

Additional Guidance on Claiming Employee Retention Tax Credit for Q3 and Q4 of 2021

August 11, 2021

The IRS recently released Notice 2021-49 (the "**Notice**"), which provides additional guidance for employers who are claiming the employee retention tax credit for the third and fourth quarters of 2021 based on enhancements to the tax credit enacted in the American Rescue Plan Act of 2021 (the "**ARPA**"). The ARPA extended the employee retention tax credit for "qualified wages" paid to employees between July 1st and December 31st of 2021, and the Notice clarifies that the rules applicable to claiming the enhanced employee retention tax credit under the ARPA are generally the same as those for claiming the credit under the CARES Act. The Notice provides additional guidance on several miscellaneous issues with respect to the credit and also responds to questions received by the IRS related to the credit, including, among others:

- The definition of full-time employee and whether that definition includes full-time equivalents;
- The treatment of tips as qualified wages and the interaction with the related Code Section 45B tax credit;
- The timing of the qualified wages deduction disallowance and whether taxpayers that already filed an income tax return must amend that return after claiming the credit on an adjusted employment tax return; and
- Whether wages paid to majority owners and their spouses may be treated as qualified wages.

The Notice is available [here](#), and our prior blog posts on the employee retention tax credit are available [here](#) and [here](#).