Announcer (4s):

Welcome to the Maximize Business Value Podcast. This podcast is brought to you by Mastery Partners, where our mission is to equip business owners to maximize business value so they can transition their business on their terms. Our mission was born from the lessons we've learned from over 100 business transactions, which fuels our desire to share our experiences and wisdom so you can succeed. Now, here's your host, c e o of Mastery Partners, Tom Bronson.

Tom Bronson (34s):

Hi, this is Tom Bronson and welcome to Maximize Business Value, a podcast for business owners who are passionate about building long-term sustainable value in your business. The employee retention credit is the tax credit of a lifetime. Now, unfortunately, whenever there is free money, scams are always not far behind. So in this episode, I'd like to welcome our guest, Lindsay Pollock, who is partner at the Tax Credit Collective. And this is Lindsay's second appearance on our podcast. You can go all the way back to episode number six if you'd like to see more content about tax credits.

Tom Bronson (1m 18s):

It's a great episode. I would encourage you to go back and do that. But today we're going to talk about these scams that, that we're seeing around the employee retention credit or e r c. So hey, welcome back to Maximize Business Value Lindsey.

Lindsay Polyak (1m 37s):

Thank you Tom. I can't believe we started in the single digits and here we are in the triple digits back together again.

Tom Bronson (1m 43s):

Well, I I'm not gonna wait until we have four digits to have you back. We'll have you back again while we're still in the three digits, but I know it's sort of amazing, isn't it? We first had a conversation coming on almost three years ago that first appeared here, so now it's exciting to have you back. So, so tell us though a little bit about the Tax Credit Collective, which is your organization.

Lindsay Polyak (2m 7s):

Sure. So my business partner and I founded a tax credit collective a few years ago and we're here in the Dallas area. We specialize in tax credits and incentives. We eat, sleep and breathe tax credits. We help small to mid-size businesses and their CPAs get ahold of specialized federal dollars that they may not know that they otherwise have missed. And the E R C is not the only credit that we do work on, but it certainly is a hot topic right now. So I'm here to talk with you about it.

Tom Bronson (2m 35s):

Yes, absolutely. You know, yeah, of course. I would encourage our listeners to go back to episode six and learn more about things. But, but what Lindsay and our partner do are really bring big business services to small businesses. Cuz big businesses look for these kind of things all the time, but most small businesses don't even even know what kind of tax credits there might be out there. So I would encourage you to jump out and, and talk with Lindsay. We'll give you contact information toward the end here. Let's get into these E R C. So what is going on in the tax incentive world lately with the employee retention credit or E R C?

Lindsay Polyak (3m 19s):
Sure. So the E R C was signed into law a couple of years ago, came about with the American Rescue Plan and it was expanded with the Consolidated Appropriations Act. It is a refundable payroll tax credit that after several iterations of law is now worth up to $26,000 per employee that a business retained on the payroll during qualifying periods of time during the pandemic. You can do the math in your head, this is worth quite a bit of money to a business and it's cash to the business. So it's very valuable money that a lot of businesses do qualify for. And because of that we wanna make sure that everybody hears about it.

Lindsay Polyak (4m 2s):
But at the same time, you know, whenever there's free money, there's bad actors that are gonna follow that are gonna jump into this space to get onto this bandwagon. And that's what we see happen lately. You've got people that have no prior tax incentive expertise or experience. Maybe you've got people that have great M I M marketing backgrounds and so they're great at sales and marketing, but not a lot of meat to back up what they do. So we, we find very often that we come behind some of these other people into conversations with CFOs and business owners who have been told that they're eligible for millions of dollars. And we get in there and start digging around and figure out that it, it's not quite as golden as things looked initially.

Lindsay Polyak (4m 48s):
And we need to reveal that to people when we can.

Tom Bronson (4m 51s):
Of course, I, I've been reading about this cause I'm, I, I read and listened to a lot of stuff of the, the ERCs. I'm still astounded at the number of business owners who have no idea what this is, but I, is it, is it over? Is the pro ha hasn't everyone already gotten the money that they're gonna get out of the ERCs?

