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# Tax Implications of Recruiting and Retaining Strategies

Presented by Kurt Bennion and Martin Yanushev

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## Section A

Presenters Bios and CLA Profile



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# Presenters Bios and CLA Profile

- Kurt Bennion, CPA
  - 15+ years of experience
  - Leads CLA's tax-exempt tax services for all healthcare clients
- Martin Yanushev, CPA
  - 10+ years of experience
  - Leads the Washington state senior living practice
- CLA
  - Eighth largest accounting firm based on revenue (\$1.6+ billion)
  - 7,500+ people
  - CLA serves approximately 70% of Ziegler's Top 200 list (2020)



## Section B

Tax Implications of Recruiting and Retaining Strategies



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# Recruiting and Retaining Strategies

- Relocation assistance – moving and/or housing
  - Moving bonus
  - Employer buys a house for a C-suite employee
  - Employer lets C-suite employee live in an IL unit free of charge
- Employer provides (discounted) childcare services or childcare financial assistance to employees
- Residents of community give money for employees
  - Especially around holidays



# Recruiting and Retaining Strategies (cont.)

- Employer allows employee to book airplane tickets using its corporate account (free checked bags or free upgrades)
- Tuition assistance to employee or their dependents
- Employee referral programs
- Length-of-service awards
- SERPs and similar 457(f) plans
- Tax gross-up payments
- Work/life balance



## Recruiting and Retaining Strategies (cont.)

- Employer provided stipends – working from home (internet bills, phone bills, and home office expenses)
- Mileage reimbursements above the standard allowed rates



## Section C

Employee Retention Credit (ERC)



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# Employer Retention Credit (ERC)

## Applicable to 2020

- Annual cap of \$5,000 per employee (\$10,000 in qualified wages x 50%).

## Applicable to 2021

- Cap is increased to \$7,000 per employee for each of the quarters of 2021 for a possible \$28,000 credit per employee.
- The 2021 credit is available even if the employer received the maximum 2020 credit for the qualified employees.



# ERC – Employer Size Requirements

## Applicable to 2020

- A company with more than **100** employees could not take the credit for wages paid to an employee performing services for the employer.
- A company with **100** or fewer employees was eligible for the credit, even if the employee was not working.
- No global aggregation of employees.

## Applicable to 2021

- The threshold increases to **500** employees. An employer with **500**, or fewer employees will be eligible for the credit, even if employees are working.
- When calculating the 500-employee threshold, the employees of all affiliated companies sharing more than 50% ownership are aggregated.
- No global aggregation of employees.



# ERC – Gross Receipts Eligibility Tests

## Applicable to 2020

- Gross receipts were less than 50% of gross receipts for the same quarter in 2019 until such quarter gross receipts are 80% of the same quarter in 2019.

## Applicable to 2021

- Gross receipts are less than 80% of gross receipts for the same quarter in 2019.
- May use prior quarter to qualify.
- Businesses not in existence in 2019 may use a comparison to 2020 for purposes of the credit.



## Complete or Partial Shutdown from a Government Order

- Partial Suspension Objective Tests
  - Gross receipts from that portion of the business operation is **not less than 10%** of the total gross receipts (both determined using the gross receipts of the same calendar quarter in 2019), or
  - The hours of service performed by employees in that portion of the business is **not less than 10%** of the total number of hours of service performed by all employees in the employer's business (both determined using the number of hours of service performed by employees in the same calendar quarter in 2019).



# ERC – PPP Loan Interplay

## Prior Law

- **REPEALED** – A company that received a Paycheck Protection Program (PPP) loan was ineligible to claim the employee retention credit.
- This disallowance rule extended to all affiliated companies that shared common ownership, so that if one company received a PPP loan, any other company with more than 50% common ownership was ineligible to claim the credit.

## Current Law

- **CHANGE is retroactive to the effective date under the original law for wages paid after March 12, 2020.**
- A company that received or receives a PPP loan is no longer prohibited from claiming the employee retention tax credit.
- The credit, however, may not be claimed for wages paid with the proceeds of a PPP loan that have been forgiven.
- A company that received a PPP loan in 2020 and paid qualified wages in excess of the amount of the forgiven PPP loan used to pay wages, and is otherwise eligible to claim the credit, can claim the credit retroactively.



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