

LAST MINUTE TAX ISSUES LAW FIRMS SHOULD REVIEW WITH THEIR TRUSTED TAX ADVISORS

by Jaime Feldman, CPA

With 2021 behind us and the hopes of COVID getting under control, many law firms are still closing out their books and preparing federal tax returns, but are they overlooking some tax law and government loan program issues that could cause penalties or an actual IRS audit?

Two COVID-related loan programs were very popular with law firms and must be properly accounted for. These federal programs include the Paycheck Protection Program (PPP) and the Employee Retention Credit (ERC), both of which are no longer available.

PPP loan forgiveness

With PPP Loan Forgiveness, borrowers may apply anytime up to the maturity of the loan. Failure to do so within 10 months after the last day of the covered period, the borrower will be required to begin repaying the loan. This process involves completing an application for forgiveness with your lending institution. Borrowers who had a PPP loan of \$150,000 or less may use the Form 3508S which is the simplified form. If over \$150,000, borrowers can use either Form 3508EZ or Form 3508 to apply for forgiveness. Taxpayers must report the PPP forgiveness on their tax return even though it is tax-exempt. The income is reported as received or accrued when either (1) expenses eligible for forgiveness are paid or incurred; (2) an application for PPP loan forgiveness is filed; or (3) PPP loan forgiveness is granted.

Employee Retention Credit (ERC)

The Employee Retention Credit is a fully refundable tax credit for eligible employers that paid qualified wages (including allocable qualified health plan expenses) to employees during the COVID-19 pandemic. The Consolidated Appropriations Act provided modification to the CARES Act by allowing all eligible employers to claim the ERC, even if they received a PPP loan. The American Rescue plan further extended the ERC to the end of 2021 (now ending September 30, 2021, with the passing of the Infrastructure Investment and Jobs Act).

In 2020, eligible wages for each qualified employee was \$10,000, and a credit of 50% in qualified wages for a maximum credit of \$5,000 per employee. In 2021, eligible wages paid to each individual employee could not exceed \$10,000 per quarter. The maximum credit per quarter is 70% of \$10,000 up to \$21,000 per qualified employee. Any eligible wages considered in determining the ERC are not to be considered as wages for PPP loan forgiveness. The employee retention credit is a payroll tax credit (not an income tax credit) and it reported on the Form 941. The

wages reported on your income tax return are reduced by the amount of ERC received for that tax year.

One more thing that should not be overlooked when filing your firm's 2021 return:

Temporary 100-Percent Deduction for Business Meal Expenses

The Taxpayer Certainty and Disaster Tax Relief Act of 2020 gave businesses the ability to take a 100-percent deduction for business meal expenses, incurred after December 31, 2020, and before January 1, 2023. To qualify for the 100% deduction, the meal must be purchased from a restaurant. Meals purchased from a business that sells prepackaged food not for immediate consumption are only 50% deductible. To be deductible, amounts paid for food and beverages provided during an entertainment activity must be purchased separately from the entertainment or separately stated on the bill. Entertainment expenses are not deductible.

While these are just a few things to consider, it is always a good idea to meet with your tax professional early in the year to discuss business and tax planning. Make sure to let them know of any changes to your business or family situation. ^B

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