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Ash: Hello, and welcome to another episode of "Beyond Bitewings." In today's episode, we will be addressing the infamous question that we've been getting a lot lately.

Robert: "Where's my tax return?"

Ash: Yeah, look at that. Robert took it right out of my mouth but yeah, he's right, that is it. "Where's my tax return?" So, you know, because of COVID, there's obviously been a lot of delays and it's just sometimes hard for us to address that question simply. And that's primarily why we decided to make this episode where we can talk about it in more length and detail.

Lynn: How the pieces played together to ultimately delay your tax return. That's the bottom line, unfortunately.

Robert: So why are the tax returns delayed this year? It's because of a lot of the government programs that were implemented during the pandemic.

Lynn: Well, let's start with the ERC, the Employee Retention Credit. First of all, that's the primary thing right now that's holding up the tax returns. Because technically that has to be calculated and put on retroactively to the 2020 tax return. Even though you won't get the cash back until, if you're lucky, 2021. Probably 2022 is much more realistic. We've gotten so far away. This sounds ridiculous, but in time we've gotten so far away from the stimulus packages that people don't remember what they are. So the biggest question I'm getting right now is, "What is the ERC? Why do you need to do it? Why is it holding up my tax return?" So how would you answer that question Robert, what's a little summary of what the ERC is and why it's beneficial?

Robert: Well, the thing that jumps to my mind immediately is that it has to do with your retention of your employees during the pandemic, but it's virtually worth thousands of dollars to some clients. And I don't think they realize the magnitude of it.

Lynn: Right, and it varies. Some are none. Some are maybe 2-3,000, but some are, we've seen 150-200,000 in some cases.

Robert: We've had some that were tens of thousands.

Lynn: Mm-hmm. Right.

Robert: And that's cash, that's not a tax deduction. That's a cash refundable credit that you will get back in a check...eventually.

Robert: And I say eventually because it just depends on the IRS, and you know we all know that they're the most efficient government agency there is.

Lynn: Right, and we're gonna talk about how some of the delays are being caused by them as well. Cause that's one of the questions that the people that are getting their ERC calculated, their Employee Retention Credit calculated, they're like, "Well, where's my refund?" I'll tell you when it's coming: later. It's...later. We were, in the beginning, saying about three months. There's no way that's gonna happen. We've extended our estimate to six months. I'm not sure now that is even going to happen because there are still millions, literally millions of pieces of mail sitting at the IRS unprocessed and these employee retention credits are in that stack.

Robert: Now can the ERC be filed electronically, or are these all paper?

Lynn: These are all paper. They have to be filed on an amended 941 and those cannot be filed electronically. Original ones, yes. But not amended ones. So there's no way to rush this.

Robert: And the payroll companies can't, or won't do the calculation. So it's up to your CPA to do it.

Lynn: Right, the calculation, you're correct. They can do the filing and in some cases it's good to go that way and in other cases it's not but they can't get the filing through any faster than anyone else. So even though they do file your payroll reports electronically, they are not filing your amended electronically. It's just, IRS does not have that capability.

Robert: Hm, okay.

Lynn: And until that's done, your tax return cannot proceed. So we have to figure out if you're eligible for it, then if you want to pursue it, and then calculate it, and then put it into your tax return, and so that's just one of the many things that is putting a pause on completing things.

Robert: So back up and emphasize that, cause you kind of blew through that. So that your tax return cannot be completed until the ERC calculation is completed.

Lynn: Right, and really that's kind of an overstatement. It can be completed, but then it would require an amendment. So if you finish it before the ERC is done, it technically has to go on that 2020 return. So then your tax return would have to be amended. And those amended returns are then going to sit in a queue at the IRS until they get processed, cause those are much slower. So it's much better if you can hold the 2020 return until the calculation is finished, put it on there and file it all originally, correct. But at some point it's gonna be too late, you're going to have to file it and then go back and fix it later if it's worth it.

Robert: And why couldn't we have done these ERC calculations, say, in November or December of last year?

