

Join us for the next  
**FARM OFFICE LIVE**

## September Topics:

- Federal Farm Program Update
- Crop Input Costs & Margins Outlook and Implications for Farmland Rents and Values
- Renewable Energy Development Update
- Strategies to Mitigate Long Term Care Risk
- Employee Retention Tax Credit

Register or watch replays at  
**[go.osu.edu/farmofficelive](https://go.osu.edu/farmofficelive)**

**Register once and receive links to join future programs**

*Each session includes timely updates and Q&A time on topics of interest.*



THE OHIO STATE UNIVERSITY  
EXTENSION

## OSU Extension's Farm Office Team

**Peggy Kirk Hall**  
**David Marrison**  
**Barry Ward**  
**Robert Moore**  
**Jeff Lewis**

**Sept. 22 10:00 – 11:30 AM**

**Save the date!**  
**We will be back Oct. 21 at 10 AM**

*Farm Office - Your farm's  
ag law and farm management  
resource partner.*

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In Loving Memory of  
Julie Strawser

1960-2022







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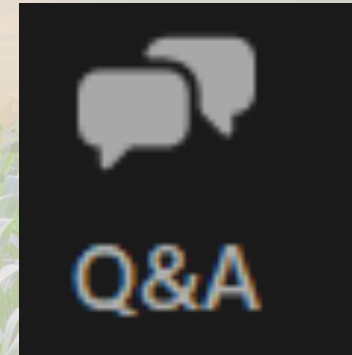


Slides and a recording for today's  
presentation can be found at:  
[go.osu.edu/farmofficelive](https://go.osu.edu/farmofficelive)



# *Questions??*

- ❖ Feel free to submit questions at any time using the Q/A feature at the bottom of your screen.
- ❖ You can also email questions to David Marrison at [marrison.2@osu.edu](mailto:marrison.2@osu.edu)
- ❖ We will try to answer as many questions as we can at the end of the presentation.



