FEDERAL INCOME TAX INCENTIVE</b> (FEDERAL)	<p>The IC-DISC provides significant and permanent tax savings for producers and distributors of U.S.-made products and certain services used abroad.</p>	<p><b>Any closely held, privately owned business with over \$250,000 in profits from exports</b></p> <ul style="list-style-type: none"> <li>• Manufacturers</li> <li>• Distributors</li> <li>• Architects &amp; Engineers</li> <li>• Agriculture and Food Producers</li> <li>• Software Developers</li> <li>• Other Producers</li> </ul>	<p>Minimum permanent <b>17% decrease in tax rate on half of export profits.</b></p> <p>Benefits can be dramatically higher by performing a transaction-by-transaction analysis.</p>	<ul style="list-style-type: none"> <li>• Requires annual filing 1120 IC-DISC.</li> <li>• No changes to business operations.</li> <li>• Benefits begin when entity is formed.</li> </ul>

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## Qualified Improvements - Depreciation Quick Reference (updated 3/30/2020)

	Applicable PIS Dates (inclusive)	MACRS GDS Recovery Period	Bonus Dep Eligible	3 Year Rule	Unrelated Parties Rule	179 Expense Eligible	Important Notes	Code Section
Qualified <b>Improvement</b> Property (QIP): 2018 - Onward	01/01/18 - onward	15 Year / SL	Y	N	N	Y <sup>9</sup>	Applies to interior common areas. Building can be owner occupied. No 3-year rule. See exclusions in definition.	168(e)(6)
Qualified <b>Improvement</b> Property (QIP): 2016 - 2017	1/1/16 - 12/31/17	39 <sup>5</sup> Year / SL	Y	N	N	N <sup>7</sup>	Applies to interior common areas. Building can be owner occupied. No 3-year rule. See exclusions in definition.	168(k)(3)
Qualified <b>Leasehold</b> Improvements (QLI): 2004 - 2017	10/23/04 - 12/31/17	15 Year / SL	Y <sup>1</sup>	Y	Y	2010 - 2017 <sup>6</sup>	Landlord or lessee can make the interior improvement. See exclusions in definition.	168(e)(6)
Qualified <b>Leasehold</b> Improvements (QLI): 2001 - 2004 Partial	9/11/01 - 10/22/04	39 Year / SL	Y	Y	Y	N/A	39 year QLI qualifies for Bonus. Landlord or lessee can make the interior improvement. See exclusions in definition.	168(e)(6)
Qualified <b>Retail</b> Improvement Property: 2016 - 2017	1/1/16 - 12/31/17	15 Year / SL	Y	Y	N	2010 - 2017 <sup>6</sup>	Building can be owner occupied. See exclusions in definition.	168(e)(8)
Qualified <b>Retail</b> Improvement Property: 2009-2015	1/1/09 - 12/31/15	15 Year / SL	N <sup>2</sup>	Y	N	2010 - 2017 <sup>6</sup>	Building can be owner occupied. See exclusions in definition.	168(e)(8)
Qualified <b>Restaurant</b> Property: 2009 - 2017	1/1/09 - 12/31/17	15 Year / SL	N <sup>4</sup>	N	N	2010 - 2017 <sup>6</sup>	Encompasses the entire building structure as well as interior costs. Can be an acquired building.	168(e)(7)
Qualified <b>Restaurant</b> Property: 2008	1/1/08 - 12/31/08	15 Year / SL	Y	Y	N	N/A	Applicable to all improvements attached to building.	168(e)(7)
Qualified <b>Restaurant</b> Property: 2004-2007	10/23/04 - 12/31/07	15 Year / SL	N <sup>3</sup>	Y	N	N/A	Applicable to all improvements attached to building.	168(e)(7)

### Bonus Depreciation Rates (inclusive dates)

9/11/01 - 5/5/03 <sup>8</sup>	30%
5/6/03 - 12/31/04 & 1/1/08 - 9/8/10 <sup>8</sup>	50%
9/9/10 - 12/31/11 <sup>8</sup>	100%
1/1/12 - 9/27/17 <sup>8</sup>	50%
9/28/17 - 12/31/22 <sup>8, 10, 11</sup>	100%
1/1/23 - 12/31/23 <sup>8, 10, 11</sup>	80%
1/1/24 - 12/31/24 <sup>8, 10, 11</sup>	60%
1/1/25 - 12/31/25 <sup>8, 10, 11</sup>	40%
1/1/26 - 12/31/26 <sup>8, 10, 11</sup>	20%

### Footnotes:

- NOT eligible for bonus if placed in service 1/1/2005 - 12/31/2007.
- Retail Improvements are not eligible for bonus depreciation unless it meets the criteria for QLI.
- Qualified Restaurant Property is eligible for bonus depreciation if placed in service 10/23/2004 - 12/31/2004.
- Improvements that also meet the criteria for QLI are eligible for bonus depreciation. After 2015, improvements that also meet the criteria for QIP are eligible for bonus depreciation. Restaurant property that is acquired 9/28/2017-12/31/2017 is fully expensed (subject to written binding contract rules).
- Improvements that meet the definition of Qualified Improvement Property and meet the definition of QLI, Qualified Retail Improvements, or Qualified Restaurant Property can be depreciated over a 15-year straight line period.
- Eligible up to \$250k from 2010 - 2015; 2016 and 2017 are subject to normal 179 expense cap.
- Improvements that meet the definition of Qualified Improvement Property and meet the definition of QLI, Qualified Retail Improvements, or Qualified Restaurant Property qualify for the 179 Expense.
- Long Production Period (QLIs over \$1M and construction period exceeds 1 year) - can be placed in service one year after bonus normally expires. QLI (that is also LPP) started before 1/1/2012 can be entirely eligible for 100% bonus if completed during 2012. Bonus is applicable if LPP is started before 1/1/2027. Only pre-1/1/2027 basis is bonus eligible on any LPP.
- Section 179 rules are modified to include certain improvements to buildings. See 179 Expense notes on page 2.
- Bonus depreciation is available for used property placed in service after 9/27/17, however it does not apply to the portion where the taxpayer previously had a depreciable interest.
- Bonus is not available to taxpayers with floor plan financing (motor vehicle, boat, farm machinery) unless they are exempt from business interest limitations.



**Section 179 Expense Limitations (Dates, Dollar Limit, Reduction)**

01/01/11 - 12/31/17	\$500,000	\$2,000,000
1/1/18 onward <sup>1</sup>	\$1,000,000 <sup>2</sup>	\$2,500,000 <sup>2</sup>

**Footnotes:**

1) In 2018 onward, the Section 179 expense includes improvements to the following non-residential real property that are placed in service after the date such property was first placed in service: roofs; heating, ventilation, and air-conditioning; fire protection and alarm systems; and security systems. 179 expensing does not apply to certain non-corporate lessors. See Sec. 179(d)(5)

Qualified Section 179 property now includes depreciable tangible personal property used to furnish lodging (e.g. residential rental properties, hotels, etc).

