Navigating COVID-19: Payroll Tax Deferral and the Employee Retention Credit

June 5, 2020
Webinar Goals

• Provide information on the CARES Act’s Employee Retention Tax Credit and Payroll Tax Deferral Programs

• Provide additional resources

• Gather feedback from nonprofits

Sarah Pinder
Engagement Director
DISCLAIMER:

✓ Our **BEST** understanding as of this moment in time

✓ Presenting guidance **NOT** legal or financial advice

✓ You should make all decisions after consulting your attorney and CPA.

✓ MNA staff are **NOT** lawyers or CPA’s
Agenda

• What are the Employee Retention Credit and Employee Tax Deferral programs

• When do they apply

• How could they benefit my organization
MNA’s Framework for Responding to COVID-19

- **Response (Immediate and Ongoing)**
  - Providing resources, gathering feedback

- **Relief (Next 3 to 6 months)**
  - Understanding and advocating for nonprofit needs

- **Recovery (Ongoing)**
  - Connecting nonprofits to or providing supports identified during relief phase

- **Reform (6 months and beyond)**
  - Advocating for legislative and regulatory changes
Presenter: Bob Weins

Bob Weins, JD, CPA
Insights

Leon LaBrecque, JD, CPA, CFP, CFA
Sequoia Financial Group

Jamie Lopiccolo, CPA, CGMA
Capocore Professional Advisors
Employee Retention Credit

- Focus on the “BIG PICTURE”
- Don’t worry about the “Annoying Details”
  (that’s why you have accountants and payroll services)
## Navigating the Covid-19 Programs

<table>
<thead>
<tr>
<th>Employee Retention Credit</th>
<th>Payroll Tax Deferral</th>
<th>Paycheck Protection Program</th>
<th>EIDL/EEIG</th>
<th>Small Bus Debt Relief</th>
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Navigating the Covid-19 Programs

What is the Employee Retention Credit?
How is it calculated?
Who qualifies for the Employee Retention Credit?
When does it apply?
How does my organization get paid?
Employee Retention Credit – The BIG PICTURE

What is the Employee Retention Credit (ERC)?

- Reimbursement for 50% of the first $10,000 of each employee's qualified wages paid from March 13, 2020 through December 31, 2020

- Maximum Credit: $5,000 per employee
Example of how is the ERC calculated?

Maximum Credit
50% of each employee’s qualified wages up to $10,000.

<table>
<thead>
<tr>
<th>Employee</th>
<th>Qualified Wages</th>
<th>Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee A</td>
<td>$5,000</td>
<td>$2,500</td>
</tr>
<tr>
<td>Employee B</td>
<td>$10,000</td>
<td>$5,000</td>
</tr>
<tr>
<td>Employee C</td>
<td>$15,000</td>
<td>$5,000</td>
</tr>
</tbody>
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Employee Retention Credit – The BIG PICTURE

Who qualifies for the Employee Retention Credit (ERC)?

- Organizations operating in 2020
- Organization did not receive a PPP loan
Employee Retention Credit – The BIG PICTURE

When does the ERC apply?

Two Tests

1. Covid-19 governmental order requires you to fully or partially suspend operation.

2. 50% reduction in gross receipts (compared to same quarter in 2019)
Employee Retention Credit – The BIG PICTURE

How does my organization get paid?

- Credit against payroll tax deposits
- Advanced refund allowed if expected credits exceed remaining payroll tax deposits for the quarter
Employee Retention Credit

BIG PICTURE SUMMARY

- Credit Amount: 50% of employee *qualified wages* up to $10,000 (Maximum credit is $5,000 per employee)

- ERC applies when either:
  1. Covid-19 order is in effect that requires you to fully or partially suspend operations; or
  2. 50% reduction in gross receipts *(compared to same quarter in 2019)*

- ERC Payments come from credits against payroll tax deposits
Employee Retention Credit – Annoying Details

Now for the Annoying Details
Employee Retention Credit – Annoying Details

What is a Covid-19 Order?

- Government order limiting commerce, trade or group meetings due to Covid-19;

  THAT REQUIRES THE EMPLOYER TO

- Fully or partially suspend its organization’s operations

Employer can claim credit while the order is in force
Employee Retention Credit – Annoying Details

What is a Covid-19 Order?

- Government order limiting commerce, trade or group meetings due to Covid-19;

*THAT REQUIRES THE EMPLOYER TO*

- Fully or partially suspend its organization’s operations

**Example**

Executive Order 2020-21 ("Stay Home, Stay Safe") ordered non-essential businesses to close on March 24, 2020. The order was lifted on June 1, 2020.

