Small Business Services Group

TRONCONI SEGARRA & ASSOCIATES LLP

Certified Public Accountants
Business Consultants

SOLUTIONS BEYOND THE OBVIOUS

"The price of anything is the amount of life you exchange for it."

Henry David Thoreau, 1817 - 1862
American naturalist, author, essayist, poet, philosopher.

TRONCONI SEGARRA & ASSOCIATES SMALL BUSINESS MANAGEMENT TEAM

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Employee Retention Tax Credits

By Kathy Grieco, CPA, MBA, Senior Manager, Tax Department

The Employee Retention Tax Credit (ERTC) was first signed into law on March 27, 2020 as part of the CARES Act. It is a fully refundable tax credit for employers equal to 50% (2020) and 70% (2021) of qualified wages that eligible employers pay their employees. Until the recent passage of the Taxpayer Certainty and Disaster Relief Act (TCDRA), employers were unable to utilize this credit if they received a PPP loan. However, under the TCDRA, employers may now receive the benefit of the ERTC in 2020 and 2021 regardless of whether they received a PPP loan. One important caveat is that the wages used to qualify for PPP loan forgiveness may not be used in the calculation of the ERTC.

In order to be considered an eligible employer, an organization (private sector or not-for-profit) must either have had operations that were fully or partially suspended due to orders from a governmental authority due to COVID-19 or must have experienced a significant decline in gross receipts during its second, third or fourth calendar quarters for 2020 or its first or second quarter in 2021.

For 2020, a significant decline in gross receipts is defined as a 50% reduction in gross receipts in a calendar quarter as compared to the same quarter in 2019. In 2021, a significant decline in gross receipts is based on a 20% reduction as compared to the same quarter in 2019. In 2021, the quarter used to determine a significant decline in gross receipts may be based on the prior quarter. For example, if quarter four 2020 experienced a 20% decline in gross receipts, quarter one of 2021 is a qualifying quarter. For purposes of ERTC, gross receipts include revenue from sales, services, rents, investment income, royalties and annuities. Gross receipts are not reduced by cost of goods sold.

The credit is calculated as 50% of qualified wages paid between March 13 and December 31 for the 2020 credit and is increased to 70% of qualified wages paid between January 1 and June 30 for the 2021 credit. Qualified wages are a maximum of $10,000 per employee annually, bringing the maximum potential credit to $5,000 per employee in 2020. In 2021, qualified wages are a maximum of $10,000 per employee

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YEAR-ROUND TAX PLANNING

By Vedha Krishnamoorthy, CPA, FCA, Manager, Small Business Department

Tax planning is all too often deferred and approached near the end of the year by analyzing one's financial situation, estimating tax liabilities and incorporating last minute tax saving strategies. While this is an important process, there are many tax planning opportunities that should be considered throughout the year.

According to the IRS, the average tax refund in 2020 was $2,741. If you are part of this group of taxpayers that generally receives a refund, you have an opportunity to put more money in your wallet throughout the year by adjusting your payroll tax withholdings. To the contrary, if you are a taxpayer that usually owes tax and may have been subject to penalties, this could be avoided with better tax planning.

Eligible taxpayers should consider making a contribution to a Traditional IRA to reduce taxable income. Taxpayers have until April 15, 2021 to make IRA contributions that can be deducted on their 2020 tax return. The deduction will vary depending on the participation of the taxpayer or spouse in an employer-sponsored retirement plan and your overall income level. A Roth IRA is also available for an eligible taxpayer that is willing to pay the tax now and receive future withdrawals tax-free. The maximum IRA contribution amounts for 2020 are $6,000 and $7,000 for taxpayers age 50+.

Contributing to an employer-sponsored 401(k) is another desirable way to save for retirement and defer paying income taxes. The contribution limit for 2020 and 2021 remains the same at $19,500. An additional catch-up contribution of $6,500 is available for taxpayers age 50 or older.

You might also consider contributing to a state-sponsored 529 plan, which allows you to save for the benefit of a child's future education while the earnings grow tax-free. In some states, a portion of the contributions to the plan are tax deductible on the state tax return. Contributions made to a New York 529 plan of up to $5,000 per year by an individual and up to $10,000 per year by a married couple filing jointly, are deductible on the New York State tax return if funded before December 31.