2) Any taxable year beginning after 2018, the dollar amounts will be indexed for inflation.

**Definitions:**

**3 Year Rule:** The improvements must have been placed in service by any taxpayer more than three years after the date the building was first placed into service.

**Leased Between Unrelated Party Qualification:** Improvements must be made subject to a lease between unrelated parties (see code section 1504). Can be made by lessees, sub-lessees or lessors to an interior portion of a nonresidential building. Parties are related when there is more than 80% ownership shared between them.

**Long Production Period Property: 168(k)(2)(B)** - Must have a recovery period of at least 10 years, is subject to section 263A, has an estimated production period exceeding 2 years, or an estimated production period exceeding 1 year and a cost exceeding \$1,000,000.

**Qualified leasehold improvement property (QLI)<sup>A</sup> 2001-2017** (A) Any improvement to an interior portion of a building which is nonresidential real property if— (i) such improvement is made under or pursuant to a lease (I) by the lessee (or any sublessee) of such portion, or (II) by the lessor of such portion, (ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and (iii) such improvement is placed in service more than 3 years after the date the building was first placed in service. (B) Certain improvements not included. Such term shall not include any improvement for which the expenditure is attributable to— (i) the enlargement of the building, (ii) any elevator or escalator, (iii) any structural component benefiting a common area, and (iv) the internal structural framework of the building.

**Qualified retail improvement property<sup>A</sup> 2009-2017:** Any improvement to an interior portion of a building which is nonresidential real property if— (i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and (ii) such improvement is placed in service more than 3 years after the date the building was first placed in service. QRIP shall not include any improvement for which the expenditure is attributable to— (i) the enlargement of the building, (ii) any elevator or escalator, (iii) any structural component benefitting a common area, or (iv) the internal structural framework of the building.

**Qualified restaurant property<sup>B</sup> 2004-2008:** an improvement to a building if— (A) Such improvement is placed in service more than 3 years after the date such building was first placed in service, and (B) more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.

**Qualified restaurant property<sup>B</sup> 2009-2017** Any section 1250 property which is (i) a building or improvement to a building — if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals, and (ii) if such building is placed in service after December 31, 2008

**Qualified improvement property<sup>A</sup> (QIP) 2016-2017:** (A) Any improvement to an interior portion of a building which is nonresidential real property if such improvement is placed in service after the date the building was first placed in service. (B) Certain improvements not included. Such term shall not include any improvement for which the expenditure is attributable to— (i) the enlargement of the building, (ii) any elevator or escalator, (iii) the internal structural framework of the building.

**Qualified improvement property<sup>A</sup> (QIP) 2018-onward:** (A) Any improvement *made by the taxpayer* to an interior portion of a building which is nonresidential real property if such improvement is placed in service after the date the building was first placed in service. (B) Certain improvements not included. Such term shall not include any improvement for which the expenditure is attributable to— (i) the enlargement of the building, (ii) any elevator or escalator, (iii) the internal structural framework of the building.

**Other notes:**

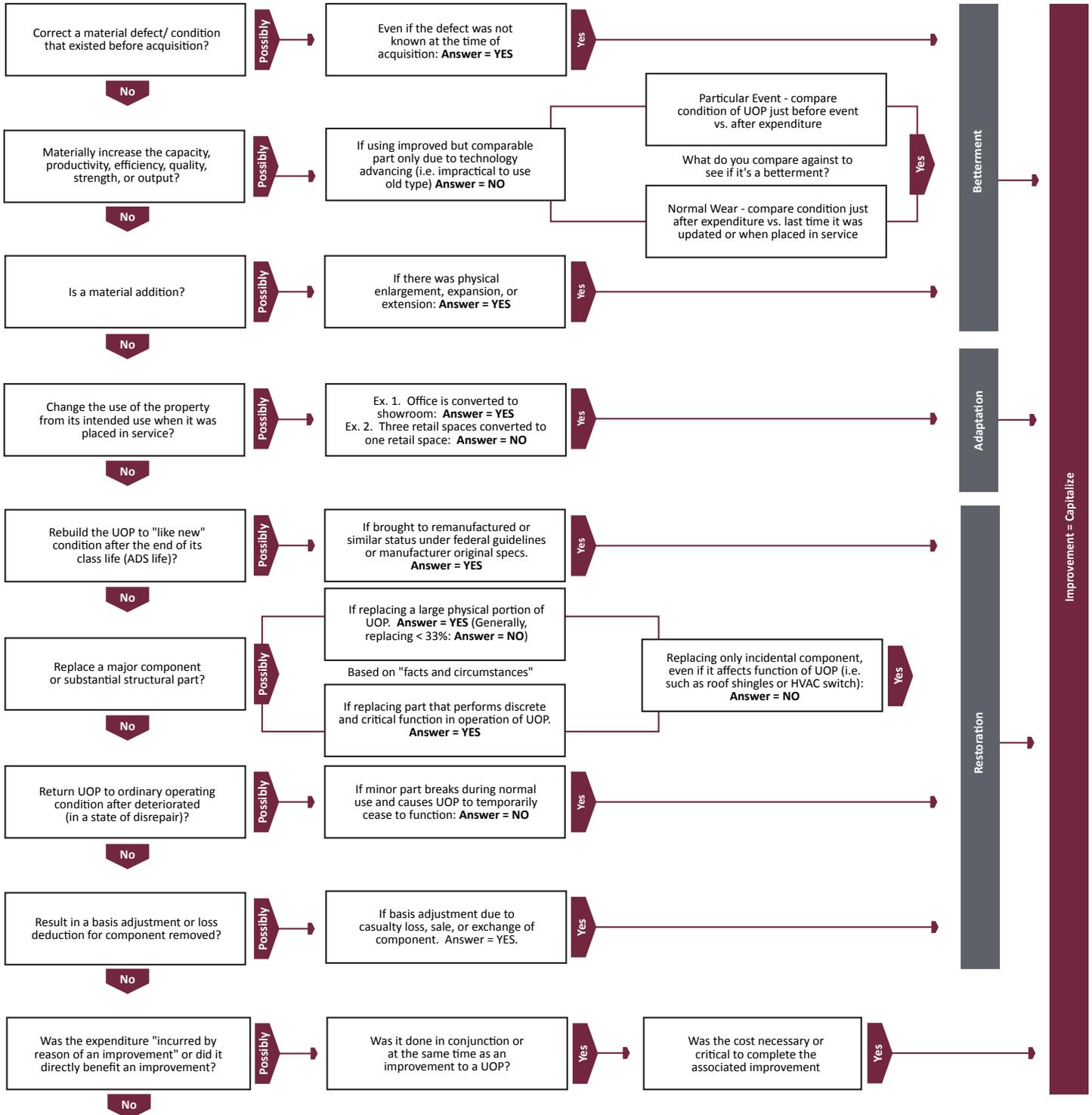
A) Tenant improvements that include costs for HVAC rooftop units are excluded from the definition of Qualified Leasehold Improvements (QLI), Qualified Retail Improvements, and Qualified Improvement Property (CCA 201310028)

B) Restaurant tenant improvements located within a multi-tenant building where 50 percent of the building's total square footage is not leased to restaurants, do not meet the definition of Qualified Restaurant Property.

