Federal Tax Tools: Employee Retention Tax Credit & Payroll Tax Deferral

Employee Retention Tax Credit

What is the Employee Retention Tax Credit?

- The Employee Retention Tax Credit, is a federal tool offered as an alternative to the Paycheck Protection Program (the "PPP") for organizations that might not otherwise qualify for the PPP.
- It is a fully refundable tax credit for employers equal to 50 percent of qualified wages (including allocable qualified health plan expenses) that eligible employers pay their employees.

Employee Retention Tax Credit

Who is eligible for the Tax Credit?

- Eligible employers are those that carry on a trade or business during calendar year 2020, including tax-exempt organizations, that either:
  - Fully or partially suspend operations during any calendar quarter in 2020 due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19; or
  - Experience a significant decline in gross receipts during the calendar quarter.
- Governmental employers are not eligible for the tax credit. Additionally, self-employed individuals are not eligible for this credit for their self-employment services or earnings.

Employee Retention Tax Credit

What does it mean to be partially suspended?

- The operation of a trade or business may be partially suspended if:
  - an appropriate governmental authority imposes restrictions upon the business operations by limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19 such that the operation can still continue to operate but not at its normal capacity.

Employee Retention Tax Credit

What is a significant decline in gross receipts?

- A significant decline in gross receipts:
  - begins with the first quarter in which an employer's gross receipts for a calendar quarter in 2020 are less than 50 percent of its gross receipts for the same calendar quarter in 2019; and
  - ends with the first calendar quarter that follows the first calendar quarter for which the employer's 2020 gross receipts for the quarter are greater than 80 percent of its gross receipts for the same calendar quarter during 2019.

Employee Retention Tax Credit

What is the maximum amount of the tax credit?

- The credit equals 50 percent of the qualified wages (including qualified health plan expenses) that an eligible employer pays in a calendar quarter.
- The maximum amount of qualified wages taken into account with respect to each employee for all calendar quarters is $10,000, so that the maximum credit for qualified wages paid to any employee is $5,000.

Employee Retention Tax Credit

What are qualified wages?

- Qualified wages are wages and compensation paid to employees after March 12, 2020, and before January 1, 2021.
- Qualified wages include the Eligible Employer's qualified health plan expenses that are properly allocable to the wages.
- Averaged more than 100 FTE in 2019:
    - qualified wages = wages paid for time that the employee is not providing services due to either (1) a full or partial suspension of operations by order of a governmental authority due to COVID-19, or (2) a significant decline in gross receipts
- Averaged 100 or fewer FTE in 2019?
    - qualified wages = wages paid to any employee during any period of economic hardship described in (1) and (2) above.

Employee Retention Tax Credit

How do I claim the tax credit?

- Eligible employers must report their total qualified wages and the related credits for each calendar quarter on their federal employment tax returns.
- In anticipation of receiving the credits, you can fund qualified wages by:
  - tapping into their federal employment taxes, including their withheld taxes, that are required to be deposited with the IRS; OR
  - requesting an advance of the credit from the IRS.
- You should speak with your accountant and/or payroll provider prior to taking either of these actions.

Payroll Tax Deferral

What is Payroll Tax Deferral?

- Not a tax credit but a tax deferral (essentially a no interest loan).
- Allows all employers to defer the deposit and payment of employer's portion of Social Security taxes and certain railroad retirement taxes incurred between March 27, 2020 and December 31, 2020
- However, if the employer is a PPP recipient, it may not defer the payroll tax due after it receives a decision from its lender that the PPP loan has been forgiven.
- Deferred taxes are due and considered timely paid if:
    - 50% of the deferred amount is paid by December 31, 2021; and
    - the remaining 50% deferred amount is paid by December 31, 2022.

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What if I need help?

- If you are interested in claiming the Employee Retention Tax Credit or deferring your payroll taxes, please consult with your organization's accountant, attorney, and/or payroll provider to make a specific determination about your organization's eligibility.
- Because every organization's situation is unique it is important that you seek appropriate advice before taking or refraining from taking any action as a result of this presentation.

FORTIF LAW PARTNERS

Jonathan Murphy
Partner, Fortif Law Partners, LLC
205-730-7130
jonathan@fortif.com