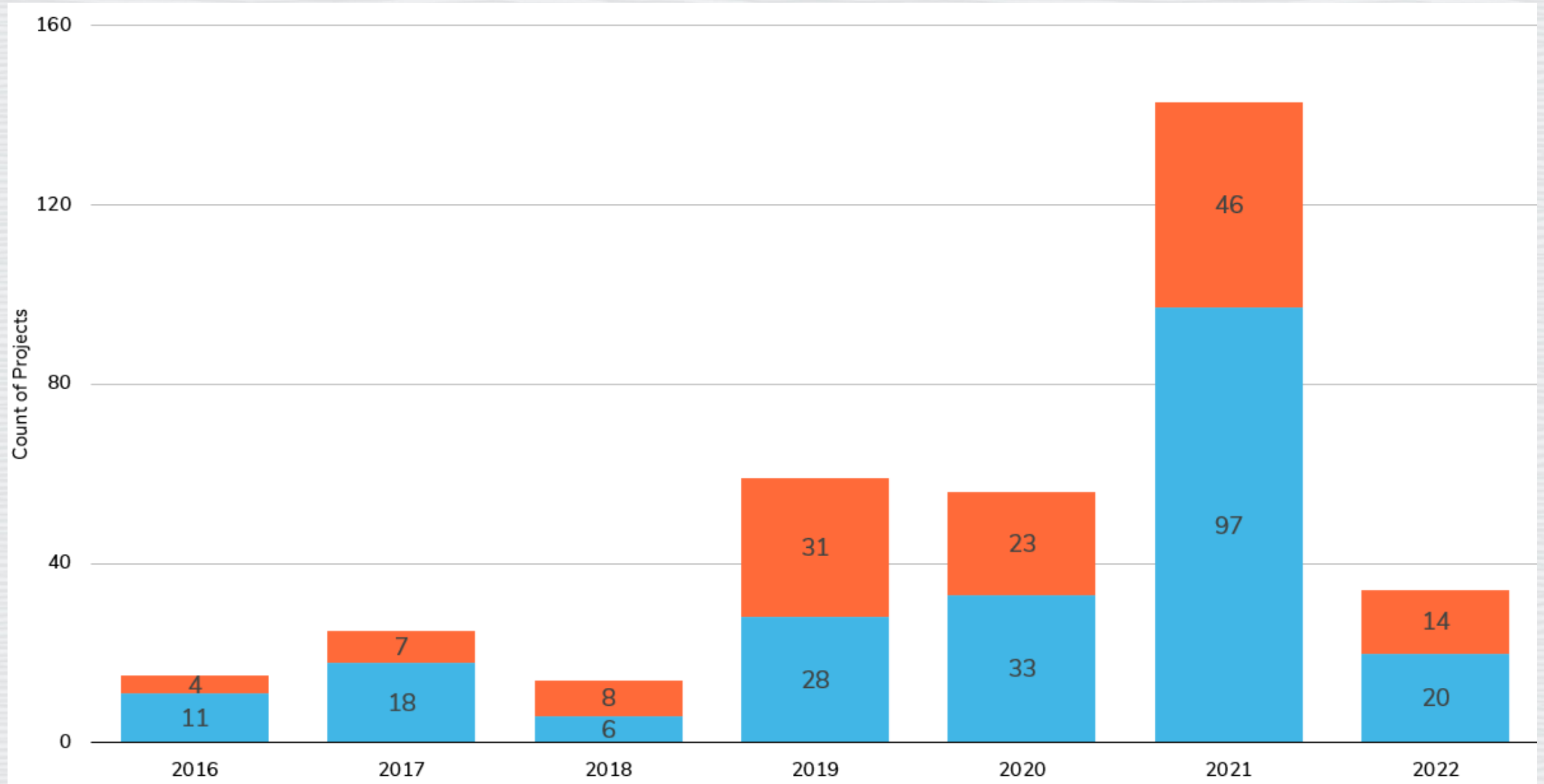


# **Renewable Energy Development Update**

Peggy Kirk Hall  
Attorney/Director  
OSU Agricultural & Resource Law Program

# PJM Interconnection Queue in Ohio

## for solar and solar + storage





## Project Status

**Certificated Projects Total: (5,420.2 MW) (55,026 Acres)**

<span style="color: green;">■</span> Operational	(450.0 MW) (4,312 Acres)
<span style="color: blue;">■</span> Under Construction	(2,479.0 MW) (23,822 Acres)
<span style="color: orange;">■</span> Preconstruction	(2,491.2 MW) (27,092 Acres)

**Non-Certificated Projects Total: (4,126.6 MW) (37,679 Acres)**

<span style="color: red;">●</span> Pending	(4,126.6 MW) (37,679 Acres)
<span style="color: yellow;">●</span> Pre-Application	(0.0 MW) (0 Acres)



# Strategies to Mitigate Long-Term Care Risks

**Robert Moore**  
**Attorney/Research Specialist**  
**Agriculture and Resource Law Program**



## **LONG-TERM CARE INSURANCE**

- Purchase an insurance policy that will pay for LTC costs
- Many types of policies and coverages

### **Advantages**

- Provides protection to assets without giving up control of assets

### **Disadvantages**

- Premiums can be expensive, must purchase long before needed
- Some people are not insurable
- How much coverage to carry? How long is the term?

## DO NOTHING

- For some people, assume adequate resources are available to pay all LTC costs so no need to do anything
- For other people, must keep every asset to live and/or cannot afford to transfer assets away
- The most common strategy

### Advantages

- No cost
- Keep full control of assets

### Disadvantages

- No assets are protected



## **GIFT ASSETS THAT ARE TO BE PROTECTED**

- Gift assets that are to be protected from LTC costs and incur the improper transfer penalty or wait the five-year lookback period

### Advantages

- Relatively inexpensive to execute

### Disadvantages

- Loss of ownership, control and income from the assets
- Giftee may develop their own financial issues and jeopardize the assets
- Loss of stepped-up tax basis at death

## **IRREVOCABLE TRUST**

- Transfer assets to an irrevocable trust

### **Advantages**

- Trust can include an estate planning component
- Trust can be set up to retain the income and stepped-up basis at death
- Can protect against giftee's financial problems and/or poor management

### **Disadvantages**

- Can be expensive to establish and maintain trust
- Transfer to the trusts are improper transfers – subject to five-year lookback
- Loss of ownership and control of the assets
- Loss of stepped-up tax basis if income is not provided
- Trust cannot be changed except for beneficiaries (limited power of appointment)

## **SELF-INSURE**

- Intentionally reserve assets for LTC costs
- Usually, savings or investment accounts but can be land or other farm assets

### Advantages

- No fees or expenses required
- Keep full control of assets

### Disadvantages

- How much is needed? All assets at risk if LTC costs exceed reserves
- Impoverished spouse issue

## **WAIT AND SEE**

- Wait to see if LTC will be needed
- Have enough resources to pay for five years of care
- Gift assets that wish to protect at beginning of five-year look back period
- After five years, gifted assets are protected

