

Update on Employee Retention Tax Credit

January 15, 2021

Nothing in this document should be construed as providing tax advice. Please consult with your own professional tax advisor. In addition, this document represents the information that we have up to the date the presentation was made and cannot be relied upon for additional updates beyond that date.



ERC Qualifications

+OLD LAW:

- + Fully or partially shutdown due to Covid 19 Lockdown Government Orders or
- + Any quarter of 2020 – gross receipts were less than 50% of the same quarter for 2019

+NEW LAW:

- + Fully or partially shutdown due to Covid 19 Lockdown Government Orders or
- + First two quarters of 2021 – gross receipts were less than 80% of the same quarter for 2019

EMPLOYEE RETENTION TAX CREDIT

- Under the old law, more than 100 employees, no credit was available for wages paid to an employee performing services for the employer (either teleworking or working at the workplace, even though at reduced capacity due to reduction in business). Less than 100 employees were eligible for the credit even if the employee was working.
- Under the new law, more than 500 employees, no credit was available for wages paid to an employee performing services for the employer (either teleworking or working at the workplace, even though at reduced capacity due to reduction in business). Less than 500 employees is eligible for the credit even if the employee was working.
- Affiliated companies sharing more than 50% common ownership are aggregated



EMPLOYEE RETENTION TAX CREDIT

Changes effective January 1, 2021:

- Under the old law, wages paid from March 12, 2020 and before Jan 1, 2021. Under the new law, it extends to wages paid before July 1, 2021.
- Amount of credit increased from 50% of the qualified wages plus the cost to continue providing health benefits to the employee to 70% of qualified wages which is amended to include the cost to continue providing health benefits.
- Credit cap increased from \$5,000 for all qualified wages paid during 2020 to \$7000 for all qualified wages for the first two quarters of 2021 for a max credit of \$14,000 per employee.

EMPLOYEE RETENTION TAX CREDIT

- Under the old law, you were not eligible if you or your extended affiliated companies (shared common ownership) received a PPP Loan.
- Under the new law, it is no longer prohibited. However, the same wages can not be used for forgiveness of PPP.
- No provision to monetize the credit before qualified wages were paid under the old law.
- Treasury plans to draft guidance to allow an advance payment with less than 500 employees based on 70% of avg quarterly payroll for the same quarter 2019 under the new law.

EMPLOYEE RETENTION TAX CREDIT

- Under the old law, government entities were not available.
- Under the new law, allowing the credit to state or local run colleges, universities, organizations providing medical or hospital care and certain organization chartered by Congress (Fannie MAE, FDIC, Federal Home Loan Banks and Federal Credit Unions.
- The old law did not allow credit for pay rate increases.
- The new law allows the credit for hazardous duty pay increases among other increases such as bonuses.



EMPLOYEE RETENTION TAX CREDIT

- Retroactive changes:
 - Clarification that group health plan expense may be considered even when no other wages are paid.
 - PPP Borrowers may be eligible for the credit to the extent qualifying wages are not paid using forgiven PPP loan proceeds.
 - Gross receipts of the taxable year include total sales net of returns and allowances and all amounts received for services. In addition, gross receipts include any income from investments and from incidental or outside sources (Code Section 448 (c))



ERC Example 2020

- + Employer with less than 100 employees is eligible due to receipts dropped below 50% all quarters
- + Wages paid to employee A & B
- + Q2 – A-7,000 B 12,000; Q3 – A- 5,000 B 12,000; Q4 – A – 5,000 B 12,000
- + Eligible Wages are:
 - + Q2 = 17,000 (A=7,000+B=10,000) – credit is 8,500 – B maxed out
 - + Q3 = 3,000 (A =3,000+B=0) – credit is 1,500 – A maxed out
 - + Q4 = 0 – both employees maxed out in previous quarters



ERC Example 2021

- + Employer with less than 100 employees is eligible due to receipts dropped below 80% all quarters
- + Wages paid to employee A & B
- + Q1 – A-7,000 B 12,000; Q2 – A- 5,000 B 12,000;
- + Eligible Wages are:
 - + Q1 = 17,000 (A=7,000+B=10,000) – credit is 11,900 (17,000*70%)
 - + Q2 = 15,000 (A =5,000+B=10,000) – credit is 10,500 (15,000*70%)



Thank You
for your time!



MCM COVID-19 Resource Center

www.mcmcpa.com/covid-19



HR Update

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Agenda

- + CDC Guidelines
- + EEOC Guidance
- + Additional Considerations
- + Identifying Critical External and Internal Resources
- + Continuing to Build Trust
- + Communications
- + Technology Tools
- + Compliance
- + What Are Companies Doing?