Employer A was required to close from March 24 through June 1 due to Executive Order 2020-21.

Qualified wages paid by Employer A during this time period count towards the ERC.
**Employee Retention Credit – Annoying Details**

**What is a partial suspension due to a Covid-19 Order?**

<table>
<thead>
<tr>
<th>Partial Suspension</th>
<th>Not a Partial Suspension</th>
</tr>
</thead>
</table>
| Due to Covid-19 Order  
  - Operating hours must be reduced;  
  - Workplace must be closed for certain operations;  
  - Suppliers unable to deliver critical goods/services. | Due to Covid-19 Order  
  - Organization is allowed to remain open but is losing revenue  
  - Organization must close but employees can telework  
  
  **NOTE**: Employer may qualify for ERC under the 50% Gross Receipts Reduction Test |
Employee Retention Credit – Annoying Details

What is the 50% Gross Receipts Reduction Test?

*BEGINS* in First Quarter when...

- **2020 Gross Receipt**
- **LESS THAN 50%**
- **2019 Gross Receipts**
  (same quarter)

*ENDS* in Quarter *after*...

- **2020 Gross Receipt**
- **MORE THAN 80%**
- **2019 Gross Receipts**
  (same quarter)

Reduction does not need to be Covid-19 related
**Employee Retention Credit – Annoying Details**

**Example:** 50% Gross Receipts Reduction Test

STARTS: Quarter when Gross Receipt are less than 50% of same quarter in 2019

ENDS: Quarter *following* the quarter when Gross Receipt are greater than 80% of same quarter in 2019

<table>
<thead>
<tr>
<th>Year</th>
<th>Quarter</th>
<th>Gross Receipts</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>Q1</td>
<td>$250,000</td>
</tr>
<tr>
<td></td>
<td>Q2</td>
<td>$270,000</td>
</tr>
<tr>
<td></td>
<td>Q3</td>
<td>$290,000</td>
</tr>
<tr>
<td></td>
<td>Q3</td>
<td>$310,000</td>
</tr>
<tr>
<td>2020</td>
<td>Q1</td>
<td>$200,000 80%</td>
</tr>
<tr>
<td></td>
<td>Q2</td>
<td>$130,000 48% BEGINS - gross receipts less than 50%</td>
</tr>
<tr>
<td></td>
<td>Q3</td>
<td>$240,000 83%   - gross receipts more than 80%</td>
</tr>
<tr>
<td></td>
<td>Q4</td>
<td>$290,000 94% ENDS - subsequent month</td>
</tr>
</tbody>
</table>
Employee Retention Credit – Annoying Details

**Examples:** Covid-19 *Stay at Home Order* is effective from March 24 – June 1, 2020

<table>
<thead>
<tr>
<th>Scenario A</th>
<th>Q1</th>
<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Covid-19 Order</td>
<td>Yes*</td>
<td>Yes*</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>2019</td>
<td>$100,000</td>
<td>$100,000</td>
<td>$100,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>2020</td>
<td>$90,000</td>
<td>$40,000</td>
<td>$45,000</td>
<td>$110,000</td>
</tr>
<tr>
<td>Gross Receipts Reduction %</td>
<td>90%</td>
<td>40%</td>
<td>45%</td>
<td>110%</td>
</tr>
<tr>
<td></td>
<td>Less than 50%</td>
<td>Not more than 80%</td>
<td>First quarter gross receipts exceed 80%</td>
<td></td>
</tr>
</tbody>
</table>

* Covid-19 Order in effect for last 8 days of Q1 and first 2 months of Q2

<table>
<thead>
<tr>
<th>Scenario B</th>
<th>Q1</th>
<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Covid-19 Order</td>
<td>Yes*</td>
<td>Yes*</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>2019</td>
<td>$100,000</td>
<td>$100,000</td>
<td>$100,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>2020</td>
<td>$90,000</td>
<td>$40,000</td>
<td>$85,000</td>
<td>$110,000</td>
</tr>
<tr>
<td>Gross Receipts Reduction %</td>
<td>90%</td>
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<td></td>
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<td></td>
<td></td>
</tr>
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* Covid-19 Order in effect for last 8 days of Q1 and first 2 months of Q2
Employee Retention Credit – Annoying Details

What are qualified wages?