Lindsay Polyak (5m 10s):
You know, a lot of people have already gotten this. Larger businesses hopped on this pretty quickly. People that had outside expertise working with them to get this, they, they got ahold of the money, but we're still finding lots of different niches and industries that just haven't vetted it out, haven't heard about it. Maybe they were told originally that they didn't qualify because the rules were different a year or two ago. And that we've gone through several different iterations of regulations and guidance around this credit. So it's changed so many times that people may be under the old assumption that they didn't qualify when in fact they very well may.

Tom Bronson (5m 50s):

Interesting. So, so it's still open and open for business, if you will?

Lindsay Polyak (5m 55s):

Yeah, we definitely, we definitely have into about the middle of 2023 for certain periods of time and then as we go through 2023, we get into additional periods of time that can go up to five years from 2021. So we've got several more years to go where people could still get ahold of this money that's been signed into law.

Tom Bronson (6m 17s):

So how complicated is the E R C and and why don't businesses just handle it for themselves? Just fill out the paperwork and go do it themselves?

Lindsay Polyak (6m 26s):

Yeah, so, so it is accessed by amending a payroll tax return or payroll tax returns. And so if you think about, you know, I'm just filling in a form, putting some numbers on a forum that's not too hard. But then when you dig into, you know, the 200 plus pages of law and guidance, multiple FAQs and, and different scenarios that the IRS has presented on this credit, it's a lot more complicated than it looks. There are no double dipping rules called denials of double benefit between the employee retention credit and other tax credits such as the research and development tax credit, which our firm does quite a bit of work on, such as the work opportunity tax credit.

Lindsay Polyak (7m 11s):

There's a big no double dipping rule with P P P funds. And if you think about all the businesses that got P P P loans during the pandemic, that's a lot of folks. So when you get into the details of this credit, the calculation itself can be very complicated, especially, you know, wanting to maximize the credit when you have P P P interplay. And then the whole other side of this is the qualification rules. One side of rules is based on gross receipts tests, and that can be done by analysis of gross receipts and spreadsheeting and that sort of thing. But the second way that a business can qualify is due to a more than nominal impact due to federal, state, or local governmental mandates that, that limited commerce travel and gathering.

Lindsay Polyak (7m 56s):

And so when you start getting into things like more than nominal impacts, you have to start digging into the various mandates at the state or county or town or city level and really start to see how they impacted each particular taxpayer. Every single business has a different set of facts and circumstances that has to be looked at up against the law. And so I can get really tricky and, you know, a business owner that hasn't had time to digest all of this reading material that's so very interesting that, you know, they just, they don't really know what all the rules are.

Tom Bronson (8m 32s):

Well, you just explained it so easily and simply and I can't wrap my head around it. That's, that's sad because there are, it, it does sound fairly complicated. It's not really straightforward and I, you know, like, like with anything it pays to have somebody who knows what they're doing to help you out with this. So who are the players in what I guess we'd call the provider space people who help businesses identify these ERCs?

Lindsay Polyak (9m 7s):
Yeah, so a lot of the bigger, you know, the big eight, big 10 accounting firms may be involved in this for their clients. They're taking a look at it. More regional accounting firms may help their clients or they may not often you, you know, you may want a tax attorney like we have at our firm to take a look at the work and, and the mandates to see how they, how they stack up against the law. You have other tax credits and incentives shops like ours that do a fine job and you know, we're, we're proud to be associated with them in our space. And then you have these, what I call E R C mills that have just popped up out of the woodwork since the pandemic began and this particular tax credit came to light and these mills are putting a lot of money behind robo dialers.

Lindsay Polyak (9m 55s):
People on the phone just looking to sign deals. And when you get on the phone with 'em, I don't know about you, but I get a lot of calls from these E R C emails, I get a lot of voicemails from them, text messages, even telling them I'm, you know, telling me I'm eligible for money. When you get on the phone with them, it becomes very apparent that they have very little understanding of how the law is written. And unfortunately they don't have, and in many cases any other tax incentive experience or, or background. So, you know, one wonders are they going to be here and be around for the duration of this once this opportunity is over when the i r s, you know, potentially comes knocking and asking questions.

Tom Bronson (10m 37s):
So, so these mills, as you call 'em the e r c mills, are, are business owners paying them a fee to do this work and then, and then potentially out of business or whatever and then the opportunity's gone. Do they, is this the kind of thing that, I'm not sure I'm even making any sense here, Lindsay, but is this the kind of thing that business owners pay a fee to go after? Or is it a, a success fee that, that most of these folks are getting? Does that make sense?