# KBKG REPAIR VS. CAPITALIZATION: IMPROVEMENT DECISION TREE - FINAL REGULATIONS

Considering the appropriate Unit of Property (UOP), does the expenditure:

(Last Updated 3-20-2015)



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# KBKG BUILDING UNIT OF PROPERTY & MAJOR COMPONENTS CHART



This chart was created to help users identify building systems & typical “major components” in real estate assets. Replacing a major component is a capital expenditure while replacing an incidental component can be expensed

BUILDING STRUCTURE	LAND IMPROVEMENTS	HVAC SYSTEM	ELECTRICAL SYSTEM	PLUMBING SYSTEMS
<ul style="list-style-type: none"> <li>• Roof system (membrane, insulation and structural supports)</li> <li>• Foundation</li> <li>• Other structural load-bearing elements, including stairs</li> <li>• Exterior wall system</li> <li>• Ceilings</li> <li>• Floors</li> <li>• Doors</li> <li>• Windows</li> <li>• Partitions</li> <li>• Loading docks</li> </ul>	<ul style="list-style-type: none"> <li>• Landscaping (shrubs, trees, ground cover, lawn, irrigation)</li> <li>• Storm drainage (inlets, catch basins, piping, lift stations)</li> <li>• Site lighting (pole lights, bollard lights, up lights, wiring)</li> <li>• Hardscape (retaining walls, pools, water features)</li> <li>• Site structures (gazebos, carports, monument signs)</li> <li>• Paving (roads, driveway, parking areas, sidewalks, curbing)</li> </ul>	<ul style="list-style-type: none"> <li>• Heating system (boilers, furnaces, radiators)</li> <li>• Cooling system (compressors, chillers, cooling towers)</li> <li>• Rooftop packaged units</li> <li>• Air distribution (ducts, fans, etc.)</li> <li>• Piping (heated, chilled, condensate water)</li> </ul>	<ul style="list-style-type: none"> <li>• Service and distribution (panel boards, transformers, switchgear, metering)</li> <li>• Lighting (interior and exterior building mounted)</li> <li>• Site electrical utilities</li> <li>• Branch wiring (outlets, conduit, wire, devices etc.)</li> <li>• Emergency power systems</li> </ul>	<ul style="list-style-type: none"> <li>• Plumbing fixtures (sinks, toilets, tubs etc.)</li> <li>• Wastewater systems (drains, waste and vent piping)</li> <li>• Domestic water (supply piping and fittings)</li> <li>• Water heaters</li> <li>• Site piping utilities</li> </ul>
FIRE PROTECTION SYSTEM	SECURITY SYSTEM	GAS DISTRIBUTION SYSTEM	ESCALATORS	ELEVATORS
<ul style="list-style-type: none"> <li>• Sprinkler systems (piping, heads, pumps)</li> <li>• Fire alarms (detection and warning devices, controls)</li> <li>• Exit lighting and signage</li> <li>• Fire escapes</li> <li>• Extinguishers and hoses</li> </ul>	<ul style="list-style-type: none"> <li>• Building security alarms (detectors, sirens, wiring)</li> <li>• Building access and control systems</li> </ul>	<ul style="list-style-type: none"> <li>• Gas piping including to/from property line and other buildings</li> </ul>	<ul style="list-style-type: none"> <li>• Stairs and handrails</li> <li>• Drive systems (motors, truss, tracks)</li> </ul>	<ul style="list-style-type: none"> <li>• Elevator cars</li> <li>• Drive systems (motors, lifts, controls)</li> <li>• Suspension systems (counterweights, framing, guide rails)</li> </ul>

\* Building unit of property (UOP) rules apply to each building structure located on a single property.

\*\* Building system components with a different tax life are separate units of property. For example, a cost segregation study separating HVAC into 5-year & 39-year categories for a restaurant creates two separate HVAC units of property.

**Lessee of Building:** Must apply the same units of property above but only to the portion of the building being leased.

**Personal Property:** UOP are parts that are “functionally interdependent” (i.e. placing one part in service is dependent on placing the other part in service).

**Plant Property:** UOP is each component that performs a discrete and critical function. Generally, each piece of machinery or equipment purchased separately.

**Network Assets:** UOP is determined by taxpayer’s particular facts

## Definitions

**Plant Property:** Machinery and equipment used to perform an industrial process such as manufacturing, generation, warehousing, distribution, automated materials handling, or other similar activities.

**Network Assets:** Railroad track, oil and gas pipelines, water and sewage pipelines, power transmission and distribution lines, telephone and cable lines; -- owned or leased by taxpayers in each of those respective industries.

**Major Component:** Part or combination of parts that performs a discrete and critical function in the operation of the unit of property.

**Incidental Component:** Relatively small, inexpensive, or minor part that performs a discrete and critical function for the UOP. Generally, not capitalized because of its size, cost, or significance.

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# Employee Retention Credits: Qualifications, Benefits & Refunds

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Download PowerPoint slides from [KBKG.com/resources](https://www.kbkg.com/resources)

All attendees are muted.

The webinar will begin promptly at 11 AM Pacific / 2 PM Eastern



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## ADMINISTRATION

### AUDIO

- For the best sound, you should dial in and use the provided telephone number for audio.

**HANDOUT MATERIALS** – Were provided before class.

- [KBKG.com/resources](https://www.kbkg.com/resources)

**CPE** (Continuing Professional Education – for CPAs only)

- Answer all polling questions during the webinar

### QUESTIONS AND ANSWERS

- Please submit your questions and we will answer as many as time permits.





## ABOUT KBKG



- Established in 1999 with offices across the US.
- Provide turn-key tax solutions to CPAs and businesses.
- Performed thousands of tax projects resulting in over a billion of dollars in benefits for our clients.
- Our team is a diverse mix of tax specialists, attorneys, and engineers from various disciplines. This combination of talent allows us to be the best at what we do and maximize results for our clients.
- A preferred provider for thousands of CPAs across the country.