### Advantages

- Provides flexibility
- Reduces unknown aspect of LTC planning

### Disadvantage

- Does not protect assets for five years



## Summary

- There are no easy solutions for LTC planning
- What are potential LTC costs?
- What resources are available if LTC would be incurred?
- What is the true risk to the farmer?
- Which strategy may work best based on risk assessment?
- Each situation is different, and planning should reflect the situation

A farmer has little control over the long-term care they may need, but they do have options as to how to plan for those costs



**Don't forget to use the Q&A Box to ask questions!**

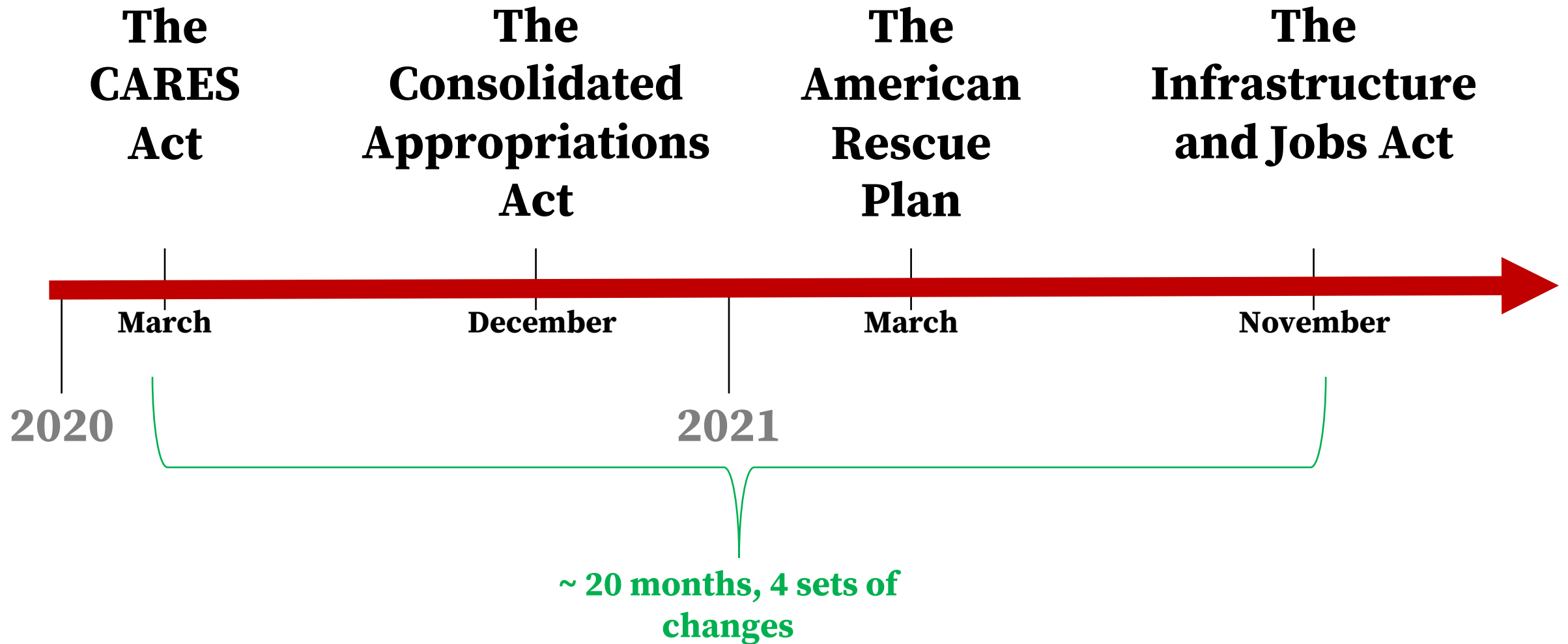




# **Employee Retention Credit – Where Are We Now?**

**Jeffrey K. Lewis, Esq.  
Attorney/Program Coordinator  
OSU Income Tax Schools, ANR**

# Employee Retention Credit (“ERC”) – A History





# ERC – A Bird's Eye View

## The CARES Act:

- ERC equal to 50% of **Qualified Wages** that **Eligible Employers** pay to their employees.
- \$10,000 - Maximum amount of Qualified Wages per employee for Q3 **AND** Q4
- \$5,000 – Maximum ERC, per employee, that an Eligible Employer could claim.
- Originally, employers that participated in the Paycheck Protection Program could not claim the ERC

