COVID-19 UPDATE | JANUARY 6, 2020

THE EMPLOYEE RETENTION TAX CREDIT HAS BEEN UPDATED, EXPANDED & EXTENDED

The Employee Retention Tax Credit (ERTC), a provision of the CARES Act that created a refundable payroll tax credit for employers that retained their employees during 2020, has now been updated, expanded and extended as part of the Consolidated Appropriations Act, 2021.

The Consolidated Appropriations Act made three important updates to the original ERTC, which are retroactive to March 27, 2020:

1. **PPP Borrowers are Now Eligible**
   Under the original ERTC, employers that received a Paycheck Protection Program (PPP) loan were ineligible for the ERTC. Under the revised ERTC, PPP borrowers are now eligible to obtain the credit, as long as they otherwise qualify. There is also a refund opportunity for employers who did not receive the credit due to a PPP loan in 2020. These eligible employers may take the credit on their next quarter's Form 941.
2. **Gross Receipts**
   The revised ERTC has clarified the determination of gross receipts for certain tax-exempt organizations, to include all amounts treated as gross receipts under Section 6033 of the Tax Code.
3. **Group Health Plan Expenses**
   The revised ERTC has clarified that group health plan expenses can be considered qualified wages even when no other wages are paid to the employee.

The Consolidated Appropriations Act has also expanded and extended the ERTC to include the following provisions:

- The ERTC, which was originally scheduled to expire on December 31, 2020, has been extended until June 30, 2021
- The credit has been increased to 70% of up to $10,000 of qualified wages paid per quarter between January 1, 2021 and June 30, 2021 (Originally, the credit was 50% of up to $10,000 of qualified wages annually). During the first two quarters of 2021, a maximum of $10,000 in qualified wages for each employee per calendar quarter may be counted in determining the 70% credit, making the maximum tax credit $7,000 per employee per calendar quarter, or a total of $14,000 per employee.
- The required amount of decline in year-over-year gross receipts has been reduced from 50% to 20%.
- A new safe harbor allows employers to use prior quarter gross receipts to determine eligibility.
- The employer size threshold has increased from 100 to 500. For employers with more than 500 employees, qualified wages are only those paid to employees that provided no services while the business was shut down. For employers with less than 500 employees, all wages qualify for the credit, regardless of whether the employee worked, or whether the employer was in operation.

- Employers that were not in existence for all or part of 2019 are now eligible for the credit.
- Additional organizations now qualify for the credit, including state or local run colleges, universities, organizations providing medical or hospital care, and certain organizations chartered by Congress (including Fannie Mae, FDIC, Federal Home Loan Banks, and Federal Credit Unions).
- Originally, any increase in pay rate did not qualify for the credit. The revised ERTC now allows credit for hazardous pay increases.

A few other important items to note in regard to other benefits/credits:

- Paycheck Protection Program (PPP) and Economic Injury Disaster Loan (EIDL) funds are excluded from gross receipts, and therefore do not qualify for the credit. In other words, no double dipping.
- The credit may not be used for wages already receiving other benefits or credits, including Payroll Protection Program Funds, Paid Family and Medical Leave or the Deferral of Employer Social Security Tax.

As always, CRR is closely following this and other financial relief programs in order to best assist our clients. If you have any questions about the Employee Retention Tax Credit, or need assistance in applying, please contact your CRR representative, or send us an email at info@crrcpa.com. You can also visit our COVID-19 Resource Center for the latest updates, alerts, and impacts.

We're in this together.