Lynn: Well, because we're not psychic, unfortunately.

Lynn: So originally, if you took a PPP loan, which the vast majority of dentists did, especially the ones that would qualify for this credit took the PPP loan cause it's based on payroll, same

as the credit. So if you took that, you were not eligible under the original law for the credit. That changed on December 27th. The change was late in the year. And I know that sounds like, "Ah, it's been six months, seven months, eight months!" But we had to figure out, we had to wait on guidance of how to work it in between the PPP wages, because you can't use wages for both, plus the sick leave credits and all of these things. So took a while to learn the rules, apply the rules, and now implement the rules. So it just delayed everything.

Robert: So now you're sort of going into the PPP, let's talk about that for a minute. You know, the banks are really pushing a lot of the clients to go ahead and apply for forgiveness.

Lynn: Yeah, Ash, you want to speak to that?

Robert: Yes.

Lynn: When we say pushing, how would you define pushing?

Ash: Honestly, especially right now, this

Lynn: this month-

Ash: time of the year-

Lynn: Yeah, it has really-

Ash: as we're-

Lynn: hit in the last-

Ash: recording live this time. Lenders have been really pushing our clients to apply for the forgiveness, saying "Oh, you guys are running out of time."

Lynn: Mm-hmm.

Ash: Let's back up a little bit and talk about this timeline. Initially there was this covered period that people talked about, right? That the money that you receive from the PPP must be used during this covered period for payroll following the guidelines that they've given you. There were some other allowable expenses too, but then later this covered period was extended to 24 weeks, allowing plenty more time for our clients to use up these funds.

Lynn: Right. It was a good thing.

Ash: Which was a good thing. And earlier, when you said that the rules changed on December 27th, before then the plan was, okay, the clients are gonna use all these funds, these PPP funds towards payroll.

Ash: And if they-

- Lynn: No problem-

Ash: No problem, those reports are easily available. Especially if they're using a third-party payroll service provider, they were getting caught up too, they were creating special reports that we could use to help them file for the forgiveness. But then December came. And then all of a sudden they said, "You know what? These people that received the PPP funds can also apply for the ERC credit." Again, as you mentioned earlier, both of these things go hand in hand because we need to look at their payroll.

Lynn: Right.

Ash: Now, this is one thing that we understand, honestly, we've just fully maybe understood how this works. Lenders, unfortunately do not know about this date. In fact, I was speaking with one lender not too long ago, and he had never heard of yours.

Lynn: Right. Cause it's not their job. It's not in their wheelhouse.

Ash: Right, right. Exactly. And in fact, I was actually a little pushy with why are you forcing our clients to apply for forgiveness?

Lynn: Right? Why are you rushing them?

Ash: Why are you rushing them?

- And when I explained it to him, he didn't understand.

Ash: He said, "Oh, I had no idea that it was because of the ERC." So that kind of puts this fear amongst our clients because it's not just one call or one email, they're getting multiple emails, multiple calls. And I get it from the lender's perspective, they're doing the due diligence, they're following up, but it's causing a little bit of a frantic panic, a panic amongst our clients. And honestly with us too.

Lynn: Right.

Ash: Because we are getting frequently asked about what's going on with our tax return, what's going on with our PPP forgiveness, what's going on with our ERC credit, and they go all hand in hand. Honestly, in my opinion, I would blame the lenders.

Lynn: Mm-hmm. Because we're looking out for the client. We don't care whether the lenders are happy, to be honest.

Ash: Mm-hmm.

Lynn: Cause we've had them call and say, "Well, I've got to get this off my books." Well, I don't really care about your books, I'm sorry. I care about what's in the best interest of the clients and we're not going to let them miss a deadline.

Ash: Right.

Lynn: But we're gonna do what's right by them.

Ash: Absolutely.

Robert: In that respect, if the banks are successful at getting some of their clients to apply for PPP forgiveness, then how does that affect their ERC calculation?

