in advance is key to generating the full scope of remaining benefits. Work with an advisor if you need support to understand the tax and audit considerations related to ...

Apr. 12, 2022

By Jennifer Rohen, J.D.

More than two years ago, the first round of economic relief benefits became available to employers and employees enduring business setbacks due to the pandemic. Now, as the world emerges from the pandemic there remains confusion for businesses surrounding which benefits are still available.

Where do things stand now with relief legislation, and how do you begin to think

When the COVID relief programs first rolled out, they were implemented in a couple of consistent ways: payroll tax credits and loans administered by the Small Business Administration (SBA) and grants.

The Families First Coronavirus Response Act (FFCRA) was the first piece of legislation that provided COVID relief for employees and employers. FFCRA required employers with fewer than 500 employees to pay wages to employees who were quarantining or caring for a dependent or a member of their household who was impacted by COVID. For employers who paid emergency paid sick leave and emergency family medical leave wages to these employees, a dollar-for-dollar credit was provided through the end of 2020. Legislation including the Consolidated Appropriations Act, 2021 (CAA) and the American Rescue Plan Act of 2021 extended the availability of the credit without extending the obligation for employers to pay.

Employers who paid these wages from March 2020 through Q3 of 2021 have the opportunity to amend their payroll tax returns to claim the credit, with the deadline being three years from the original due date for the return.

Following the rollout of the FFCRA, the Coronavirus Aid, Relief, and Economic Security (CARES) Act introduced the Paycheck Protection Program (PPP) as a low-interest, potentially forgivable payroll loan for eligible employers, and the CAA provided a second round of PPP payroll funding to employers who retained employees and incurred certain costs to remain in business. The SBA regulated this program heavily, from the application for funds and borrower eligibility criteria to the forgiveness considerations.

Although the funds allocated to this program are exhausted, employers who have not yet completed the forgiveness application and process can look to the expanded list of eligible expenses outside of payroll. To enhance other economic relief programs, include all possible non-payroll costs in the forgiveness application as well.

As for ERC, businesses could qualify in 2020 and 2021 (through Q3) with a significant

a large employer can still be eligible for the ERC, however, they could only use wages paid for employees not providing services (e.g., furloughed employees).

Similar to FFCRA credits, employers have three years from the deadline for the original returns to amend their payroll tax returns to claim the ERC. If employers claim these credits, they must adjust the wage expense in the year the credit was generated to reduce by the amount of the credit.

For employers who are using the three-year period to amend their claim to credit, employers should keep on file any documentation that supports their eligibility as well as any documentation that supports their credit calculation before they claim a credit. Remember, real-time documentation is always better than documentation pulled together at the last minute because of an audit.

Employers are still watching for legislation that calls to reinstate the credit for Q4 of 2021. While it seems unlikely it will pass in the short term, should it pass for Q4, enlist the help of a tax advisor to file 941X forms to claim credit to the extent eligibility applies.

While many economic relief programs have lost or exhausted their funding, planning in advance is key to generating the full scope of remaining benefits. Work with an advisor if you need support to understand the tax and audit considerations related to claiming these credits, including special considerations and timing of amending income tax returns or identifying other employment-related credits as you rebuild your workforce.

=======

Jennifer Rohen, JD, principal with CLA (CliftonLarsonAllen LLP), leads the firm's Business Incentives Consulting practice. She has over 20 years of experience assisting clients who are making human and tangible capital investments to reduce their cost

include financing assistance and grants, ITC, WOTC, TIFs, and other in-kind benefits. Jen has worked with over 1,000 clients in her career.

Benefits • Small Business