CDC Guidelines



WHO SHOULD GET VACCINATED FIRST

CDC recommends giving COVID-19 vaccine in phases, which may overlap:

1a: Healthcare personnel **and** Long-term care facility residents

1b: Frontline essential workers **and** People age 75 years and older

1c: People aged 65 through 74 years **and** People aged 16 through 64 years with underlying medical conditions **and** Other essential workers



CDC Guidelines



Because the U.S. supply of COVID-19 vaccine is expected to be limited at first, CDC is providing recommendations to federal, state, and local governments about who should be vaccinated first. CDC's recommendations are based on those from the [Advisory Committee on Immunization Practices \(ACIP\)](#), an independent panel of medical and public health experts.

The recommendations were made with these goals in mind:

- Decrease death and serious disease as much as possible.
- Preserve functioning of society.
- Reduce the extra burden COVID-19 is having on people already facing disparities.

While CDC makes recommendations for who should be offered COVID-19 vaccine first, each state has its own plan for deciding who will be vaccinated first and how they can receive vaccines. Please [contact your local health department](#) for more information on COVID-19 vaccination in your area.



EEOC

- + The US Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job candidate or an employee because of a person's:
 - + Race
 - + Color
 - + Religion
 - + Sex (including pregnancy, gender identity and sexual orientation)
 - + National origin
 - + Age (40 or older)
 - + Disability or genetic information



New EEOC Guidance Addressing Employer-Mandated COVID-19 Vaccinations



- + Can an employer automatically terminate an employee if they refuse to get vaccinated?
 - + Not automatically
 - + Employee may have a protected status such as disability or religion
 - + Entitled to an Accommodation (i.e. performing work remotely or modifications to how the workplace is set up)
 - + Employee may be eligible to take leave under local, state or federal law
 - + Leave may also be taken according to the employer's current leave policies



New EEOC Guidance Addressing Employer-Mandated COVID-19 Vaccinations



- + If an employer requires an employee to receive the vaccination from the employer (or a contractor on its behalf), and asks certain medical screening questions prior to administration, are these questions subject to the ADA (Americans with Disabilities Act) standards for disability-related inquiries or GINA (the Genetic Information Nondiscrimination Act)?
 - + Yes. Pre-vaccination medical screening questions are likely to be considered “disability-related” under the ADA.
 - + Employer must show that pre-vaccination screening questions are “job-related and consistent with business necessity.”
 - + To meet this standard, an employer would need to have a reasonable belief, based on objective evidence, that an employee who does not answer the questions and, therefore, does not receive a vaccination, will pose a direct threat to the health and safety of her or himself or others.



New EEOC Guidance Addressing Employer-Mandated COVID-19 Vaccinations



- + Two Circumstances where disability-related screening questions can be asked without needing to satisfy the “job-related and consistent with business necessity” requirement:
 1. If an employer offers a COVID-19 vaccine to employees on a voluntary basis, the ADA requires that the employee’s decision to answer pre-screening, disability-required questions also must be voluntary.
 - + If an employee chooses not to answer these questions, the employer may decline to administer the vaccine but may not retaliate against, intimidate, or threaten the employee for refusing to answer any questions.
 2. If an employee receives an employer-required vaccination from an independent third party such as a pharmacy or other healthcare provider, the “job-related and consistent with business necessity” restrictions on disability-related questions would not apply to pre-vaccination medical screening questions.

- + The ADA requires employers to keep an employee’s medical information obtained in the course of the vaccination program Confidential.



New EEOC Guidance Addressing Employer-Mandated COVID-19 Vaccinations



- + Can an employer request proof of receipt of a COVID-19 vaccination without triggering a disability-related inquiry?
 - + Yes. According to the EEOC, requesting proof of receipt of a COVID-19 vaccination is not likely to elicit information about a disability and, therefore, is not a disability-related question.
 - + However, subsequent employer questions, such as asking why an employee did not receive a vaccination, may elicit information about a disability, and this would be subject to the ADA standard that they be “job-related and consistent with business necessity.”
 - + If an employer requires employees to provide proof that they have received a COVID-19 vaccination from a pharmacy or their own health care provider, the EEOC advises employers to consider warning employees not to provide additional medical information as part of the proof, in order to avoid implicating the ADA.



New EEOC Guidance Addressing Employer-Mandated COVID-19 Vaccinations



- + How does an employer respond to an employee who refuses to get vaccinated on the basis of a sincerely held religious practice, belief or observance?
 - + Once an employer is on notice and an employee's sincerely held religious practice, belief or observance prevents the employee from receiving the vaccination, the employer must provide a reasonable accommodation for the religious belief, practice or observance, unless it would pose more than a de minimis cost or burden on the employer.
 - + Because the definition of religion is broad and protects practices, beliefs or observances with which the employer may be unfamiliar, the employer should assume that an employee's request for religious accommodation is based on a sincerely held religious belief. If, however, an employee requests a religious accommodation, an employer has an objective basis for questioning either the religious nature or the sincerity of a particular practice, belief or observance, the employer would be justified in requesting additional supporting information.