- Wages (FICA rules)
- Qualified Health Plan

= Qualified Wages
Employee Retention Credit – Annoying Details

What are qualified wages?

Wages must be paid during:

- Time-period a Covid-19 Order is in place which requires the employer to fully or partially suspend operations; or,
- Quarter in which employer passes the 50% Gross Receipts Reduction Test
What are *qualified wages*?

Wages must be paid during:

- Time-period a Covid-19 Order is in place which requires the employer to fully or partially suspend operations; or,
- Quarter in which employer passes the 50% Gross Receipts Reduction Test

Qualified Wages *excludes* compensation paid to:

- Employees exempt from SS and Medicare (e.g. ministers wages, parsonage allowances)

- Family relatives (e.g. children, siblings, parents, in-laws, nephews/nieces etc.)
Employee Retention Credit – Annoying Details

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Qualified Wages excludes compensation paid to:

- Employees exempt from SS and Medicare (e.g. ministers wages, parsonage allowances)
- Family relatives (e.g. children, siblings, parents, in-laws, nephews/nieces etc.)

No Raises:

- Qualified Wage can’t exceed what would have been paid for an equivalent time period during 30-days prior to the Covid-19 Order or 50% Gross Receipts Reduction Test
# Employee Retention Credit – Annoying Details

**Whose qualified wages count towards the ERC?**

<table>
<thead>
<tr>
<th>Average Number of Full-Time Employees in 2019* (Monthly)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>100 or fewer Ave. FT Employees</td>
<td>More than 100 Ave. FT Employees</td>
</tr>
<tr>
<td>All qualified wages paid qualify for ERC (pay for working AND non-working hours)</td>
<td>Qualified wages paid for <strong>NOT</strong> providing services (only pay for non-working hours)</td>
</tr>
</tbody>
</table>

* Full-Time is defined as an employee who averaged at least 30 hours/week or 130 hours/month
**Employee Retention Credit – Annoying Details**

*Example*
Employer reduces staff hours by 60% but continues to pay 100% of wages

<table>
<thead>
<tr>
<th>Average Number of Full-Time Employees in 2019 (Monthly)</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 or fewer Ave. FT Employees</td>
</tr>
<tr>
<td>100% of wages paid count toward ERC</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>
Employee Retention Credit – Annoying Details

Example – cont’d
Employer reduces staff hours by 60% but continues to pay 100% of wages

<table>
<thead>
<tr>
<th>Employees</th>
<th>Wages</th>
<th>100 or fewer</th>
<th>More than 100</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee A</td>
<td>$5,000</td>
<td>$5,000</td>
<td>$3,000</td>
</tr>
<tr>
<td>Employee B</td>
<td>$10,000</td>
<td>$10,000</td>
<td>$6,000</td>
</tr>
<tr>
<td>Employee C</td>
<td>$15,000</td>
<td>$10,000</td>
<td>$9,000</td>
</tr>
</tbody>
</table>
# Employee Retention Credit – Annoying Details

**What health plan costs can be included in *qualified wages***?

<table>
<thead>
<tr>
<th>Health Plan Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>100 or fewer Ave. FT Employees</td>
</tr>
<tr>
<td>• All health plan costs included</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

**Health Plan Costs**

- Include: Employer contributions to health plan, HRA or health FSA
- Exclude: Employer contributions to HSAs, Archer MSAs or QSEHRAs
**Employee Retention Credit – Annoying Details**

**Example**
Organization reduces staff hours by 60% but continues to pay 100% of wages.

<table>
<thead>
<tr>
<th>Employees</th>
<th>Status</th>
<th>Ave Em'r Cost</th>
<th>100 or fewer</th>
<th>More than 100</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee A</td>
<td>60%</td>
<td>$500</td>
<td>$500</td>
<td>$300</td>
</tr>
<tr>
<td>Employee B</td>
<td>60%</td>
<td>$500</td>
<td>$500</td>
<td>$300</td>
</tr>
<tr>
<td>Employee C</td>
<td>60%</td>
<td>$500</td>
<td>$500</td>
<td>$300</td>
</tr>
<tr>
<td>Employee D</td>
<td>Furloughed</td>
<td>$500</td>
<td>$500</td>
<td>$500</td>
</tr>
</tbody>
</table>
**Employee Retention Credit – Annoying Details**