# TODAY'S PRESENTERS



**Ian Williams**

Director –  
Research & Development Tax Credit Services



**Jeff Kamin**

Senior Manager



## EMPLOYEE RETENTION TAX CREDIT (ERTC)

- Originally established under the CARES Act
- Like PPP, ERTC encourages business to keep employees on their payroll
- Amended and extended under sections 206 and 207 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (TCDTRA)
  - Like the Economic Aid Act, the TCDTRA was part of the Consolidated Appropriations Act, 2021
- Section 206 of the Act changed who may claim the ERTC – but not the computational rules – for the period March 13, 2020 to December 31, 2020





## EMPLOYEE RETENTION TAX CREDIT (ERTC) – *cont.*

- Section 207 of the Act extended the ERTC, which was originally expiring at the end of 2020, to June 30, 2021, **AND** changes the computational rules
- Refundable tax credit is now 70% of up to \$10,000 in wages per quarter for the periods beginning January 1, 2021 and ending on September 30, 2021
- Opportunity to retroactively apply for credits in 2020, **even if an employer received a PPP loan from the SBA**





# EFFECTIVE DATES AND OTHER INFORMATION

## Official Guidance

- Notice 2021-20 Guidance on the Employee Retention Credit under Section 2301 of the Coronavirus Aid, Relief, and Economic Security Act.
- Notice 2021-23 Guidance on ERTC under the CARES Act for First and Second Quarters of 2021.
- Notice 2021-49 Guidance on ERTC under the CARES Act for wages paid after June 30, 2021, and before January 1, 2022.
- Notice 2021-65 Termination of the Employee Retention Credit Under Section 3134 of the Code in the Fourth Calendar Quarter of 2021 for Certain Employers.





## QUALIFYING EMPLOYERS

- Employers who fully or partially suspend operations during any calendar quarter in 2020 through Q3 2021 due to orders from an appropriate governmental authority limiting commerce, travel or group meetings (for commercial, social, religious, or other purposes) due to COVID-19; or

### For 2020 (Section 206)

- Employers with revenue in any quarter of 2020 that was less than 50% of the revenue when comparing against the same quarter of 2019
- Employers of any size, including tax-exempt organizations, but not governmental entities





## QUALIFYING EMPLOYERS – *cont.*

### For 2021 (Section 207)

- Employers with revenue in Q1 – Q3 of 2021 that is less than 80% of the revenue when comparing against the same quarter in 2019
  - Employers that were not in existence in 2019 would substitute 2020 for 2019 above
  - Employers of any size, including tax-exempt organizations, colleges, universities, hospitals and medial care providers





## QUALIFYING EMPLOYERS – RECOVERY STARTUP BUSINESSES

- An employer that began carrying on a trade or business after February 15, 2020
- Average annual gross receipts for the three-year period ending with the taxable year that precedes the calendar quarter for which the credit is determined does not exceed \$1,000,000
- Is not otherwise an eligible employer due to a full or partial suspension of operations or a decline in gross receipts
- Credit for the third and fourth calendar quarters of 2021 cannot exceed \$50,000 (expires December 31, 2021)





# POLLING QUESTION #1



## TYPES OF GOVERNMENTAL ORDERS

- Governmental orders include:
  - An order from the city's mayor stating that all non-essential businesses must close for a specified period;
  - A State's emergency proclamation that residents must shelter in place for a specified period, other than residents who are employed by an essential business and who may travel to and work at the workplace location;
  - An order from a local official imposing a curfew on residents that impacts the operating hours of a trade or business for a specified period;
  - An order from a local health department mandating a workplace closure for cleaning and disinfecting.





## EXAMPLES OF GOVERNMENTAL ORDERS

- **Example 1:** Governor of State Y issues an order that all non-essential businesses must close from March 20, 2020 until April 30, 2020. The order provides a list of non-essential businesses, including gyms, spas, nightclubs, barber shops, hair salons, tattoo parlors, physical therapy offices, waxing salons, fitness centers, bowling alleys, arcades, racetracks, indoor children's play areas, theaters, chiropractors, planetariums, museums, and performing arts centers. Employers that provide essential services may remain open. The governor's order is a governmental order limiting the operations of non-essential businesses, entitling employers with non-essential businesses to claim the Employee Retention Credit for qualified wages.
- **Example 2:** Mayor of City Y holds a press conference in which she encourages residents to practice social distancing to prevent the spread of COVID-19. The statement during the press conference is not an order limiting commerce, travel, or group meetings. Accordingly, the mayor's statement would not be a governmental order for purposes of the Employee Retention Credit.



## EXAMPLES OF GOVERNMENTAL ORDERS – CONT.

- **Example 3:** Employer C, a software development company maintains an office in a city where the mayor has ordered that only essential businesses may operate. Employer C's business is not essential under the mayor's order which requires Employer C to close its office. Prior to the governmental order, all employees at the company teleworked once or twice per week, and business meetings were held at various locations. Following the governmental order, the company ordered mandatory telework for all employees and limited client meetings to telephone or video conferences. Employer C's business operations are not considered to be fully or partially suspended by the governmental order because its business operations may continue in a comparable manner.



## EXAMPLES OF GOVERNMENTAL ORDERS – CONT.

- **Example 4:** Employer D operates a physical therapy facility in a city where the mayor has ordered that only essential businesses may operate. Employer D's business is not considered essential under the mayor's order, which requires Employer D to close its workplace. Prior to the governmental order, none of Employer D's employees provided services through telework and all appointments, administration, and other duties were carried out at Employer D's workplace. Following the governmental order, Employer D moves to an online format and is able to serve some clients remotely, but employees cannot access specific equipment or tools that they typically use in therapy and not all clients can be served remotely. Employer D's business operations are considered to be partially suspended by the governmental order because Employer D's workplace, including access to physical therapy equipment, is central to its operations, and the business operations cannot continue in a comparable manner.



## CONTINUING OPERATIONS

- If an employer's workplace was closed by a government order, but the employer was able to continue operations comparable to its operations prior to the closure, including by requiring its employees to telework, the employer's operations are not considered to have been fully or partially suspended as a consequence of a governmental order.
- Factors to consider for determining comparable operations
  - Employers telework activities – **does employer have support to make this happen?**
  - Portability of employees' work – **can work be transferred?**
  - Need for presence in employee's physical workspace – **can the employee's remote workspace be adapted to accommodate the needs of the business?**
  - Transitioning to telework – **How long did it take to make the changes necessary for the employee to be effective?** Amounts beyond a reasonable time could qualify as a partial shutdown



## PARTIAL SUSPENSION OF TRADE OR BUSINESS OPERATIONS

- An employer that maintains both essential and non-essential business operations, each of which are more than nominal portions of the business operations, may be considered to have a partial suspension of its operations if a governmental order restricts the operations of the non-essential portion of the business, even if the essential portion of the business is unaffected.
- Solely for purposes of this employee retention credit, a portion of an employer's business operations will be deemed to constitute more than a nominal portion of its business operations if either;
  - The gross receipts from that portion of the business operations is not less than 10% of the total gross receipts (both determined using the same calendar quarter in 2019) or,
  - The total hours of service performed by employees in that portion of the business is not less than 10% of the total number of hours performed by all employees in the employer's business (both determined using the number of hours of service performed by employees in the same calendar quarter in 2019)



## PARTIAL SUSPENSION EXAMPLE #1

- Employer A operates an auto parts manufacturing and distribution business. A's supplier of raw materials is required to fully suspend its operations due to a governmental order. Employer A is unable to procure these raw materials from another supplier. Employer A is still able to secure other products related to its distribution business. The manufacturing business represents 20% of its business and the distribution portion represents 80% of the total sales during the same quarter when compared to 2019.
- The manufacturing business represents more than a nominal portion of the business operations and therefore Employer A is subject to a government shutdown and A's employees are eligible for the credit assuming A is otherwise eligible for credit based on the other criterion.



