



## Congress Turns Back Clock — Ending Beneficial Employee Retention Credit Retroactively

By Mary Lundstedt, Esq.

Although America is still waiting to learn the ultimate fate of the massive reconciliation bill, which contains the bulk of President Biden’s agenda, the Infrastructure Investment and Jobs Act (H.R. 3684) was passed over the weekend on November 6, 2021. While the White House proclaims this “a once-in-a-generation investment in our nation’s infrastructure and competitiveness,”<sup>1</sup> many employers may be less than thrilled to discover that a crucial tax credit—the pandemic-relief measure known as the Employee Retention Credit (ERC)—was eliminated with the passage of H.R. 3684.

Introduced in the CARES Act, the ERC was neither a loan nor a grant; rather, it was a tax credit incentivizing employee retention during the pandemic by providing direct payments to eligible employers based on the payments made to their retained employees. As we recently reported, eligible employees could expect up to \$33,000 per employee when accounting for the maximum allowable amounts during 2020 and 2021.<sup>2</sup> And while the ERC was designed as a temporary relief measure from its inception (originally set to expire at the end of this year), H.R. 3684 terminated the ERC three months early.

As it stands, unless Congress acts conscientiously in the reconciliation package to keep the initial deadline it previously promised employers—**wages paid after September 30, 2021, will be ineligible for the credit.**

We know many of you are facing significant difficulties planning for this untimely termination as it stands now. For many, the ERC has been a lifeline—perhaps, the only thing that made employee retention possible as you face overwhelming pandemic losses. Our attorneys have followed the ERC closely from its beginning, and we will continue to do so. If you have concerns about ERC, contact our team today at (410) 497-5947 or schedule a confidential consultation with our contact form.

[1] You can find the official White House Fact Sheet regarding H.R. 3684 at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/06/fact-sheet-the-bipartisan-infrastructure-deal/>.

[2] BT please link our latest—I think it’s this: <https://askfrost.com/news/irs-issues-new-employee-retention-credit-guidance-even-while-senate-plans-its-untimely-end>

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