**EXAMPLE**
Organization reduces employee hours by 60% but continues to pay 100% of wages and health plan costs.

<table>
<thead>
<tr>
<th>Employees</th>
<th>Paid for No Service</th>
<th>[A] Wages</th>
<th>[B] Ave Health Plan Costs</th>
<th>[A] + [B] Qualified Wages*</th>
<th>[C] (60% X [A]) Wages</th>
<th>[D] (60% X [B]) Health Plan</th>
<th>[C] + [D] Qualified Wages*</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Employee A</strong></td>
<td>60%</td>
<td>$5,000</td>
<td>$500</td>
<td>$5,500</td>
<td>$3,000</td>
<td>$300</td>
<td>$3,300</td>
</tr>
<tr>
<td><strong>Employee B</strong></td>
<td>60%</td>
<td>$10,000</td>
<td>$500</td>
<td>$10,000</td>
<td>$6,000</td>
<td>$300</td>
<td>$6,300</td>
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<td><strong>Employee C</strong></td>
<td>60%</td>
<td>$15,000</td>
<td>$500</td>
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<td>$9,000</td>
<td>$300</td>
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<tr>
<td><strong>Employee D</strong></td>
<td>Furloughed</td>
<td>$0</td>
<td>$500</td>
<td>$500</td>
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Qualified Wages: $26,000

**Employee Retention Credit (50%)** $13,000

More than 100 Ave. FT Employees

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<th>[D] (60% X [B]) Health Plan</th>
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<td>$0</td>
<td>$500</td>
<td>$500</td>
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Qualified Wages: $19,400

**Employee Retention Credit (50%)** $9,700

* Maximum "Qualified Wages" is $10,000
Employee Retention Credit – Annoying Details

No “Double Dipping”

➢ ERC not available if you participate in PPP
➢ Exclude the following from *qualified wages*:
  o FFCRA Sick and Family Leave comp
  o Work Opportunity Tax Credit employees
  o Section 45S paid family and medical leave
➢ ERC credits are not taxable income therefore... can’t deduct wages reimbursed under the ERC
Employee Retention Credit – Annoying Details

Specialty scenarios we are going to ignore

... but your accountant shouldn’t

- Qualified wages for employees without fixed work schedules
  (Can apply FFCRA rule of average hours worked in prior 6-months)

- Aggregation Rules for suspension of business, 50% Gross Receipts Reduction Test, PPP loan
Employee Retention Credit
SUMMARY

➢ Credit Amount: 50% of qualified wages up to $10,000/employee
  o 100 or fewer employees (2019): All qualified wages count
  o >100 employees (2019): qualified wages for NOT working

➢ ERC applies when:
  o Covid-19 order that fully or partially suspends operations
  o 50% Gross Receipts Reduction Test

➢ Payments come from credits against payroll tax deposits
# Navigating the Covid-19 Programs

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<td>Mandatory</td>
<td>Mandatory</td>
</tr>
</tbody>
</table>

External dependencies and other programs mentioned:
- Elective
- Payroll Tax Deferral
- Paycheck Protection Program
- EIDL/EEIG
- Small Bus Debt Relief
- MI Small Business Relief
- Emergency Paid Sick Leave
- Expanded FMLA
- Expanded Unemployment Insurance
Payroll Tax Deferral

- Employers can elect to postpone payment of:
  - Employer’s portion of Social Security and Medicare taxes
  - On wages paid from March 27, 2020 through end of year

- Deferred taxes are payable over next two years:
  - Half by December 31, 2021
  - Half by December 31, 2022

- No interest on timely paid deferred payroll taxes but ... BIG penalties if you are late!
Payroll Tax Deferral

- Payroll Tax Deferral not available to employers that have a forgiven PPP loan

- Can defer payroll taxes until date lender informs employer that PPP loan is forgiven.

- Previously deferred payroll taxes continue to receive deferral.

**UPDATE**
Under the CARES Act revisions passed June 3rd, employers who have a PPP loan can defer payroll taxes
Congratulations,
You made it through this webinar!

Don’t worry if your mind is “swimming”...
focus on the BIG PICTURE.*

Questions?

*Plus, you have the weekend to mentally recover 😊
MNA Resources specific to COVID-19 Response

- MNAonline.org - Special COVID-19 section
- Sign-up for e-newsletters
- Contact MNA staff
- Calendar with events
- Future tele-town halls and webinars
Connect on Social Media

@MNAonline

Join LinkedIn group: Leading Nonprofits Through COVID-19
Thank You!

Please provide feedback via online survey after the event to help inform future webinars.

Send additional feedback to spinder@mnaonline.org.