## The Consolidated Appropriations Act:

- Employers that participated in the Paycheck Protection Program can claim ERC. Employers able to amend 2020 tax filings to claim ERC for Q3 and Q4 in 2020.
- Extended ERC to Q1 and Q2 in 2021.
- Increased credit amount of ERC from 50% of Qualified Wages to 70% of Qualified Wages
  - Employer can claim up to \$7,000 per employee
- Increased limit of ERC to allow employer to claim ERC on each employee in each of the first two calendar quarters of 2021

# ERC – A Bird's Eye View

## The American Rescue Plan

- ERC extended to Q3 and Q4 of 2021.
  - Employer could potential claim \$28,000 per employee in 2021 (\$7,000 x 4 calendar quarters in '21)
- Business started after February 15, 2020 and with average annual gross receipts of \$1,000,000 or less could only claim up to \$50,000 in each Q3 and Q4 in 2021, regardless of number employees.
- Large employers that experienced a decline of 10% or more in gross receipts could claim ERC on all qualified wages.
- Statute of limitations increased to 5 years.

## The Infrastructure and Jobs Act

- Eliminated the ERC for Q4 in 2021 for all employers, except employers considered to be a recovery startup business.
  - Most employers are now only able to claim up to \$21,000/per employee in 2021.

# Claiming the ERC

## **Form 941 or Form 943 (agricultural employers)**

- Report total Qualified Wages

## **Form 941-X or 943-X (agricultural employers):**

- Used to adjust employment taxes already filed.
- Employers can use the appropriate form to take advantage of the retroactive changes included in the Consolidated Appropriations Act.

## **Form 7200 – Advance Payment of Employer Credits Due to COVID-19:**

- Employers can reduce employment tax deposits during the current calendar quarter by the anticipated ERC to be received.

## **Deduction Reduction:**

- If employer retroactively applies ERC to already filed taxes, employer must file an amended income tax return and reduce the employee wage deduction taken on the original tax return.
  - Cannot receive a deduction on income tax return for Qualified Wages for which the employer received the ERC

# ERC - Where Are We Now?

**Answer:** In a giant mess.

The Treasury Inspector General for Tax Administration (TIGTA) recently released a report detailing ERC processing delays, which has caused a backlog of unprocessed refund payments.

## **But why?**

1. The numerous changes to the ERC in a short amount of time.
  - Too much, too quickly?
2. An influx of claims to process due to the numerous COVID-19 tax relief options for individuals and employers.
3. Lack of labor force to process influx of claims.



## ERC – Fraud

A distracted IRS + numerous Changes, in a short amount of time + unclear regulations = FRAUD!

# ERC – Fraud

## Beware of “ERC Mills.”

- Growing trend of “specialty tax consulting companies” holding themselves out to be ERC experts.
- Typically, ERC Mills will sign a client engagement, charging a fixed percentage of the ultimate ERC received by their client.
  - This incentivizes these companies to claim the largest ERC possible for each of their clients, regardless of whether their clients legitimately qualify for the ERC.

## How is this going to effect employers?

- Audit by IRS
- Penalties for unpaid employment taxes
  - CARES Act does allow penalty removal but only under a “reasonable anticipation” standard.
- Law 101: “Ignorance of the law is defense at all.”
  - Unjust enrichment
  - Inviting a litigation headache
  - Where is the company going to be in a few years when the IRS starts to pursue legal action?

# ERC – Fraud

## How can an employer avoid ERC Fraud?

### 1. Research

- When was the company founded? During the pandemic?
- Do founders have legitimate tax experience?
- What is the company's reality?
  - High rise office building on its website v. strip mall location

### 2. Document **EVERYTHING!**

- Employee wages
- Governmental orders
- Gross receipts
- PPP documents
- Tax forms
- Maintain documents until after the statute of limitations has run... 5 years!

### 3. Seek out a licenses professional (e.g. Attorney; CPA)

### 4. Trust your gut – if it sounds too good to be true, it probably is.



A scenic photograph of a pumpkin patch at dusk or dawn. Rows of bright orange pumpkins are laid out on wooden pallets in a grassy field. In the background, there is a rustic wooden barn with a weathered roof, a wooden fence, and rolling hills under a sky with soft, colorful clouds.

**CFAES**

Thanks for joining  
us for this  
webinar

Next Webinar  
October 21, 2022  
10:00 to 11:30  
a.m.



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