Employee Retention Tax Credit: Relief for Private Clubs

By Kerri Rawcliffe, CPA, Partner

Private clubs, like most businesses, are still being affected by government-related restrictions and shutdowns, and some private clubs, such as tax-exempt 501(c)(7) clubs, are not able to take advantage of certain CARES Act relief provisions such as the Paycheck Protection Program (PPP) loans. However, the recently-enhanced employee retention credit may provide immediate relief for private clubs.

In the original CARES Act, this credit was not available to any private club that applied for and received a loan under the PPP. Under the revised employee retention credit, private clubs that received a PPP loan may now be eligible to take this credit for both 2020 and 2021.

Tax-exempt private clubs that were holding off on taking the credit in hopes that they would soon be eligible to participate in the PPP program, should now consider if they are eligible to take advantage of the credit for 2020 and 2021 also.

Impact of Pandemic on Clubs

In 2020, all private clubs were impacted in one way or another by government restrictions due to COVID-19. Indoor dining was limited in capacity and at some point fully shut down. In some states, golf carts were not allowed on the course – or limited to one individual per cart. Pool use was limited to a reduced capacity, most clubs using a reservation system, and some not opening the pool at all. Most impactful to the private club industry, tournaments and events were canceled due to the virus. As of today, private clubs have been able to re-open some of their amenities; however, most are still restricted due to COVID-19 and government-mandated restrictions.

The good news is that the credit that was supposed to expire at the end of 2020 has been extended with the passage of the new COVID-19 relief bill. The ERTC is available to all private taxable and non-taxable clubs whose operations were disrupted due to virus-related shutdowns.

Employee Retention Tax Credit (March 12, 2020 to December 31, 2020)

Relief from the original Act provided a credit to payroll taxes, calculated at 50% of qualified wages up to $10,000 (maximum credit of $5,000 per employee) paid between March 12, 2020 and December 31, 2020. Depending on the private club's 2019 annual average employee count, the credit is calculated for all employees being paid (under 100 full-time employees) or for employees continuing to be paid who are not working (over 100 full-time employees). The credit is applied against quarterly 941 filings. If the club's quarterly payment is insufficient to cover the credit, the club can apply for a refund or advance payment via IRS Form 7200.

ERTC Relief Extended (January 1, 2021 to June 30, 2021)

The ERTC, due to expire at the end of 2020, has been extended by the Consolidated Appropriations Act (CAA), 2021 through the first two quarters of 2021. In addition, the CAA retroactively amends the CARES Act to remove the exclusion from the ERC for PPP borrowers (although a credit cannot be obtained for wages treated as covered expenses for PPP purposes).

Private clubs can continue to utilize this credit which has been extended and enhanced through June 30, 2021. It is unknown at the time if the credit will be further extended through December 31, 2021. The following are details of the enhanced version of the credit:

- The credit amount is increased from 50% of qualified wages to 70%.
- The cap on qualified wages is increased from $10,000 total to $10,000 per quarter, effectively increasing the maximum credit from $5,000 per employee to $14,000.
- The reduction in gross receipts required to qualify if the business has not been shut down by a government order has been decreased to 20% year-over-year, as compared to 50% in the initial credit.
- Businesses of less than 500 employees can now take the credit for all employees, as opposed to only employees not providing services; the original cap was originally 100 employees.

If your private club initially ignored the ERC because it was hoping to apply for or received a PPP loan, now is the time to assess whether you qualified retroactively in 2020 or can take advantage of the enhancements in the credit in 2021.

Claiming the Credit

The ERC can be claimed on a taxpayer's quarterly employment tax return (Form 941 or similar). For those businesses only now retroactively eligible, they can file Form 941-X to amend prior quarters. In addition, taxpayers are able to file a Form 7200 to receive an advanced credit any time before 30 days after the end of a quarter (i.e., before the due date of the taxpayer's quarterly employment tax return, which is 30 days after the end of a quarter). In 2021, Form 7200 can only be used by businesses under a small business cap.

The employee retention credit could be an additional source of cash flow for the private club industry and unlike the PPP loan, it does not have to be repaid or forgiven. It can be applied for directly through payroll tax returns. We recommend that private clubs determine their eligibility for the credit for both 2020 and 2021. Additionally, since many tax-exempt private clubs are not able to utilize most income tax credits, due to the limited income tax they are required to pay, being eligible makes this payroll tax credit especially impactful.

Contact Us

If you would like further information on the ERTC, please contact the partner in charge of your account or:

Kerri Rawcliffe, CPA
Partner
krawcliffe@pkfod.com

Ned McCrory, CPA
Partner
nmccrory@pkfod.com

Geoffrey Benedict, CPA, CGMA
Partner
gbenedict@pkfod.com

www.pkfod.com

About PKF O'Connor Davies