



WELCOME

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Presenter



John Michael Ordorica, CPA

Tax Senior Manager

John.ordorica@mossadams.com

(505) 878-7261





Today's Topics

- Employee Retention Credit (ERC)
- Biden Tax Proposals



Employee Retention Credit (ERC) – Cares Act Phase 1

For a qualifying employer, credit equal to 50% of wages paid to employee, in each qualifying quarter, up to a total of \$10,000 of wages per employee for all quarters

Maximum credit per employee is \$5,000

Credit against employer 6.2% FICA payroll taxes for 50% of wages for each quarter

Credit offsets FICA taxes due – any excess is refundable



Employee Retention Credit (ERC)

Qualifying businesses must have experienced either:

- 1) Partial or full suspension of operations due to governmental orders that limited commerce, travel, or group meetings due to COVID-19
- 2) A significant decline in gross receipts (GR), which begins with the quarter in which GR are less than 50% of the GR of the same prior calendar year quarter and ends with the quarter where GR are at least 80% of the GR for the same prior calendar quarter



Employee Retention Credit (ERC)

Eligible wages include regular wages paid plus health plan expenses allocable to the qualified wages under an employer-sponsored plan

- Businesses with 100 or less employees? Credit is allowed on all eligible wages paid to employees regardless of whether they are performing services
- Businesses with greater than 100 employees? Credit is based solely on eligible wages paid to employees who are not providing services due to COVID-19



Considerations

The same wages cannot be used to calculate both the employee retention credit and the work opportunity tax credit (WOTC)

Retention credit cannot be used in conjunction with the SBA loans such as Paycheck Protection Program or Paid Sick & Family Leave credits



Employee Retention Credit (ERC)– Phase 2

- **Employee retention tax credit modifications:** The bill extends the CARES Act employee retention tax credit (ERTC) through June 30, 2021. It also expands the ERTC and contains technical corrections. The expansions of the credit include:
 - An increase in the credit rate from 50% to 70% of qualified wages;
 - An increase in the limit on per employee creditable wages from \$10,000 for the year to \$10,000 for each of the first two quarters of 2021;
 - A reduction in the required year-over-year gross receipts decline from 50% to 20%;
 - A safe harbor allowing employers to use prior-quarter gross receipts to determine eligibility;



Employee Retention Credit – Phase 2 continued

- A provision to allow certain governmental employers to claim the credit;
- An increase from 100 to 500 in the number of employees counted when determining the relevant qualified wage base; and
- Rules allowing new employers who were not in existence for all or part of 2019 to be able to claim the credit.
- The bill also (retroactive to the effective date of the CARES Act):
- Provides that employers who receive PPP loans may still qualify for the ERC with respect to wages that are not paid with forgiven PPP proceeds;



Post-Election Tax Update

	CURRENT LAW	JOE BIDEN'S PROPOSED TAX PLAN
CORPORATE TAX RATE	21%	28% For corporations reporting more than \$100 million of annual book income, enact a 15% minimum tax on book profits, reduced by any foreign taxes paid or loss carryovers allowed.
QUALIFIED BUSINESS INCOME (QBI) DEDUCTION	Taxpayers other than C corporations are allowed a 20% deduction of QBI from pass-through entities or qualified real estate investment trust (REIT) income, with some limitations. Set to expire December 31, 2025	Phase out the deduction for taxpayers earning more than \$400,000.
ACCELERATED BONUS DEPRECIATION	100% bonus for eligible property through 2022 with phase out beginning in 2023.	No specific plan announced, but generally supports reversing 2017 TCJA provisions that benefit corporations.



Post-Election Tax Update

	CURRENT LAW	JOE BIDEN'S PROPOSED TAX PLAN
REAL ESTATE	Taxes on gains of real property are deferred if the property exchanged is "like-kind."	Remove like-kind exchange deferral.
PAYROLL TAX	12.4% payroll tax is applied on worker's wages up to \$137,700 for 2020, with tax split between employer and employee	Impose Social Security payroll tax on those earning more than \$400,000. Wages between \$137,700 and \$400,000 wouldn't be subject to payroll tax.
RETIREMENT INCENTIVES	Most workers can contribute \$19,500 a year to a 401(k) account, (an additional \$6,500 if age 50 or over)	Help small businesses cover the costs of setting up "automatic 401(k)" plans for workers without access to pensions or 401(k) plans.



Post-Election Tax Update

	CURRENT LAW	JOE BIDEN'S PROPOSED TAX PLAN
INDIVIDUAL TAX RATE	Top rate is 37%, expiring after 2025.	Raise top marginal tax rate to pre-TCJA rate of 39.6% for income over \$400,000
CAPITAL GAIN RATE	Top rate is 20%, plus 3.8% net investment income tax (NIIT) if income is over \$200,000 (single) and \$250,000 (married filing joint).	Remove preferential rate for capital gains and qualified dividends for taxpayers with income over \$1 million by taxing them at ordinary rates. Would retain 3.8% NIIT.
DEDUCTIONS	Standard deduction for married filing jointly \$24,800, expiring after 2025. Itemized deduction for state and local taxes is capped at \$10,000. TCJA suspended the personal exemption and most itemized deductions through 2025.	Would limit itemized deductions at 28% of value for taxpayers in a marginal tax bracket that exceeds 28% and restore overall itemized deduction limitation (Pease limitation). Generally supports eliminating the cap on the state and local tax deduction.



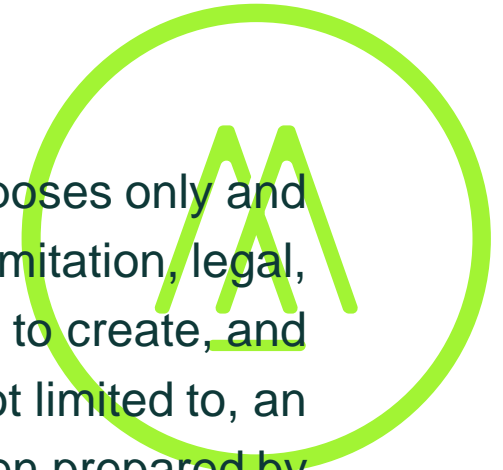
Post-Election Tax Update

	CURRENT LAW	JOE BIDEN'S PROPOSED TAX PLAN
ESTATE TAXES	For 2020, estate and gift tax exemption is \$11.58 million. This is scheduled to revert to a pre-TCJA amount of \$5 million (indexed for inflation) after 2025. Transfers of appreciated property at death get a stepped-up basis.	Eliminate step-up basis on assets inherited at death.



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THANK YOU

