Bollenbacher & Associates, LLC
Certified Public Accountants

April 22, 2020

Topic:
Employee Retention Credit (ERC)

Who does this apply to?:

Any employers carrying on business or trade during 2020 who fall into the following two categories **with the exclusion** of state and local governments, their instrumentalities, self-employed individuals, and businesses that have accepted loans under the Paycheck Protection Program (PPP Loan).

1. The employer's business is fully or partially suspended by government order due to COVID-19 during the calendar year.
2. The employer's gross receipts are below 50% of the comparable quarter in 2019. Once the employer's gross receipts go above 80% of a comparable quarter in 2019, they no longer qualify after the end of that quarter. For the purposes of the Employee Retention Credit, this is referred as a 'significant decline in gross receipts.'

What does it mean?:

The Treasury Department and the IRS have launched this program to encourage businesses to keep employees on their payroll despite the effects of COVID-19.

While employers will not be able to claim this credit if they have accepted the PPP Loan, they will be able to claim the ERC along with the Families First Corona Recovery Act (FFCRA), but for different wages. Do not include amounts of qualified sick and family leave wages for which the employer received tax credits under the FFCRA when calculating qualified wages for ERC.

The credit itself is calculated based on average number of business's employees in 2019. These include cash payments and a portion of the cost of employer provided health care. The credit is then 50% of these qualified wages, maximum $10,000 in total per employee for the year 2020. For example:

Example 1: Eligible Employer pays $10,000 in qualified wages to Employee A in Q2 2020. The Employee Retention Credit available to the Eligible Employer for the qualified wages paid to Employee A is $5,000.

The employee has maxed out their Employee Retention Credit and will not have an eligible credit in Q3 or Q4.

Example 2: Eligible Employer pays Employee B $8,000 in qualified wages in Q2 2020 and $8,000 in qualified wages in Q3 2020. The credit available to the Eligible Employer for the qualified wages paid to Employee B is equal to $4,000 in Q2 and $1,000 in Q3 due to the overall limit of $10,000 on qualified wages per employee for all calendar quarters.

Special note:

If companies had 100 or fewer employees on average in 2019, the credit is based on wages paid to all employees, regardless if they worked or not. If the employees worked full time and were paid for full time work, the employer still receives the credit.

If companies had more than 100 employees on average in 2019, then the credit is allowed only for wages paid to employees who did not work during the calendar quarter due to the full or partial shutdown.

How do I apply it?:

These credits are matched against an employer's payroll tax deposits withheld from their employees' wages by the amount of the credit, usually filed on Form 941. If the ERC exceeds the amount of an employer's quarterly employment tax returns, they can file *Form 7200, Advance Payment of Employer Credits Due to COVID-19*. Employers are allowed to file multiple Form 7200 for this credit.

Example: Eligible Employer pays $10,000 in qualified wages to Employee A in Q2 2020. The Employee Retention Credit available to the Eligible Employer for the qualified wages paid to Employee A is $5,000. This amount may be applied against the employer share of social security taxes that the Eligible Employer is liable for with respect to all employee wages paid in Q2 2020. Any excess over the employer's share of social security taxes is treated as an overpayment and refunded to the Eligible Employer after offsetting other tax liabilities on the employment tax return and subject to any other offsets under section 6402(a) of the Code.

Eligible employers can also request an advance of the Employee Retention Credit by submitting Form 7200.

Employers will also not be subject to any penalties for failing to deposit federal employment taxes relating to qualified wages in the calendar quarter if:

1. The eligible employer paid qualified wages to its employees in the calendar quarter before the required deposit
2. The amount of federal employment taxes that the Eligible Employer does not timely deposit, reduced by any amount of federal employment taxes not deposited in anticipation of paid sick or family leave credits claimed under the FFCRA, is less than or equal to the amount of the eligible employer's anticipated ERC for the qualified wages for the calendar quarter as of the time of the required deposit AND
3. The eligible employer did not seek payment of an advanced credit by filing Form 7200 with respect to any portion of the anticipated credits it relied upon to reduce its deposits.

The employer will account for these qualified wages at the end of each quarter on their Form 941, however, no other guidance has been given by the IRS in regard to how these credits will be recorded at this time.

When does it take effect?:

For qualified wages paid after March 12, 2020 and before January 1, 2021 are eligible for the credit.

Please contact our office at info@ballc-cpa.com or call (260) 726-4207 if you have any questions regarding the above guidance.

Bollenbacher & Associates, LLC