Potential Lawyer and Accountant Liability When the ERTC Sunsets

U.S. Congress Set to Rule on ERTC Provisions

WASHINGTON, DC, DISTRICT OF COLUMBIA, UNITED STATES, February 23, 2024 /EINPresswire.com/ -- On January 31, 2024, HR 7024 was passed by the US House of Representatives. If it does pass the Senate and is signed by President Biden, you may have standing to sue your accountants and lawyers for fiduciary irresponsibility and more.

> "Even though it cost nothing to explore an ERTC corporations may be susceptible to fiduciary Irresponsibility lawsuits from clients, donors, investors and customers when the ERTC sunsets."
>
> *Gabe Joseph*

HR 7024 expands the Child Tax Credit and it extends the Trump Tax cuts for businesses. It also sunsets the Employee Retention Tax Credit (ERTC), as of January 31, 2024. The sunsetting of the ERTC may produce a wave of lawsuits from donors, customers, investors, voters and others that, because of inaction by Executive and Management teams, they did not get to share in the benefit that an entity would have realized if they had applied for and were approved for an ERTC tax overpayment refund. This is especially true because doing all of this would have cost the entity nothing except a success fee upon receipt of checks from the IRS

In short, an entity may be sued for leaving a large potential tax refund unclaimed because the entity was too ignorant, to lazy or just received bad or outdated advice.

This liability is easy to quantify. The total payroll taxes paid in 2020 and 2021 were an estimated $2.5 trillion.

Due to the advice that may have been provided by their accountants and lawyers, an estimated 70% of qualified entities did not work with one of the many Trusted Tax Professional organizations that successfully processed Billions of dollars in ERTC overpayment refunds at no upfront cost to the client and were only paid (like a real estate agent) when overpayment refund checks were received from the IRS.

The CARE's Act of 2021 changed the qualifications for an ERTC. It made the "Gross Receipts Test" an afterthought instead of the primary driver in ERTC qualification. This situation was exacerbated by the fact that the IRS did not update its website regarding these changes until early February 2023. Below is the definition and qualification by law and code from the IRS website regarding which entities an entitled to request an ERTC from the IRS and why:

B. Definition of "Eligible Employer"

The employee retention credit is available only to employers that are eligible employers. Section 2301(c)(2)(A) of the CARES Act defines the term "eligible employer" as any employer carrying on a trade or business during calendar year 2020, and, with respect to any calendar quarter, for which (1) the operation of the trade or business carried on during calendar year 2020 is fully or partially suspended due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19, or (2) such calendar quarter is within the period in which the employer had a significant decline in gross receipts, as described in section 2301(c)(2)(B) of the CARES Act.

As is detailed in this code, the priority reason for an ERTC being refunded to an entity is if "the operation of the trade or business carried on during calendar year 2020 is fully or partially suspended due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19." The determinant in this change in law and IRS code is the "or" between sections 1 and 2 of the aforementioned code.

The IRS recently announced that they have issued $230 billion in ERTC refunds. There are currently an estimated 2,000,000 ERTC overpayment refund requests pending. So even if the ERTC amount triples to $750 billion it will still be 30% of the estimated $2.5 trillion in payroll taxes paid in 2020 and 2021.

It also dwarfs the impact to the economy that the Child Tax Credit and the Business Tax Cuts estimated in HR 7024.

Being that an entity's current legal team may be a source of you receiving bad advices, when the ERTC sunsets by law, whether that be on January 31, 2024, or on April 15, 2025 (for 2021), if an entity believes that it was misled concerning their ERTC eligibility, we have a legal team willing to represent you in any action that you would like to explore against the professionals that advised you to NOT explore and ERTC.

If you are a shareholder, investor, donor to, or minority partner in an entity that did not pursue a free and no obligation ERTC we would welcome hearing from you as well. If you are still interested in obtained a free and no obligation ERTC estimate or if you want more information on any of what was discussed in this article, please contact-- Gabe Joseph of Joseph Holdings at info@FreeEats.com

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