Lynn: Well, it affects it. It may or may not be negative, but you've taken the options off the table. So at that point, we're limited in what we can take. It might not have reduced the ERC at all, but in some circumstances it absolutely will. It could be by several thousand dollars, could be many thousands of dollars. And that's why it's best to calculate it together, but if you've applied for PPP and weren't aware, it's still worth looking at, it's still possibly very valid. It may be more limited than it would have been, and that's unfortunate, but I would still move forward with it. And you know, it's not just us. This is going on nationwide. CPA firms are in basically the same boat across the nation. I know all of the ones in the 80-CPA firm organization that we belong to are in the same boat. We get people calling new clients, potentially calling and being upset with their accountant that they're behind and all of these things. Of course I tell them that we're gonna do a better job than them because we are, but I do defend them. It's not that they're behind just because they're lazy or lax or whatever, it's that it has just been a nightmare to keep up with this year and we just all are looking for a little grace to be honest.

Robert: But I know that we've also had people call that ask us to actually do their ERC calculation because their CPAs weren't familiar enough with it to do it.

Lynn: Correct.

Robert: So not all firms have elected to take advantage of the programs that are available for the clients. And we have, but it has slowed down the process of doing the normal things that we would ordinarily do every year, like the tax returns.

Lynn: Right, cause this is all extra, the PPP forgiveness, the ERC calculation, the HHS reporting that's coming up that first deadline of September 30th. Not a lot of dentists have that September 30 problem, but then they have the next deadline, which is early 2022. So it's just one thing after another.

ASH: Mm-hmm.

Lynn: And then of course there's PPP round two forgiveness, which I don't even want to think about yet.

Ash: Oh goodness, yes, yes.

Robert: Some of the banks are not even taking applications yet for that now.

Lynn: But they are starting to send out the reminders or the warning emails cause people are calling, "What do we do about this?"

Ash: Absolutely true. On that note, these lenders, there's also this other misinformation that they're giving to our clients.

Lynn: Mm-hmm.

Ash: I think we should talk about that.

Lynn: It is a confusion on their part. So what is that?

Ash: I think it's regarding by when they should be filing the PPP forgiveness.

Lynn: Right.

Robert: Mm-hmm.

Ash: You know earlier when I was talking about the covered period you don't really have to file for the forgiveness as soon as you're done with the covered period, they actually give you 10 months to file for it. Now, for whatever reason, some lenders are convincing our clients that the forgiveness needs to be approved during those 10 months when that's not the case.

Lynn: Right.

Ash: As long as the forgiveness is filed for before your payment kicks in for that one, cause essentially the PPP is a loan, right?

Lynn: Right, right.

Ash: That we're applying for forgiveness. So if you don't file for the forgiveness payment will kick in. So as long as you file for the forgiveness before that payment kicks in, you're in the clear.

Lynn: Right.

Robert: Because you don't have to make any payments while their forgiveness is being considered by the SBA.

Ash: Correct.

Lynn: That's right. So, the end date on when it has to be filed is really very loose. It does exist, but it's not quick. Most of them, most of the early ones are coming due now in July and August. So it is something that you need to be watching for. But like I say, it's easy to hit that deadline.

Ash: Mm-hmm.

Lynn: And it's not as quick as the banks think it is.

Ash: Right. And since we are still on the subject matter of PPP forgiveness, I think we should also talk about the various applications that are out there. So, for instance, if you've received less than 50,000, it's a very simple application.

Lynn: I will acknowledge that one is a very simple application.

Ash: Right. They're also saying that the people that have received less than 150,000, that's also a fairly simple application.

Lynn: That looks simple, but I would dispute the fact that it is simple.

Ash: Right. And then of course, for amounts greater than that, that application is more complicated.

Lynn: Right.

Ash: For clients that have multiple practices, right? These practices may have received different amounts.

Lynn: Correct.

Ash: That depends on their payroll for that location. Now some of these practices may have received more than 150,000.

Lynn: Mm-hmm.