Additional Considerations

- + The employer's vaccination program is subject to any bargaining requirements under union collective bargaining agreements.
- + Employers should ensure that they have a carefully planned process when administering vaccines.
 - + For example, if an employer does not have enough vaccinations for all employees, it will have to determine how to prioritize vaccine distribution.
 - + This could raise additional legal concerns implicating age, disability and genetic information

Note: An employer that mandates vaccines should consider having the required vaccine administered by a pharmacy or health care provider that is not acting as an agent of the employer.



The Role of Work in Times of Distress



- + Structure and Stability
- + The “Work Family”
- + Mutual Support
- + Lending a Hand
- + Supporting Connectivity and Connectedness
- + Checking In with Colleagues



External & Internal Resources

- + Create a Task Force
- + Review your Current Policies & Procedures
- + Reach Out to External Resources
 - + CPA firm
 - + Employment Attorney
 - + Bank
 - + State Resources

- + You Are Not Alone!



Building Trust

- + Being Respectful
- + Allowing Transparency
- + Engaging Commitment

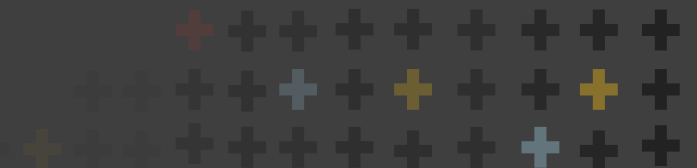
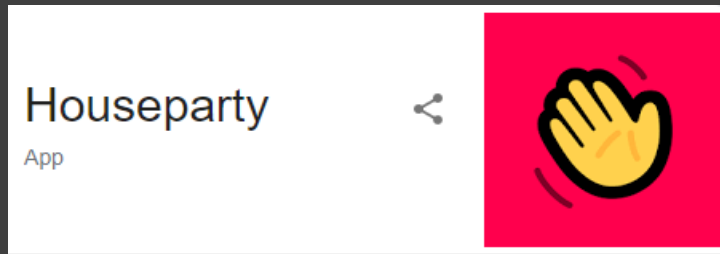
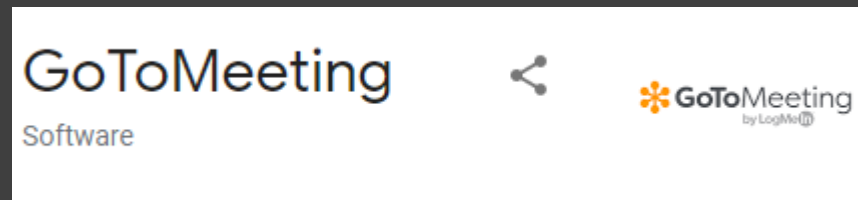
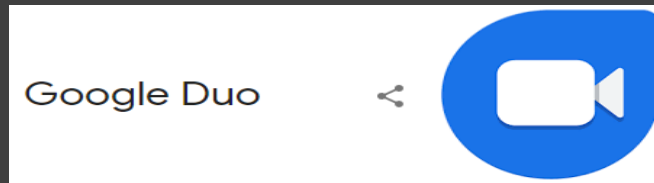


Communication's Critical Role

- Setting Clear Directions
 - Actively Listening
 - Noticing Non-Verbal Communication
 - Providing Timely Feedback
-
- Challenges of a Virtual Setting
 - Barriers & Distractions
 - Connectivity Issues



Staying Connected



Compliance



**U.S. Equal Employment
Opportunity Commission**



**Occupational Safety
and Health Administration**



What Are Companies Doing?

- Flexible Time Off and Leave Policies
- Expanding Remote Work Capabilities or Creating Hybrid Schedules
- Equipment Stipend or Early Incentive Payouts
- Reviewing Current Compensation Philosophy & Processes
- Redesigning or Implementing Incentive Plans
- Providing Opportunities for Virtual Learning & Development
- Creating Creative Employee Engagement Opportunities
- Constant Communication

**Continued Focus on
Flexibility & Innovation**



Questions





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PEOPLE
MATTER



LEADERS
INSPIRE



EXCELLENCE
RULES

IRS Circular 230 Disclosure.

As a result of perceived abuses, the Treasury has recently promulgated Regulations for practice before the IRS. These Circular 230 regulations require all accountants to provide extensive disclosure when providing certain written tax communications to clients. In order to comply with our obligations under these Regulations, we would like to inform you that any advice given in this presentation, including any attachments, cannot be used to avoid penalties which the IRS might impose, because we have not included all of the information required by Circular 230, nor have we performed services that rise to this level of assurance.