## **PARTIAL SUSPENSION EXAMPLE #2 – NOMINAL PERCENTAGE OF BUSINESS – GROSS RECEIPTS VS. SERVICE HOURS**

- A retail company comprised of both brick-and-mortar locations as well as an online ordering business was subject to partial shutdown restrictions by government order on their physical locations by limiting the customer capacity and hours of operation in each store.
- On a basis of gross receipts, the brick-and-mortar part of the business represented less than 10 percent of total gross receipts. This means that it would constitute only a nominal portion of its business operations which would disallow the business as a whole from relying solely on the shutdown of the nominal component to determine eligibility for the credit.
- When total hours of service performed were examined, however, it was determined that the brick-and-mortar locations accounted for approximately 30 percent of total business hours. Because of this, the company was able to apply the total service hours approach to show that the physical locations represented more than a nominal portion of business operations. This allowed the partial shutdown order to be applied to the entire company, granting eligibility for the credit.



## CALCULATING GROSS RECEIPTS

### For-Profit Entity

- Total sales (less returns and allowances)
- Plus: Investment income
  - Interest
  - Dividends
  - Rents
  - Royalties
  - Annuities
- Less:
  - Adjusted basis in assets sold

### Not-for-Profit Entity

- Total sales for all activities (less returns and allowances)
- Plus: Investment & Other income
  - Interest
  - Dividends
  - Rents
  - Royalties
  - Annuities
  - Contributions
  - Gifts
  - Grants
  - Member dues



## POLLING QUESTION #2



## QUALIFIED EMPLOYEES

### For 2020 (Section 206)

- Employers with total full-time employees of 100 or less in 2019 can qualify the credit for any employees that receive qualified wages during the specified period in 2020
- Employers with full-time employees greater than 100 in 2019 can only qualify the credit for employees during the specified periods of 2020 that receive wages for sick pay or family medical leave due to a qualified COVID-19 related circumstance





## QUALIFIED EMPLOYEES – *cont.*

### For 2021 (Section 207)

- Employers with total average full-time employees of 500 or less in 2019 can qualify for the credit for any employees that receive qualified wages during the specified period in 2021
- Employers with total average full-time employees greater than 500 in 2019 can only qualify for the credit for employees during the specified periods of 2021 that receive wages for sick pay or family medical leave due to a qualified COVID-19 related circumstance





## NUMBER OF FULL-TIME EMPLOYEES

- The term "full-time employee" means an employee who, with respect to any calendar month in 2019, had an average of at least 30 hours of service per week or 130 hours of service in the month
  - 130 hours of service in a month is treated as the monthly equivalent of at least 30 hours of service per week
- An employer that operated its business for the entire 2019 calendar year determines the number of its full-time employees by taking the sum of the number of full-time employees in each calendar month in 2019 and dividing that number by 12
- An employer that started its business operations during 2019 determines the number of its full-time employees by taking the sum of the number of full-time employees in each full calendar month in 2019 in which the employer operated its business and dividing by that number of months
- An employer that started its business operations during 2020 determines the number of its full-time employees by taking the sum of the number of full-time employees in each full calendar month in 2020 in which the employer operated its business and dividing by that number of months



## QUALIFIED WAGES & CREDIT

- Qualified Wages are all wages paid to employees within the determined period **plus** all qualified health care costs

### For 2020 (Section 206)

- Wages are limited to \$10,000 per qualified employee **per year** for the periods beginning March 13, 2020 and ending December 31, 2020
- The credit amount is 50% of qualifying wages





## QUALIFIED WAGES & CREDIT – *cont.*

### For 2021 (Section 207)

- Wages are limited to \$10,000 per qualified employee **per quarter** for the periods beginning January 1, 2021 and ending September 30, 2021
- The credit amount is 70% of the qualifying wages

### For Both

- Note that wages used to qualify for forgiveness related to a First Draw PPP loan or a Second Draw PPP loan do not qualify for the ERTC
- No double dipping!