Ash: And some clients get that. Okay, that's more complicated, that may take some time. Even the lenders are like, "Okay, alright, I get it." But then sometimes the lenders will be like, "Oh, you know what? Your practice B and C however, received less than 150,000, why don't we go ahead and file for the forgiveness for that?"

Lynn: Mm-hmm.

Lynn: Because it's so-

Ash: We don't even need-

Lynn: -simple.

Ash: - get the-

Ash: -accountant involved. Cause it's so simple, and we can take over, you don't even need your accountant. What do you have to say about that, Lynn? I know it's not something they should be doing.

Lynn: Right, right. It's not something they should be doing. What I would say to that is the bankers are in no position to be giving that kind of advice because they don't understand the rules. Especially if you've got employees that are working multiple practices that are getting

paid multiple practices, you have to watch the salary caps because those apply across the entities, your own personal salary cap applies across the entities. So you can't just file for one, whatever you file for that one, then that's going to potentially affect the filings for the other two. And the other two may need the payroll there, but you've already used it. So that's problem number one. Then the application for between 50,000 and 150,000, if you look at it, it's a one-page form, it's basically, "How much did you spend on payroll costs?" Boom, you're done. But anything over \$50,000, even though the form looks simple, you have to do these calculations saying whether you kept up your full-time equivalents and whether you reduced your wages below 25% and all of these things. So yeah, you can fill in those numbers, but they may or may not be right if you reduced your staff or if you reduced their pay.

Robert: Or if they went on unemployment for a period of time.

Lynn: Right, cause that's going to affect it as well. So they really need to all be worked together and thought out. I've seen several that clients have done, cause they look easy, that I absolutely know are wrong. And it worries me cause I don't know what's gonna happen if the SBA audits them. I'm holding my breath and keeping my fingers crossed that that doesn't happen. And I know it wasn't intentional, right? Everybody expects full forgiveness to be granted. And in my opinion, in most cases, if the application is done properly, you will get full forgiveness. But just filling it out blazé is not the way to go about that because they were looking at SBA fraud and that's problematic.

Robert: Mm-hmm. And the statute of limitations is seven years on these.

Lynn: It is.

Robert: Not just three-

Lynn: That's right.

Robert: -like it was normally. I know we've had clients that have filled out their own applications that ended up owing some money because they didn't do the 24-week period. They did the original eight-week period and they didn't just use payroll, they used everything. And by doing that probably hurt their chances to getting the ERC credit.

Lynn: Right, because they can choose whether to use the eight weeks or the 24 weeks. And by choosing eight weeks, they've limited their payroll costs, so that did not allow for full forgiveness. Obviously had we filed that application, that would not have been the case. I have seen a few that legitimately did not get full forgiveness because they were maybe given too much to begin with, their loan application was overstated. So they received too much money, therefore you can't get forgiven more than you were allowed to receive. And that could be bank error, but nonetheless, you still have to repay it. And a couple of other cases, but by far 99% of our applications have been 100% forgiveness.

Robert: Good, good to know. What would you say the average ERC credit is for our clients?

Lynn: I would say it's roughly \$20,000 to date with a lot more still to be calculated.

Robert: Okay.

Lynn: And that's semi misleading. That is the average, but the median is far less. There's a couple, quite a few really big ones that are raising that average. I would say if you throw out the outliers, it's more in the range of 10.

Robert: Hm, okay. All right. Good to know.

Ash: Yes. That is good to know. So the ERC credit, another question that sometimes I get from the clients is that why is it taking so long to calculate this? Is it really that hard to calculate?

Lynn: Right.

Ash: What would you have to say to that?

Lynn: Absolutely it is. You absolutely need my help to do it.

Robert: It's a complicated calculation.

Lynn: It's a bit complex. Could they do it? Possibly. Could they file the application themselves, no. Is a lot of it just built-up workload and bottlenecks caused by the IRS and the rule changes, yes. That's playing into it. So you've got this one thing that requires a specialist to learn new rules, so that takes time, not everyone in the office, it's not practical to have everyone learn those rules, so only a few people are working on it.