Technology in the Post Covid Office – What to expect

Presented by: Jim Kramer



Post Covid Technology

- + Ransomware: Bigger, Meaner, Smarter
 - + Average payout \$1.1 Million – just the ransom
 - + Secondary cost can exceed ransom
 - + Consulting Fees
 - + Recovery Fees
 - + Lost Productivity
 - + Damaged reputation
 - + Lost Client Billing

+ Phishing and Spearphishing

+ CIO or CISO at Executive Level

- + Threats are growing, not going away. Expect more IT exposure at the highest level

+ Security Strategies and Tech Stacks

- + 70% of companies will remain hybrid work force (remote) during 2021



Cybersecurity

Ransomware Increased 715% in 2020

- +Crypto-ransomware (encrypting files)
- +Ensnarers PC users and expands to any network –connected device
- +New target in smart phones, Mac and Linux systems
 - + Most recent attack was an iPhone

Phishing Increased 400% in 2020

- +More workers outside the protection of the network
 - + Workers must be aware of their surrounding and communications



Who will pay the most for your data?

YOU!

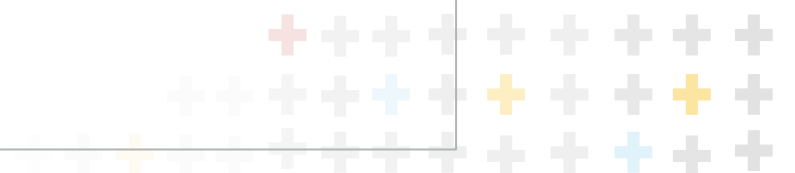
- + Primary Reasons a “Bad Actor” will steal you data
 - + To Damage or Destroy the owner
 - + Sell
 - + Ransom
 - + Blackmail



Password Security

If your password looks anything like the ones below, change it!

- | | | | |
|-----|-----------|-----|------------|
| 1. | 123456 | 11. | abc123 |
| 2. | 123456789 | 12. | Qwerty123 |
| 3. | Qwerty | 13. | 1q2w3e4r |
| 4. | password | 14. | Admin |
| 5. | 1234567 | 15. | qwertyuiop |
| 6. | 12345678 | 16. | 654321 |
| 7. | 12345 | 17. | 555555 |
| 8. | Iloveyou | 18. | dragon |
| 9. | 111111 | 19. | princess |
| 10. | 123123 | 20. | welcome |



Password Security

I shall use strong passwords!

I Shall use strong pAsswords!

I Sh@ll uS3 \$tr0ng pAsswords!

I Sh@ll uS3 \$tr0ng pA55w0rds!

i 5h@L1 uS3 \$Tr0ng-pa55w0r2!

1 5h@L1 uS3_\$Tr0Ng-pA55s0rZ1



Password Security

Tips For Home

- + WiFi Router Password
- + WiFi Security
 - + WEP
 - + WPA
- + Change your PWs for home often!
- + Different accounts for family members/guests
 - + Netflix
 - + Disney+
 - + Home Security System

Tips for Work

- + Simple rule: If you ever find yourself speaking your PW...STOP!
- + Complex helps but length is better
- + Use Pass Phrase – not Password
- + Come up with your own unique algorithm
- + Don't reuse key passwords
- + Under no circumstances do you give it away!

Password Security

Tips for Work

- + If you think you've made a mistake, change your password!
- + In general, it's best not write passwords down anywhere.
- + Passphrases are better than passwords
- + Don't use the same passwords across multiple platforms
 - + *****MOST ESPECIALLY – Don't use password on personal sites/services that you use for work*****
- + Breathe easy, Passwords won't be around forever!
 - + Biometrics on the rise
- + USE MFA whenever possible



Risk Minimization

- + Security Posture
 - + Layered Protection
 - + Documented Security Policy and Manual
 - + SOC Compliance or other verification
- + Management Support
 - + Solutions come from the top down
 - + Leadership awareness and promotion
- + Equipment Documentation
 - + Compliant HW and SW
 - + Training
 - + Outside Verification



Methods to Minimize the Risk

- + Develop a security policy and manual
 - + Make this available to all employees
 - + Update on a routine basis as threats are continually evolving
- + Prioritize and address any gaps or observations resulting from vulnerability and penetration testing (must perform them first)
- + Where possible, use technology to take decision making away from the employee
- + Train your staff! Make them your #1 security source
- + Implement Multi-Factor Authentication

Ask
Answer
Who
Why
Where
What
When
Apply
Understand
Query
Question
Answers
Questions



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