



Capitol Tax & Accounting Group, LLC

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To: CTAG Clients
From: Capitol Tax & Accounting LLC
Date: December 29, 2020
Re: Employee Retention Tax Credit Enhancement

The Coronavirus Disease 2019 stimulus package signed into law by President Trump on December 27 contains significant enhancements to the employee retention tax credit enacted under the CARES Act. The credit initially provided a 50% tax credit. Below is a summary of the changes. See accompanying flowchart and calculator to determine eligibility.

Period Available:

The new law applies to qualified wages paid after March 12, 2020 and before July 1, 2021, extending the available credit to the first two quarters of 2021.

Amount of Credit:

For wages paid in 2020, the credit is 50% of the qualified wages paid to the employee plus cost to continue providing health benefits to the employee. Effective January 1, 2021, the credit is increased to 70% of qualified wages including health benefits provided to the employee.

Maximum Credit Amount:

The credit for 2020 is capped at \$5,000 per employee (\$10,000 in wages times 50% tax credit). Starting on January 1, 2021, the cap is increased to \$7,000 for EACH of the first two quarters of 2021 (\$10,000 in wages times 70% tax credit), for a maximum credit in 2021 of \$14,000 per employee. The \$14,000 max credit is available even if the employer received the \$5,000 maximum for the employee in 2020.

Eligibility for the Credit:

For 2020, business operations that are either fully or partially suspended by a COVID-19 lockdown order, or any quarter in 2020, if gross receipts are less than 50% of gross receipts for the same quarter in 2019. Effective January 1, 2021, you only need a 20% reduction in revenue for a quarter as compared to the same quarter in 2019. The same rules continue to apply if you faced a mandatory shutdown at any point through June 30, 2021.

PPP Loan Eligibility:

Originally, a company that received the PPP loan was not eligible for the employee retention credit. This disallowance rule extended to all affiliated companies that shared common ownership. Under the new law, **A COMPANY THAT RECEIVES A PPP LOAN IS NO LONGER PROHIBITED FROM CLAIMING THE EMPLOYEE RETENTION CREDIT.** However, a credit may not be claimed for wages paid with proceeds of a PPP loan that have been forgiven (can't double dip). This change is retroactive to wages paid after March 12, 2020. As a result, a company that received a PPP loan in 2020 and paid wages in excess of the forgiven PPP loan used to pay wages is otherwise eligible to claim the credit, and should be able to file amended employment tax returns (941's) to claim the credit. If you did not claim the credit due to a PPP loan, you should review the requirements to determine if your company would be eligible.

What about PPP and ERC?

So how do you get both PPP and ERC? We're not 100% sure how this is going to work yet, and we're going to need guidance from both the SBA and the IRS, but we know that this is going to be a thing. Effectively, if you faced a mandatory shutdown from the government for any period of time OR had a 50% reduction in revenue in any quarter in 2020, you're going to be in some luck when push comes to shove so long as you didn't boot too many people off of your payroll. We also don't know the timing of all of this quite yet. But if you're eligible, the money is going to come for sure.

What do I do now?

There really isn't anything we can do at this point except some planning. A few key things to check.

- 1: Did your business have a 50% reduction in revenue in any quarter compared to the same quarter in 2019? (ERC 2020)
- 2: Did your business have a 25% reduction in revenue in any quarter compared to the same quarter in 2019? (PPP Round 2)
- 3: Did your business have a 20% reduction in revenue in the 4th quarter of 2020 compared to the 4th quarter of 2019? (ERC 2021)
- 4: Was your business subject to mandatory government shutdown at any point in 2020 due to COVID? (ERC 2020)

If any of those questions is yes, you qualify for more funding. If you can't answer yes to any of those questions, thanks for taking the time to read all of this, but there isn't anything else that you'll qualify for at this time.