Employee Retention Credit for 2020

January 24, 2021

This week is review of the Employee Retention Credit (ERC) from which there are three important takeaways:

1. The Employee Retention Credit (ERC) can be significant (up to $5,000/employee for 2020 and $14,000/employee in 2021)… so **do not ignore it**;
2. Get your Second-Draw PPP loan first. (It is now possible to qualify for both the Second-Draw PPP loan and the ERC; however, start with the PPP… it is typically worth more.); and
3. Involve your attorney, CPA, or professional advisors. The law is new, and the rules are complex.

What is the Employee Retention Credit (ERC)?

- It is a payroll tax credit. You can apply the credit to future employee federal tax withholdings or receive a check for the amount of the credit.

How is the ERC Calculated?

- For 2020: 50% of qualifying wages paid between March 12 and December 31, 2020 with a maximum credit of $5,000 per employee for the *year.*
- For 2021: 70% of qualifying wages paid between January 1 and June 31, 2021 with a maximum credit of $7,000 per employee per *quarter.* (NOTE: The ERC applies to Q1 and Q2 of 2021, so the maximum credit for 2021 is $14,000!)

Who qualifies for the ERC?
Your organization qualifies if it paid wages:

- While its operations were fully or partially suspended due to a Covid-19 government order[1]; or
- During a calendar quarter during which it experienced a large drop in gross receipts[2].

Recap:
Complete your Second-Draw PPP loan application and let your tax/legal advisor know you are interested in investigating the ERC. More updates will come as more guidance from the SBA and Treasury become available.

[1] The organization's operations must have been "fully or partially suspended" during the quarter due to "orders from an appropriate governmental authority limiting commerce, travel, or group meetings… due to COVID-19." Once this occurs, the quarter is an "eligible quarter," but your organization will only get the credit on wages paid during the part of the quarter in which operations were shut down due to the order. For Q1 2020, only wages paid between March 12 (when the law started) – March 31st (the end of the quarter) can qualify.

[2] To meet this test, for any quarter in 2020, the "gross receipts" must be less than 50% of what they were for the same quarter in 2019. Once this happens, every quarter is an "eligible quarter" until the END of the quarter in which the organization's receipts have returned to at least 80% of what they were for the same quarter in 2019. For 2021, the "gross receipts" must be less than 80% of what they were in the same quarter of 2019. There are LOTS of nuances to this general rule so please, please, please get professional guidance.