Lindsay Polyak (11m 15s):
It's very common. Yeah, it does. It's very common in the tax incentive space for a provider, for a tax incentive firm to charge a success based percentage of the credits that they find for a client. And you know, I had talked before, you know, with these mills, what are the questions that a business owner should be asking to determine, you know, is this e r C provider legit? Do they know what they're doing? Are they the best, most trustworthy firm that I can work with? And, you know, other than vetting out their previous tax incentive experience, it's in the terms of the engagement, it's looking into what is included in the service and in the fee that you're going to pay.

Lindsay Polyak (11m 55s):
And the, the two or three big red flags that I currently see at looking at contracts from these mills is that often a determination of eligibility. So figuring out if the client is even eligible, that is often pushed back on the taxpayer on the client and they're supposed to self determine their eligibility. So again, you have a taxpayer that hasn't read the law, hasn't read the i r s guidance, they don't understand the ins and outs of the credit and they're having to decide for themselves whether they're eligible. Well that's what your provider should be doing. And then on the back end, in many cases there is no or very little audit defense that the provider is given the i r s has up to five years to audit these claims and with the money that they've been given, you know, 80 billion in funding, this is a very high priority for the i r s to take a look at E R C claims and identify fraudulent claims and claw back those dollars that they've paid out already.

Lindsay Polyak (13m 2s):
So making sure that whoever you're working with provides audit defense should the i r s ever question your claim is key. And this puts some skin in the game for the provider to make sure that the work that they're doing is, is going more likely than not going to stand up under examination.

Tom Bronson (13m 21s):
Wow. Now is there, I know it's like the P P p, they said early on, you know, it up to $2 million, there's a very low likelihood of an audit, but beyond 2 million or whatever the number was, again, for some reason 2 million sticks out, then there's a high likelihood of an audit on this. Is the E R C the same thing? Is there like this threshold or that the bigger it is, the more likely it'll trigger an audit?

Lindsay Polyak (13m 52s):
So it's, it's really unclear where that's going to fall right now, especially with the changes at the service. I will tell you though, that claims e r c claims that are over $200,000 per quarter go to the National Review Office upfront, they get a lot of additional scrutiny on the front end before those claims are paid out. But claims under $200,000 per quarter do not get that very lengthy scrutiny. So it's my personal suspicion that it's the smaller claims that may get looked at down the road rather than the larger ones.

Tom Bronson (14m 29s):
Interesting, interesting. Now, you know, you, you mentioned that some of these mills are out robodialing and whatnot. Heck, I've, I think I've had three of 'em call my cell phone since we've been on this dialogue. So, you know, I'm get, we all get spam calls, right? We all get those things. But let's say that somebody gets through to you through an email or through through a telephone call or whatever, are there some ways that some, some questions you can ask or the ways that you can identify whether or not you're talking to one of these males or talking to a specialist like you guys?

Lindsay Polyak (15m 8s):

Yeah, find out who works there. Do they have any tax attorneys on staff? Do they have any CPAs, do they have any prior tax incentive experience? Have they done anything besides e R C work? Do they have any other, you know, things in their past that they've done successfully? Do they do a full legal determination of eligibility for you as a client? Is that written into their contract? Do they provide audit defense? I spoke with one of these mills on the phone and I asked her, she was trying to sell me on the service and I asked her, what happens if I get an audit letter and you've done this work for me? And she said, we'll be there for you ma'am. I said, cool, what does that mean? She said, well, we'll we'll give you your documents back so you can use them.

Lindsay Polyak (15m 53s):
And I said, but are you gonna engage a licensed attorney to go toe to toe with the i r s for me? And she said, oh no, you'll have to hire a tax attorney for that. Right. So, you know, this will be there for you. We'll provide reasonable efforts to give you your documents. That's nice, but you need a lot more than that in an audit.

Tom Bronson (16m 10s):
I, I to Well, let's talk about that. So, so you know, we've talked a lot about this kinda audit defense and I know that you guys offer that at, at your firm. So w why do, why do you talk about that so much?