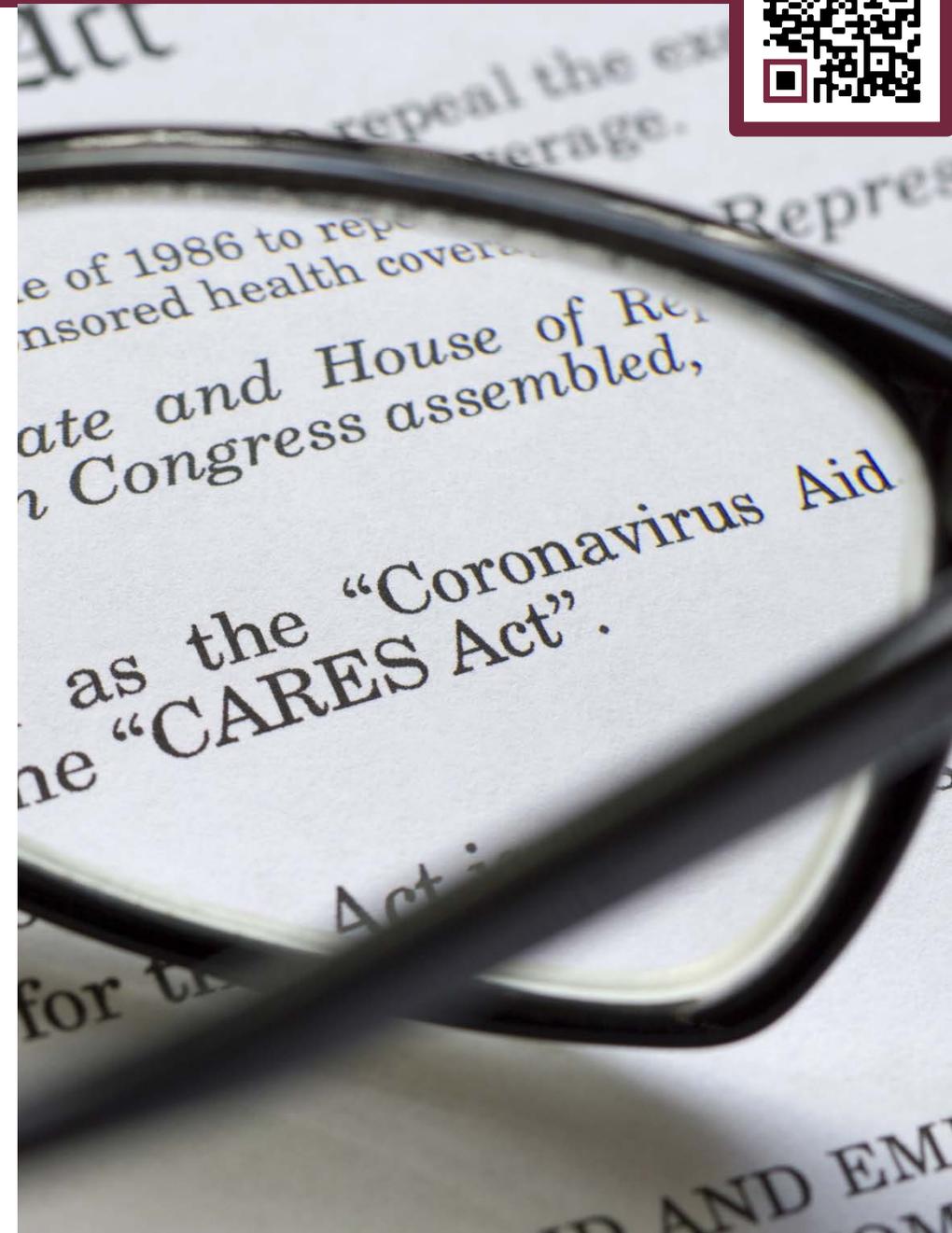




## EXAMPLE #1 (2021)

- A manufacturing company with 10 employees has revenues in Q1 2021 of only 70% of the total of revenues when compared to Q1 2019
- Note that none of these wages qualify to offset the PPP forgiveness

Employee	Q1 2021 Wages	Eligible Wages	Credit Percentage	Total Credit
1	25,000	10,000	70%	7,000
2	18,000	10,000	70%	7,000
3	15,000	10,000	70%	7,000
4	10,000	10,000	70%	7,000
5	10,000	10,000	70%	7,000
6	8,000	8,000	70%	5,600
7	9,000	9,000	70%	6,300
8	7,500	7,500	70%	5,250
9	3,000	3,000	70%	2,100
10	1,800	1,800	70%	1,260
<b>Total</b>	<b>107,300</b>	<b>79,300</b>		<b>55,510</b>





## EXAMPLE #2 (2020)

- The same manufacturing company in example #1 was subject to a shutdown order by Los Angeles County during parts of Q2 2020
- It was down more than 50% in revenue during Q2 when compared to 2019
- Revenue for Q3 and Q4 was less than 80% of the revenue for each quarter when compared to 2019
- The company also received a \$225,000 PPP loan in Q2 and used the 24-week period for the forgiveness calculation

Employee	Q4 2020 Wages	Wages claimed for PPP forgiveness	Unclaimed wages	ERTC Eligible Wages	Credit Percentage	Total Credit
1	25,000	8,000	17,000	10,000	50%	5,000
2	18,000	4,000	14,000	10,000	50%	5,000
3	15,000	3,000	12,000	10,000	50%	5,000
4	10,000	2,000	8,000	8,000	50%	4,000
5	10,000	2,000	8,000	8,000	50%	4,000
6	8,000	1,500	6,500	6,500	50%	3,250
7	9,000	1,800	7,200	7,200	50%	3,600
8	7,500	1,000	6,500	6,500	50%	3,250
9	3,000	500	2,500	2,500	50%	1,250
10	1,800	-	1,800	1,800	50%	900
<b>Total</b>	<b>107,300</b>	<b>23,800</b>	<b>83,500</b>	<b>70,500</b>		<b>35,250</b>



## EXAMPLE #3 QUALIFYING WAGES FOR LARGE EMPLOYER

- During March and April of 2020 an employer with greater than 100 Full Time employees is subject to a governmental order and partially suspends the operations of its trade or business. In response to the governmental order the Employer reduces employees' hours by 50%, but it reduces its employees' wages by only 40%. The employer continues to cover 100% of the employees' health plan expenses.
- The employer may treat 10% of the wages paid as qualifying wages for the time employees are not providing services, plus 50% of the employers cost of providing health insurance, because these health plan expenses are allocable to the time that the employees were not providing services.



## EXAMPLE #4 QUALIFYING WAGES - FURLOUGHED EMPLOYEES

- Employer is a large eligible employer subject to a governmental order that fully suspends the operations of its trade or business. Employer lays off or furloughs its employees (but does not treat these employees as terminated for employment tax purposes) and does not pay wages to the employees but does continue to cover 100% of the employees' health plan expenses.
- Employer may treat as qualified wages the health plan expenses that are allocable to the time that employees are not providing services.



