Tax Credits You May Qualify For

Consolidated Appropriations Act

January 26, 2021

PPP and ERC

PPP Borrowers are now eligible to go back and claim ERC for 2020 beginning March 12, 2020

The Consolidated Appropriations Act (CAA) does not change the requirements or limits for wages paid during 2020. It does now allow anyone who took out a Paycheck Protection Program (PPP) loan to claim the ERC. This provides an opportunity to go back and claim the ERC on 2020 wages. However, the CAA also added that the ERC and PPP loan forgiveness can not be claimed on the same wages.

Retro 2020 ERC 3/12/2020 – 12/31/2020

In general, the ERC as passed under the CARES Act allowed qualified employers of under 100 full time employees to claim a credit of 50% on employee qualified wages paid from March 13, 2020, through December 31, 2020. For purposes of this credit, wages include the employer portion of group health care costs.

The maximum eligible wages per employee are $10,000, resulting in a maximum annual credit of up to $5,000 per employee. To qualify for the credit, an employer must meet all of the following criteria:

1. The employer must have carried on a trade or business during calendar year 2020; and
2. The operation of that trade or business either
   - Was fully or partially suspended due to orders from an appropriate governmental authority limiting commerce, travel or group meetings due to COVID-19; or
   - Has gross receipts for at least one calendar quarter in 2020 that are less than 50% of the gross receipts received during the same calendar quarter(s) in 2019.
     This period of significant decline in gross receipts is recognized until the end of the 2020 calendar quarter in which gross receipts are greater than 80% of gross receipts of the corresponding calendar quarter in 2019.

In addition, for employers with over 100 full-time employees, ERC is available only on wages and or health care paid to or on the behalf of employees not working. The 100-employee threshold is based on the average number of employees during 2019.

ERC (Employee Retention Credit) 1/1/21 – 6/30/21

The Bill extends the availability of the ERCs to qualified wages paid through June 30, 2021 and enhances the program in many ways:

- Reduced the quarter over quarter gross receipts decline from 50% to 20%, comparing the 2021 calendar quarter to the corresponding quarter in 2019 (rather than 2020).
- Increased the ERC wage limit to $10,000 per employee per quarter rather than $10,000 per year.
- Increased the ERC percentage from 50% to 70% of gross wages.
- Increased the "large employer" full time employee limit from 100 to 500.
- New employers who were not in existence for all or part of 2019 can use the comparable 2020 calendar quarter to determine the extent of the decline in gross receipts.

Questions

49. How does an Eligible Employer identify the average number of full-time employees employed during 2019?

The term "full-time employee" means an employee who, with respect to any calendar month in 2019, had an average of at least 30 hours of service per week or 130 hours of service in the month (130 hours of service in a month is treated as the monthly equivalent of at least 30 hours of service per week), as determined in accordance with section 4980H of the Internal Revenue Code. An employer that operated its business for the entire 2019 calendar year determines the number of its full-time employees by taking the sum of the number of full-time employees in each calendar month in 2019 and dividing that number by 12.

20. Are tax-exempt employers eligible for the Employee Retention Credit?

Yes, organizations described in section 501(c) of the Internal Revenue Code (the “Code”), and exempt from tax under section 501(a) of the Code, may be Eligible Employers for purposes of the Employee Retention Credit if they are employers that otherwise meet the requirements to be eligible for the credit.

Qualifying health expenses include not only major medical coverage, but also dental and vision coverage and any other benefit to which the COBRA continuation rules would apply.

EIDL Advance Non-Taxable and No Longer Reduces PPP Loan Forgiveness

The Act also replenishes the EIDL Advance fund, which allows businesses suffering a substantial economic injury to apply for an advance that does not need to be repaid or up to $1,000 per employee limited to $10,000 total.

Prior law stated that any EIDL Advance received would reduce PPP Loan Forgiveness, essentially requiring the Advance to be repaid.

The new Act repeals this provision so the receipt of an EIDL Advance will have no impact on PPP loan forgiveness. Borrowers that have already applied for and received loan forgiveness presumably may now amend their application to request that the $10,000 EIDL Advance (or amount actually received) not reduce their forgiveness amount and request repayment.

FFCRA Extension

The original FFCRA mandatory paid leaves put in place April 1, 2020, still apply through December 31, 2020.

If you have fewer than 500 employees, your FT, PT and seasonal employees are entitled to Emergency Paid Sick Leave or Expanded FMLA if they get sick, have symptoms, are awaiting a test, are caring for someone who is sick, or are home with children whose school or place of care is closed due to Covid-19.

These wages will be paid by the government through tax credits to eligible employers for up to 80 hours/Employee (max $511/day) for Emergency Paid Sick Leave) and up to 12 weeks – first 2 weeks unpaid - (max $200/day) for Expanded FMLA.

These credits were scheduled to end on December 31, 2020, but are extended by the Bill until March 31, 2021. These extended credits are only available to employers who are required to provide the FFCRA leave through December 2020. Employers in that category who voluntarily continue to provide leave under the original FFCRA guidelines will be eligible for the tax credits through March 31, 2021.

If an employee used all or part of their entitled FFCRA hours in 2020, they can use the balance (if any) in 2021.

PPP 1st /PPP 2nd Draw Updates

New Forgiveness Application released for loans under 150K

Clarification released for PPP 2nd Draw – businesses not in operation on February 15, 2020 shall not be eligible for a loan – new businesses are unable to demonstrate revenue loss

Understand the new expenditures eligible for forgiveness. New guidance makes certain covered operations expenditures, covered property damage costs, covered supplier costs, and covered worker protection expenditures eligible for PPP forgiveness.

They are applicable to past and future loans unless the loan has already been forgiven. You can't go back and make adjustments to the loan if it's done. If you haven't submitted your PPP forgiveness application, there's an opportunity to go back and use those additional expenditures because the act did make them retroactively available."

We are answering your questions live on the air right now.

Please submit questions through the Q&A function,
not the chat option at the bottom of your screen.

Questions?

For legislative and regulatory questions, please email:

questions@dominionpayroll.com

Don’t forget to wash your hands!