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Mar. 04, 2021

In December of 2020, the Consolidated Appropriations Act, which included the Taxpayer Certainty and Disaster Relief Act of 2020 (TCDRA), was signed into law. In January the American Institute of CPAs (AICPA) submitted a letter requesting specific guidance related to Section 206 of the TCDRA. Last week, the AICPA submitted a follow-up letter to urge Treasury and the Internal Revenue Service (IRS) to issue immediate authoritative guidance related to Section 206 of the TCDRA to ensure that taxpayers are able to promptly take advantage of the employee retention credit (ERC).

In last week's letter, the AICPA recommended the following:

Q4 2020 Form 941, *Employer's Quarterly Federal Tax Return*, that the employer qualified for the credit.

- Clarify that an employer using the cash method for federal income tax purposes under section 448(c) may use the cash method to calculate gross receipts for purposes of the gross receipts test.

Following the submission of AICPA's recommendations, the IRS released guidance on the ERC. However, the guidance failed to clarify whether wages paid to S corporation owners and their actively employed spouses qualify for the ERC if all other requirements are met, nor did the IRS change their stance regarding the filing of amended Form 941s.

"The employee retention credit is complex, and there are high dollar amounts at stake. We are pleased that the guidance was released as a Notice because taxpayers needed guidance they could rely on," said AICPA Director of Tax Policy & Advocacy, Kristin Esposito, CPA, MST.

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