New York State Governor's Budget Plan Includes Tax Changes

By June Callari, CPA, MBA, Manager, Small Business Department

New York Governor Andrew M. Cuomo released the 2021 budget that included various proposed changes to the corporate franchise tax, personal income tax and sales and use tax, amongst other changes. Some of the budget proposals depend on the level of federal funding received by the state. The budget proposal includes provisions to:

- Impose a temporary personal income tax surcharge on high-income taxpayers for tax years 2021 through 2023
- Delay the ongoing phase-in of the middle-class personal income tax rate cuts by one year
- Create an optional pass-through entity tax for partnerships and S corporations to pay and deduct state taxes at the entity level in exchange for a personal income tax credit
- Enhance employer child care credits
- Reform and simplify various business tax provisions, such as conforming to federal S corporation status
- Increase the wage and withholding filing penalty
- Establish a small business return-to-work credit
- Create a restaurant return-to-work credit
- Extend and enhance the musical and theatrical production credit
- Extend various other credits
- Impose sales tax on vacation rentals and require vacation rental marketplace providers (such as Airbnb, VRBO, etc.) to collect sales tax on taxable sales of the vacation rentals that they facilitate
- Increase the interest-free period for sales tax refunds of $100,000 or more
- Reduce the tax return filing frequency for alcoholic beverage and highway use taxes
- Authorize mobile sports wagering in New York and establish a process for casinos to petition for a lower tax rate
- Extend the existing alternative fuel exemptions for E85, CNG, and hydrogen, and the partial exemption of B-20, from motor fuel, petroleum business, and state and local sales taxes until September 1, 2026
- Modernize and merge real property tax forms and processes
- Improve and enhance STAR program administration

More information on the 2021 New York State Budget can be found at *FY 2022 Executive Budget.*

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Paycheck Protection Program Expenses

By Michele Loretto, CPA, Manager, Small Business Department

An important issue that we would like to revisit is the tax deductibility of Paycheck Protection Program (PPP) funds used to pay business expenses. This issue was originally discussed in IRS Notice 2020-32 issued on April 30, 2020. That Notice generally provided that otherwise deductible business expenses would not be deductible to the extent the taxpayer received loan forgiveness under the PPP via the payment of such expenses. The IRS has since (January 6, 2021) issued Rev. Ruling 2021-2, which makes the prior guidance offered in Notice 2020-32 obsolete. The new revenue ruling will allow the deductibility of expenses paid with PPP funds, even as the associated loan is forgiven.

Revenue Ruling 2021-2 states that no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income provided by § 7A(i)(1) of the SBA. Therefore, the result of these changes provides that forgiveness of debt income is not taxable and expenses paid are tax deductible. This is a highly taxpayer-friendly result that is now in line with the original intentions of the program.

There is still uncertainty to the state tax treatment of these PPP funds received and spent. New York State has confirmed they will follow the federal treatment of the Payroll Protection Program funds. According to the New York State Department of Taxation and Finance website, New York State follows the federal treatment. If the forgiven loan is excluded from federal adjusted gross income it is also excluded from New York adjusted

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Employee Retention Tax Credits, *Con't. from Page 1*

quarterly, bringing the maximum potential credit to $7,000 per employee per quarter for the first two quarters in 2021. Qualified wages include wages and health plan payments paid during the calendar quarters in which business operations were fully or partially suspended due to a governmental order or any calendar quarter the business experienced a significant decline in gross receipts.

What are considered qualified wages is also dependent on the number of full-time employees an organization had in 2019. To determine the 2020 credit, organizations with fewer than 100 full time employees in 2019 may calculate the credit based on wages paid to any employee during the qualifying quarters. Organizations with more than 100 employees in 2019 may only calculate the credit using wages paid to employees for the time they were paid, but not working due to a shut down or significant decline in gross receipts. In 2021 this same rule is applied, but the threshold is increased to 500 full time employees in the 2019 year.

For 2020, eligible employers may retroactively claim the employee retention tax credit by amending their federal payroll tax returns in quarters for which they qualify by filing Form 941-X. In 2021, the credit may be claimed when the organization files its quarterly payroll tax returns, Form 941. The credit may also be claimed in advance using Form 7200, Advance of Employer Credits Due to COVID-19.

Please contact your Tronconi Segarra & Associates advisor for assistance in determining whether you qualify for this tax credit.

TEMPORARY 100% DEDUCTION OF BUSINESS MEALS

The Consolidated Appropriations Act (CAA), the second government aid package for individual taxpayers and businesses in response to the COVID-19 pandemic, was approved by Congress and signed by President Trump on December 27, 2020. This second economic stimulus effort includes an important change to the rules on the tax deductibility of business meals.