Robert: It's a one-time deal, too.

Lynn: Exactly, so it's just-

Robert: We hope.

Lynn: -not efficient. Well, it's coming up again a little bit for 2021. The ERC changed earlier than this, but some of the tax rules were changing as late as March 12th. Every time that happens, the IRS has to reformat the forms and the computer systems and the software that's used to file those forms. And so all of that - March 12th - by March 15th we normally would have a substantial number of returns filed because that's the first deadline. This year, we had a total of zero because the rules changed on March 12th. And so that's playing into the fact that they're having to wait for these credits as well, because everything is just coming due at the same time.

Robert: Okay. So regarding the ERC and the PPP and the whole issue of the tax returns, what's happening with the IRS and all these notices that are going out because of...why?

Lynn: X, Y, Z, that's right. There are a lot of reasons. Unfortunately here's the chain of events in Texas. Texas, Louisiana, Oklahoma are being bombarded with a large number of tax notices. And of course the clients are getting upset and they think we've done something wrong. And the reality is, it was just a perfect storm. That's going to be a pun, but the winter storm, the IRS named it the Texas winter storm, I guess because we were the biggest affected in the largest

area. The winter storm that hit February 14th, somewhere around in there, it really shut down business in these states. So the IRS gave us what we thought was a reprieve. It seemed so kind of them that they extended the deadline for all of our returns for March 15th, April 15th, to June 15th. And so March 15th comes, all the corporate returns are due, all the partnership returns are due for the rest of the United States, but not for us, and that was great, bought us extra time because we were behind, we had no power for that entire week or so. What was not well-communicated and what happened is that since they pushed the deadline, we could not e-file extensions because the e-file system was not set up for that weird deadline because the rest of the world was on the 3/15 deadline.

Robert: Just for the three states.

Lynn: Just for the three states. And so we could have elected to extend on March 15th. I think it was actually March 16th this year, but whatever, the March 15th deadline, had we known that we would not be able to e-file the extensions probably would have. Hindsight, right? But we were gonna be able to file some by June 15th, so there was no reason to extend, we were just going to wait. And instead what happened is we couldn't e-file the extensions. And when I say we, I don't mean our firm, but all the firms in Texas, Oklahoma, Louisiana. So we had to paper file those extensions and well, they are now sitting at the IRS in a stack of millions of pieces of mail. So what has happened is since then, returns are getting done and completed and they're being e-filed and they're being considered late because there's no extension on file. There is a valid extension that will be in place at some future date. But right now the IRS can't see it. They're saying your return is late. They're issuing notices for every return that's being filed, practically, saying your return is late and here's the penalty, and of course it's upsetting the taxpayers. I totally understand it. And it's totally bogus and it's very difficult to fight it because to fight it, you have to mail in correspondence.

Robert: Another piece of paper.

Lynn: Yeah, so that's gonna be at the bottom of the stack. They're gonna get to the extensions before they get to my response. Theoretically, I don't know if that's true, but theoretically, they're going to get to the April, I mean the June mail, before they get to now my August mail, right? So that doesn't even do any good. My advice, if you get a notice like that, is to just wait until it's an urgent notice, and then you're gonna have to take action. But in the beginning, there's really no action to take because you can't even call at the moment, hopefully this will clear up, but right now, most of the time, if you call, you get a message that says, "We're experiencing high call volume, call back later," click.

Robert: It cuts you right off.

Lynn: Literally.

Robert: You can't even hold.

Lynn: You cannot. Now, if you call it some certain times, you can get lucky and hold, but mostly you can't get through and correspondence is going to be fruitless. I would contact your CPA and you need to let them know what's going on. But probably the early advice is going to be you just ignore until it becomes an urgent matter and then take care of it.

Ash: All right. That was a wealth of knowledge. Thank you so much, Lynn. I think on that note, we can end our episode. If you guys have any questions, please feel free to reach us at info@eandassociates.com, and the 'and' is spelled a-n-d. We look forward hearing from you guys. Thank you.

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