Lindsay Polyak (16m 25s):
Well first of all, we're in the business of not just finding our clients' money, but helping them keep that money. And when you're talking about tax credits that if you have to pay them back can have penalties and interest associated with them that can accrue over a five year period. You're talking a lot of of money, you know, paying back the credits that you got maybe that you weren't eligible for, that were fraudulently filed plus all of all of this interest, it's a lot of money to come out of the pocket of a small business owner. So we wanna make sure on the front end of every one of these studies that we believe that they're eligible so that we can successfully defend them on the back end.

Lindsay Polyak (17m 11s):
You know, it's in their best interests, it's in our best interest, you know, to do what's right for the client and and to do our very best, you know, according to what we know and have read and have studied out to put them in the best possible tax position. That's what their CPA wants for them as well. We'd be letting those CPAs down if we weren't providing that full service, we feel like.

Tom Bronson (17m 33s):
Yep, I like it. Yeah, I have, I have a new term for you. You should use the no charge on this Lindsay, for your eligible and defensible

Lindsay Polyak (17m 43s):
Yeah, I like that word. I like the word defensible.

Tom Bronson (17m 45s):
Yep, yep. Because that's if they're just filing and, and yeah know what, what we would call, you know, praying and spraying, right? Just regarding

Lindsay Polyak (17m 55s):
Audit lato is what we call it in our industry, what

Tom Bronson (17m 57s):
Do you

Lindsay Polyak (17m 58s):
Call it? Audit lato.

Tom Bronson (17m 59s):
Audit lato. I like that. So yeah, then, then you wouldn't even, your firm wouldn't even file something if you didn't feel like it was defensible. So that to me is, is a key key differentiator. So, so,

Lindsay Polyak (18m 17s):
And you said, you said that we offer audit defense. I would, I would go a step further and say that we include it in all of these engagements.

Tom Bronson (18m 24s):
Oh, it's a, all right. So it's, that's an automatic include inclusion. Awesome. Yeah. Awesome. Cuz you guys have tax attorney on staff, don't you?

Lindsay Polyak (18m 33s):
Right.

Tom Bronson (18m 34s):
Yeah. So Lindsay, you talked about how complicated this is and kind of the government mandates, but what are you seeing in the provider space right now related to qualifications tied to these mandates?

Lindsay Polyak (18m 50s):
Yeah, it's a good question Tom, and it's something that's being talked about a fair amount in the tax space with concern for ver from various CPAs is that some E R C providers are creating these gross over qualifications of E R C eligibility that are tied to supply chain disruption. And as, as we all know, there's been a fair amount of supply chain disruption during the pandemic and, and even still today. And, and it was caused by a, a conflagration of different events that were going on during 2020 and 2021. But the fact of the

matter is that the way that the I IRS guidance is written around this topic is that if you're looking for supply chain disruption, it still has to be tied back to a mandate, an enforceable mandate at the government level in the United States.

Lindsay Polyak (19m 44s):
And so, you know, looking into the details of what was going on at the particular port, where the materials were coming in during that timeframe and how that impacted or didn't impact their eligibility is critical here. So, you know, sometimes you'll see questionnaires, e r c questionnaires that these mills will send around and say, you know, did you suffer supply chain disruption? If so, tick here, you may be eligible. Sometimes we also see questions related to employees, did you have a tough time retaining or finding employees during the pandemic check here? You might be eligible for the E R C. So we're seeing a lot of stuff that people are throwing out there saying that people qualify by and reading through the law and the guidance time and time again seems to be some real broad strokes that are being painted here where there just may not be anything there at all, unfortunately.

Tom Bronson (20m 43s):
So it does sound complicated and frankly what I was hoping that you, you would tell us today was that there's a cookie cutter approach, but what I'm hearing is it's really every business you need to look at it very specifically, is that what I'm hearing?

Lindsay Polyak (20m 58s):
That's a very granular approach for every single taxpayer in their county with their specific situation and all the things that happened during that timeframe. There is no one size fits all with this, unfortunately, from the mandate perspective.

Tom Bronson (21m 14s):
Wow. So before I wrap up with a, with a couple of questions, this has been highly educational for me and I'm sure for our listeners. Is there, is there any area that you feel like if you've, you've selected somebody and now you've got the fine print, is there any area you feel like you should really look at before signing with an E R C provider?

