ZOOK DINON PA
CERTIFIED PUBLIC ACCOUNTANTS & CONSULTANTS

We would like to inform you that Tax Cuts and Jobs Act (TCJA) makes changes to the general business credit by adding a new component credit for paid family and medical leave, and changing two current component credits, i.e., the rehabilitation credit and the orphan drug credit.

First, the Act introduces a new component credit for *paid family and medical leave*, i.e. the *paid family and medical leave credit*, which is available to eligible employers for wages paid to qualifying employees on family and medical leave. The credit is available as long as the amount paid to employees on leave is at least 50% of their normal wages and the leave payments are made in employer *tax years beginning in 2018 and 2019*. That is, under the Act, the new credit is temporary and won't be available for employer tax years beginning in 2020 or later unless Congress extends it further.

For leave payments of 50% of normal wage payments, the credit amount is 12.5% of wages paid on leave. If the leave payment is more than 50% of normal wages, then the credit is raised by .25% for each 1% by which the rate is more than 50% of normal wages. So, if the leave payment rate is 100% of the normal rate, i.e. is equal to the normal rate, then the credit is raised to 25% of the on leave payment rate. The maximum leave allowed for any employee for any tax year is 12 weeks.

Eligible employers are those with a written policy in place allowing (1) qualifying full-time employees at least two weeks of paid family and medical leave a year, and (2) less than full-time employees a pro-rated amount of leave. On that note, qualifying employees are those who have (1) been employed by the employer for one year or more, and (2) who, in the preceding year, had compensation not above 60% of the compensation threshold for highly compensated employees. Paid leave provided as vacation leave, personal leave, or other medical or sick leave is not considered family and medical leave.

Second, the Act changes the *rehabilitation credit* for qualified rehabilitation *expenditures paid or incurred starting in 2018* by eliminating the 10% credit for expenditures for qualified rehabilitation buildings placed in service before 1936, and retaining the 20% credit for expenditures for certified historic structures, but reducing its value by requiring taxpayers to take the credit ratably over five years starting with the date the structure is placed in service. Formerly, a taxpayer could take the entire credit in the year the structure was placed in service. The Act also provides for a transition rule for buildings owned or leased at all times on and after Jan. 1, 2018.

Third, the Act also makes significant changes to another component credit of the general business credit, i.e., the *orphan drug credit* for clinical testing expenses for certain drugs for rare diseases or conditions. For clinical testing expense *amounts paid or incurred in tax years beginning in 2018*, the former 50% credit is cut in half to 25%. Taxpayers that claim the full credit have to reduce the amount of any otherwise allowable deduction for the expenses regardless of limitations under the general business credit. Similarly, taxpayers that capitalize, rather than deduct, their expenses have to reduce the amount charged to a capital account. The credit has been reduced and now equals 25 percent of qualifying clinical testing expenses. However, the Act gives taxpayers the option of taking a *reduced orphan drug credit* that if elected allows taxpayers to avoid reducing otherwise allowable deductions or charges to their capital account. The election for the reduced credit for any tax year must be made on a tax return no later than the time for filing the return for that year (including extensions) and in a manner prescribed by IRS. Once the reduced credit election is made, it is irrevocable.

We hope this information is helpful. If you wish to discuss any of these credits in more detail and the options you may have for your business, please give us a call.