The CAA includes a provision allowing 100% deductibility of business meal costs incurred between December 31, 2020 and December 31, 2022. Only 50% of the cost of such meals has been deductible.

Despite the temporary change to the rules for meal expenses, it is important to note that entertainment expenses are still <u>not</u> deductible, even under the CAA. Businesses often account for meals and entertainment expenses together in one general ledger account, but for easier tracking of which expenses are or are not deductible, the best practice is to separate them into different general ledger accounts.

This new deductibility allowance offers you an opportunity to help support local businesses that have been hit hard financially by shutdowns and other restrictions as a result of the pandemic while your own business also benefits from the extra tax deduction. If you have any questions about the new rule, please don't hesitate to contact us for additional guidance.

Join us in congratulating our Small Business Department associates who were promoted earlier this year:

- ***Vedha Krishnamoorthy, CPA, FCA, was promoted to Manager***
- ***Karen Schott was promoted to Senior General Ledger Specialist.***

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Remote Workers' Potential Tax Liability in Other States

By Lisa Mrkall, CPA, MBA, Principal, Small Business Department

At the onset of the pandemic, it was no secret that millions of Americans suddenly shifted to working from home. Furthermore, it is almost impossible to predict if and when American workers will return to working outside of the home as they did pre-pandemic. Since it is now almost a year since states put lockdowns in place, if you relocated to a home in a different state, you may be obligated to pay income tax to that state. This tax scenario can quickly become quite complex. For some, working from home or working remotely could actually mean leaving the state the employer is based in to work in another state altogether.

According to the Pew Research Center, about one in five American adults have either gone to a new location or state due to the pandemic or know someone who has. Individuals who work in one state, but reside in another, may end up with a tax liability in both of those states. Some states, however, have reciprocity agreements, put in place to mitigate tax requirements for individuals who reside in one state and work across state lines. States may also offer a "resident tax credit" to mitigate double taxation across states. For example, New York residents are permitted to take a credit against their New York personal income tax for taxes paid to other states on income earned in those other states.

The not-so-popular "convenience of the employer rule" is also gaining attention amid the pandemic. States with increasingly grim budget deficits are seeking to tax workers' income even if they neither live nor work there. New York, for example, imposes its income tax on nonresidents who earn income from New York sources. This goes for any state that imposes a "convenience of the employer" rule. Some states during 2020 adopted temporary convenience income sourcing rules for telecommuters as a result of the pandemic.

In conclusion, it is possible that states could have conflicting rules, rules that result in double taxation for many American workers. Employees living and working in different states undoubtedly have new income tax considerations for 2020 to be aware of. Should you have any questions on the impact of telecommuting on your tax situation or for your small business, please do not hesitate to reach out to your Tronconi Segarra & Associates tax advisor.

WELCOME SCOTT HERSEE

We are pleased to welcome Scott Hersee, CPA, MBA, Supervising Senior Accountant, to our growing Small Business Department. Scott brings extensive experience to Tronconi Segarra & Associates, having spent 15 years in public accounting providing tax, audit and internal controls services. In addition, Scott has worked as an accountant for a not-for-profit organization as well as for a financial institution. He earned his MBA in 2004 and his New York State CPA licensure in 2018.

Even though Scott has a full workload, he also takes time to enjoy life outside of the office. Family time with his wife and daughter are his highest priority. You might see him at one of the area's many car shows (pandemic permitting, these days), since he grew up around hot rods and once owned a muscle car. Scott also likes to travel and visit historical sites around the country. Serving his church, camping, attending sporting events and tackling home improvement projects all keep Scott very active and involved, no matter what time of year.

Please join us in welcoming Scott to our Firm!

Paycheck Protection-Program Expenses, *Continued from Pg. 3*

gross income. The uncertainty still lies in other states where a company may be doing business, or where an individual resides. Any businesses, whether they are incorporated, partnerships, or Schedule C businesses that received funds, should be reviewing their state's guidance to determine the proper treatment for the 2020 tax year.

We highly recommend prior to the end of the year that all PPP loan recipients consider looking at the entity's net taxable income levels. The IRS and NYS have provided favorable guidance, but how will the PPP funds impact those amounts in other states? Also, what estimated tax payments have been made to date?

If you are filing in other states, we suggest reaching out to your tax provider as soon as possible in order to be prepared for the potential impact to your taxable income.

Just a reminder…

As of the time of our newsletter's publication, all 2021 federal and state tax filing deadlines for the 2020 tax year are on a normal filing schedule. Tax returns for individuals are to be filed no later than April 15, 2021 to be considered "on time."