Lindsay Polyak (21m 40s):
You know, I think when it comes to our medical health, most people are about getting a second opinion before we do something drastic. And I think it's the same way with, with tax incentives. Yes, it's free money, but you wanna make sure that you're eligible before you put yourself in that position. So get a second opinion. I'm, I'm brought in many times as a second opinion and sometimes I don't give the best of news during those calls and, and whether you use our firm or not, we're glad to take a look at it for you and, and let you know what we see. But I think that's important to do.

Tom Bronson (22m 12s):
I think that's brilliant. I think that is brilliant. You know, it's funny, I was just, I had a conversation with somebody over lunch today about the value of their business and somebody had told them using an antiquated methodology that their business is worth, you know, six or $7 million and I said, it's really worth about two and a half and here's why, you know, that's it. It pays to get that second opinion. That by the way, is one of the leading causes of, of failure when it comes time for businesses to transition. But today we're talking about keeping your money in and putting more money in your pocket. So we've done this before and I should have gone back to listen to episode six to find out what your advice was then, but I didn't do that, but I'll compare the two maybe this week on my newsletter.

Tom Bronson (23m 0s):
So one last business question. This podcast is all about maximizing business value. What is the one most important thing you would recommend business owners do to build long-term, long-term sustainable value in their business?

Lindsay Polyak (23m 17s):
Well, I, I have to talk about tax credits and incentives, right? Because this is a very overlooked area that businesses can bring additional cash flow to their business. There's over 10,000 various incentives at the federal, state, and local level across the United States. We're not experts in all 10,000 of them. There's a few specific areas that we are, and I think it's always a great idea to just take a look at what's out there, see if there's any low hanging fruit that you may be be leaving on the vine that could bring additional value to your business. And it may even like, make you look more attractive to a potential buyer down the road when they know that you've done your due diligence on credits and incentives.

Tom Bronson (23m 55s):
Absolutely. And by the way, this money flows straight to the bottom line. So, so take advantage of that because it does improve the value of the business. All right. Bonus question. What personality trait has gotten you into the most trouble through the years? Lindsay,

Lindsay Polyak (24m 15s):
Ask anyone who knows me and they will tell you that my facial expressions during meetings or conversations, I am, I am an open book with my face. So have to work really hard at at reigning that in.

Tom Bronson (24m 28s):
That's funny. So, so you have no poker face.

Lindsay Polyak (24m 33s):
Love to play poker, but I got no poker face.

Tom Bronson (24m 36s):
Wow, that's funny. That's funny. So how can our viewers and listeners get in touch with you?

Lindsay Polyak (24m 40s):
Find me on LinkedIn. My name is Lindsay Pollock, p o l y a k. Check out our website, tax credit collective.com and connect with us there.

Tom Bronson (24m 51s):
That's awesome. So thank you Lindsay. You've been a wonderful guest and thank you for the education that you've provided today.

Lindsay Polyak (24m 58s):
Yes, sir.

Tom Bronson (24m 59s):
You can find Lindsay Lindsay Pollock at on LinkedIn or at our website, the tax credit collective.com. But the easiest way to find her is to reach out to me and I will be happy to make a warm introduction to my good friend Lindsay Pollock. This is the Maximized Business Value podcast where we give practical advice to business owners on how to build long-term sustainable value in your business, even during challenging times like this when people are trying to steer you the wrong direction. Be sure to tune in each week and follow us whenever, wherever you found this podcast. Be sure to comment. We love your comments and we will respond to them all.

Tom Bronson (25m 41s):
Until next time, I'm Tom Bronson reminding you to protect your business from potential fraud around anything but right now, particularly these E R C credits while you maximize business value.

Announcer (25m 58s):
Thank

2 (25m 59s):
You for tuning into the Maximize Business Value podcast with Tom Bronson. This podcast is brought to you by Mastery Partners, where our mission is to equip business owners to maximize business value so they can transition on their terms, learn more on how to build long-term sustainable business value and get free value building tools by visiting our website, www.masterypartners.com. That's master with a y mastery partners.com. Check it out.

Tom Bronson (26m 33s):
That was perfect. I wouldn't make any changes on.