# POLLING QUESTION #3



## AFFILIATION RULES

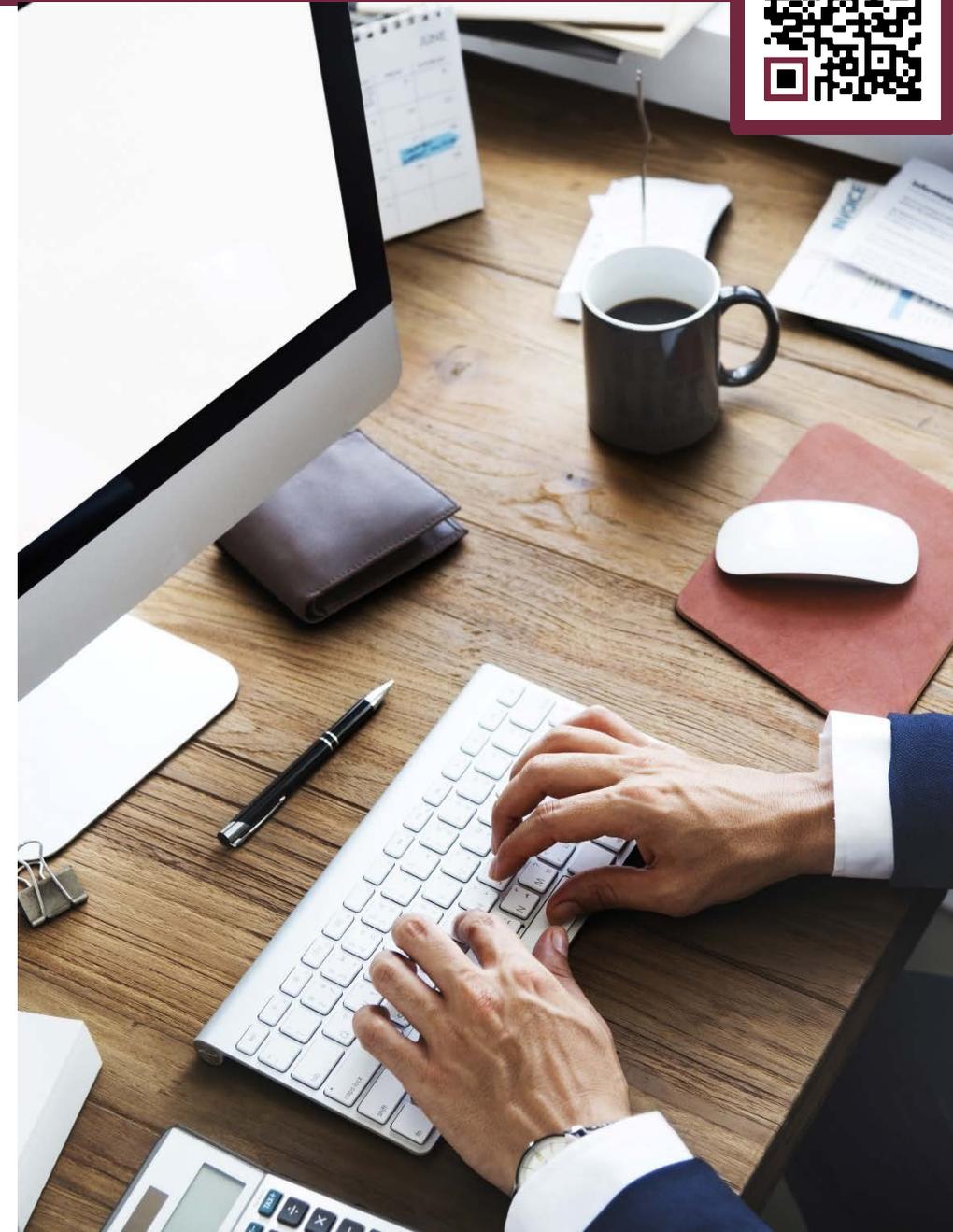
- Each employer must apply the aggregation rules of IRC section 414(m) and (o) as well as IRC section 52(a) or (b)
- Under IRC section 414(m) an affiliated service group is treated as a common employer based on rules based on the performance of services by one entity for the benefit of another entity





## AFFILIATION RULES – *cont.*

- Under Section 52, corporate employers must aggregate the number of employees if:
  - It is included in a parent-subsidary group where a common parent owns more than 50 % of the subsidiaries
  - It is included in a brother-sister combined group where a group of 5 or fewer people owns 80 % or more of each corporation
  - It is a combined group which is a group of three or more corporations each of which is either a parent-subsidary group or a brother-sister controlled group
- Section 52b also applies similar rules to corporate entities like partnerships, trusts, etc.





## AGGREGATION EXAMPLE #1

A taxpayer owns 80% of 2 restaurant partnerships and 100% of an affiliated management company. One of the restaurants is a full-service restaurant and has been shut down for dine-in meals due to government order. The other restaurant was only a take-out restaurant and has been unaffected by the shut down.

- How do we determine whether or not any of the companies qualify?
- Which sales are considered?



## AGGREGATION EXAMPLE #1 CONTINUED

		Dine-In			%
		2019	2020		
Q1		1,100,000	850,000		77%
Q2		1,175,000	375,000		32%
Q3		1,050,000	575,000		55%
Q4		1,350,000	325,000		24%
Totals		4,675,000	2,125,000		45%
		Take-Out			
		2019	2020		
Q1		500,000	400,000		80%
Q2		525,000	600,000		114%
Q3		475,000	625,000		132%
Q4		600,000	675,000		113%
Totals		2,100,000	2,300,000		110%

		Management			
		2019	2020		
Q1		80,000	62,500		78%
Q2		85,000	48,750		57%
Q3		76,250	60,000		79%
Q4		97,500	50,000		51%
Totals		338,750	221,250		65%
		Aggregated			
		2019	2020		100%
Q1		1,680,000	1,312,500		78%
Q2		1,785,000	1,023,750		57%
Q3		1,601,250	1,260,000		79%
Q4		2,047,500	1,050,000		51%
Totals		7,113,750	4,646,250		



## EXAMPLE #1 SOLUTION

- All 3 company's sales are combined because they are considered a brother sister group under section 52(b). 5 or fewer people own more than 80% and there is identical ownership in all 3 companies of at least 50%. This example is easy because 1 person owns at least 80% of all three companies.
- On an aggregated basis the business was never down quarter over quarter of more than 50%, so the aggregated company doesn't meet the criterion for reduced sales.
- However, the dine-in business was affected by governmental order and therefore meets the criterion for a partial shutdown.
- Since all 3 companies are combined, they all benefit from the partial shutdown and qualify for the credit in 2020, assuming their combined total fulltime employees did not average more than 100 for 2019.
- Remember that the wages that were used for PPP forgiveness may not be used for ERTC credits.



## AGGREGATION EXAMPLE #2

A taxpayer owns 50% of 2 restaurant partnerships and 100% of an affiliated management company. One of the restaurants is a full-service restaurant and has been shut down for dine-in meals due to government order. The other restaurant was only a take-out restaurant and has been unaffected by the shut down.

- How do we determine whether or not any of the companies qualify?
- Which sales are considered?



## AGGREGATION EXAMPLE #2 CONTINUED

		Dine-In			%
		2019	2020		
Q1		1,100,000	850,000		77%
Q2		1,175,000	375,000		32%
Q3		1,050,000	575,000		55%
Q4		1,350,000	325,000		24%
Totals		4,675,000	2,125,000		45%

		Take-Out			%
		2019	2020		
Q1		500,000	400,000		80%
Q2		525,000	600,000		114%
Q3		475,000	625,000		132%
Q4		600,000	675,000		113%
Totals		2,100,000	2,300,000		110%

		Management			%
		2019	2020		
Q1		80,000	62,500		78%
Q2		85,000	48,750		57%
Q3		76,250	60,000		79%
Q4		97,500	50,000		51%
Totals		338,750	221,250		65%

		Aggregated			%
		2019	2020		
Q1		-	-		0%
Q2		-	-		0%
Q3		-	-		0%
Q4		-	-		0%
Totals		-	-		0%



## EXAMPLE #2 SOLUTION

- None of the 3 company's sales are combined because they are not considered a brother sister group under section 52(b). 5 or fewer people do not own more than 80% and there is not identical ownership in all 3 companies of at least 50%.
- The dine in operation meets the 50% reduced sales threshold in Q2 and never exceeded the 80% threshold for any quarter the remainder of the year so it would qualify for the ERTC for all employees in Q2, Q3 and Q4 assuming they did not have full time employees of 100 or greater on average in 2019.
- Even if they had not met the reduced revenue threshold of 50%, they still would have qualified because the dine-in business was affected by governmental order and therefore meets the criterion for a partial shutdown.
- The other two companies would not qualify since they were not impacted by the 50% threshold or the governmental order for shutdown.
- Both the dine-in company and the management company would meet the criterion for Q1 2021, because they both were down in Q4 over 20% when comparing the Q4 2020 revenue to Q4 2019.
- Remember that the wages that were used for PPP forgiveness may not be used for ERTC credits.

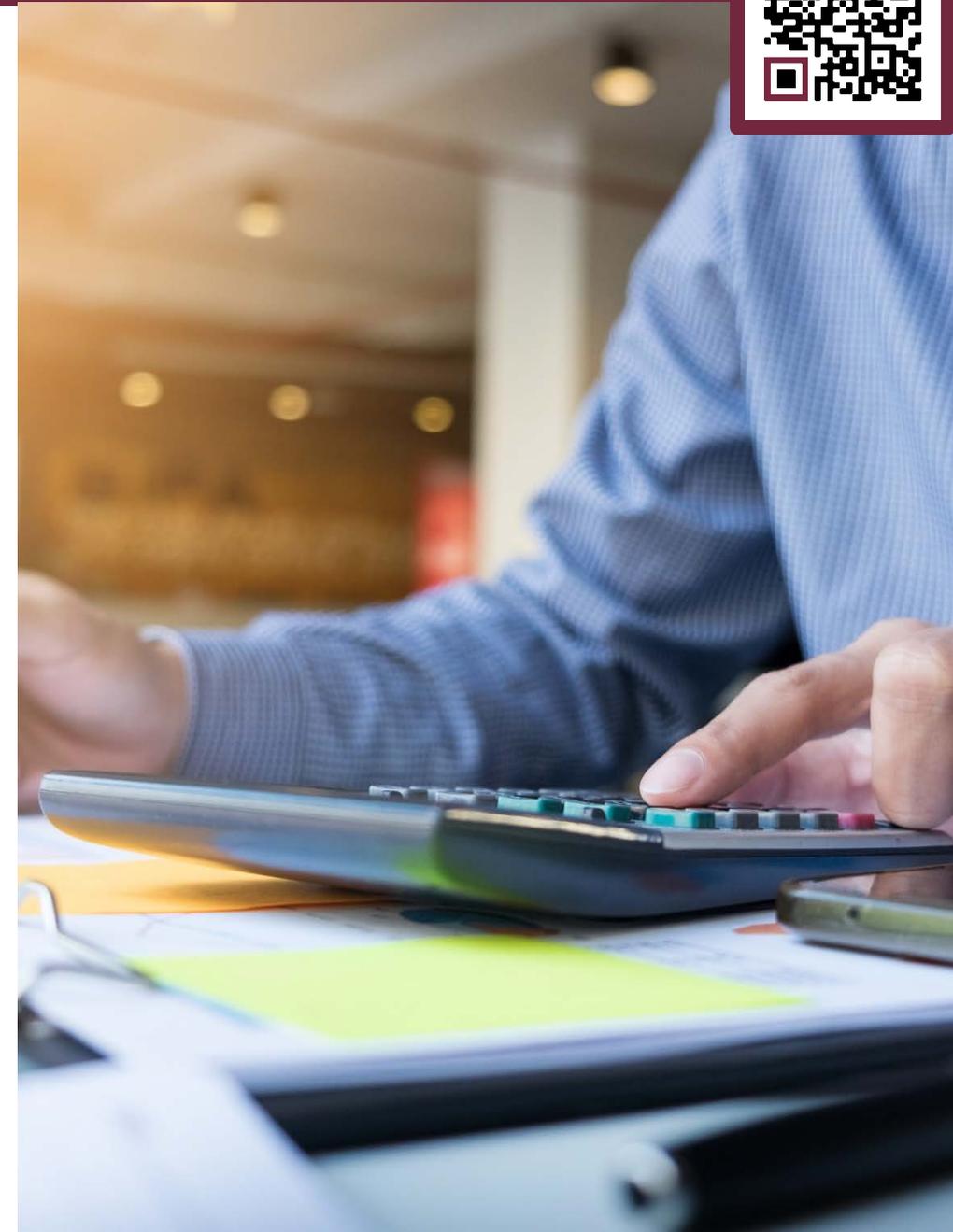


# POLLING QUESTION #4



## HOW TO CLAIM THE CREDIT

- Upon completion of the calculation of the credit, claim the credit on an Employer's amended Quarterly Federal Tax Return (IRS Form No. 941x)





## FINAL TAX CONSIDERATIONS

- Income tax deductions must be reduced by the amount of the credit received in the year the credit was generated.
  - Credits received from the 2020 tax year will reduce the deductions of related expenses in 2020 regardless of when the credits were subsequently received.
  - Credits received from the 2021 tax year will reduce the deductions of related expenses in 2021 regardless of when the credits were subsequently received.
- Any amended payroll tax returns filed for 2020 must be received by the IRS by April 15, 2024.
  - IRS has a 5-year statute of limitations for audits, compared to the 3-year statute of limitations for amending income tax returns. Awaiting IRS guidance to ensure taxpayers don't lose the ability to amend and reclaim deductions for any disallowed credits after amendment statutes have expired.
- To the extent that an employer files an adjusted or amended return to reflect these clarifications and consequently owes additional tax, any penalties for failure to timely pay or deposit tax will not apply if the taxpayer can show reasonable cause and not willful neglect for those failures.
- Taxpayers should keep in mind that PPP is completely tax free, the coordination of the ERTC and PPP is important in order to optimize the tax benefits of both.
- IRS audit activity has begun.
  - Likely to target larger claims.
  - Documentation of aggregated groups, shutdown orders, and gross receipts will be key.
  - IRS Notice IR-2023-40 Issued March 7, 2023



## KBKG ERC SERVICE

- KBKG is providing the following service to assist with ERTC
  - Determine if the employer qualifies, and if so, for which quarters
  - Determine which employee wages qualify
  - Calculate the actual credits due
  - Optimize with PPP forgiveness wages
  - Reconcile actual credits with advance credits requested
  - Prepare reconciled data for form 941X



# Questions



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# CPE CERTIFICATES



## KBKG

*\*Please allow 2-3 weeks, if not sooner, for your CPE certificates to be available online*

Login to [solutions.kbkg.com](https://solutions.kbkg.com)

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