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2023 Walk to End Alzheimer's

Calder Plaza, Grand Rapids, Oct. 14th

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**Did I Work My Entire Lifetime Just To Give All My Savings & Property To A Nursing Home?**

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**Why Do I Allow Myself To Be Treated Like A Sucker At My Family's Expense?**

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**Holland**

**Thursday, September 28**  
4pm

**(616) 796-9600**  
12330 James Suite B10  
Holland, MI

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# The Michigan Elder Law Reporter™

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IT'S ALL FUN AND GAMES

## IRS FINALLY PROTECTING LEGITIMATE SMALL BUSINESSES GOING AFTER THE TAX CHEATS

UNTIL THE COPS SHOW UP

(BAD NEWS FOR THE BAD GUYS MEANS GOOD NEWS FOR THE GOOD GUYS)

### HOW WE GOT HERE

I am personally and professionally involved with the Employee Retention Credit. I have claimed the ERC for my own practice. I continue to work with small business owners from coast-to-coast through Carrier Robins, LLC and its teams of attorneys to provide tax preparation services. Over 7300 businesses receiving over \$1.5 billion. I have repeatedly stated, at length, here and elsewhere, my support for the ERC and the small businesses who have earned this tax benefit. Let there be no mistake, every small business that kept faith with its employees during the pandemic and who meets the stringent qualifications set forth by Congress and enforced by the IRS should seek out and receive this tax refund, I believe.

Small businesses run by middle class entrepreneurs are the backbone of our economy. Small businesses are being assaulted as never before. COVID restrictions wiped out thousands upon thousands of mom-and-pop shops, restaurants, factories, and other enterprises. Now runaway inflation, recession, skyrocketing interest rates, and the difficulty of finding reliable employees are giving small businesses another gut punch.

During COVID, to lessen the load (on itself), Congress changed the employment tax laws. Consequence: Small businesses, from medical practices to restaurants, construction companies to high tech computer companies, were entitled to employment tax credits in 2020 and 2021. Businesses kept paying taxes and payroll. Congress said they should get some back. Most never asked for it. Should the government keep the money that Congress said small businesses should receive?

### WHY DIDN'T YOU GET YOUR CREDIT?

You paid because you were told to pay - by your payroll service, accountant, CPA, bookkeeper, MBA. Millions of small businesses paid billions in taxes and payroll. They should have gotten a bit of that back. Is it wrong to pay what you owe and not a penny more, not a penny less?

Since when does anybody pay more than they must? If you are entitled to a refund, shouldn't you get your refund?

### WHAT IS THE EMPLOYEE RETENTION TAX CREDIT, REALLY?

Congress offered small businesses a COVID deal: Keep your people employed. Keep paying them. Keep paying their benefits. Even if they don't work. Even if governmental COVID orders fully or partially shut down your business. Even if your revenue collapses.

Congress said if you do these things, we will help you through the employment tax system. You'll get a "credit" for employment taxes. In fact, we'll give you additional money back.

And, if you didn't know about the new law, that's OK. You can still get a tax refund based on the qualified wages you paid to your employees. Congress said, "Do what we ask under these particular circumstances, and we will give you a refundable tax credit to help you keep paying your employees."

### WHY DID CONGRESS GIVE THE EMPLOYEE RETENTION TAX CREDIT?

Simple. Congress did not want to pay unemployment benefits to your employees. Congress did not want you to lay off or fire your employees. Because you did what Congress asked you to do. You get a tax benefit, the employee retention tax credit, ERC. It is payment by the government to you for doing the job and paying the costs Congress did not want to do or pay.

### CONGRESS TURNED SMALL BUSINESSES INTO AMERICA'S UNEMPLOYMENT AGENCY

Hundreds of thousands of small businesses went bust during the COVID. Millions of Americans were thrown out of work. Millions of Americans applied for government unemployment benefits. They broke the system. How much worse could it have been if you laid off your people too? Could you have restarted from scratch? Would you even want to? ERC is how Congress paid you to be the national unemployment agency.

Does Congress ever give anything away for free? Does Congress ever make anything easy? You didn't get the credit you earned because your tax advisors did not notice the change and so you missed out. The pandemic is officially yesterday's news and you already did your part. Now everybody wishes you'd just forget about the whole thing and let Congress keep your tax credit. Isn't that par for the course?

All small business owners know that their biggest tax nightmare is Employment Taxes. Failure to pay unemployment taxes, FICA, FUTA, and the rest leads to criminal prosecution. But now the shoe is on the other foot. Follow the rules and you are entitled to a tax credit. Period. If you do not ask for your money back, they will keep it. You must claim your refund, by their rules, or your opportunity will be lost forever. The time to get your money back, your tax refund under the COVID tax rules, is quickly running out.

What could the refund of a few thousand up to a few million dollars mean to your personal or business life? Does

the government know better than you how to spend your money?

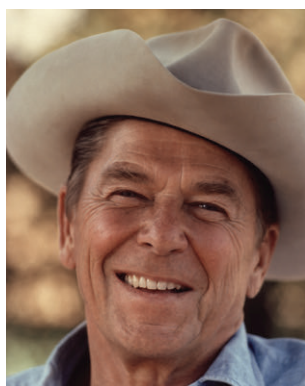
### TOO GOOD TO BE TRUE?

FLIM-FLAMMERS, SNAKE OIL SALESMEN, SCAMMERS

Unfortunately, the ERC program and the small businesses it was intended to serve have been victimized by unscrupulous opportunists. COVID relief programs, the ERC included, were targeted by assorted fraudsters and charlatans. Efforts to keep middle class Americans from going broke during the pandemic were ripped off to the tune of trillions (yes, trillions with a "tr") of your tax dollars. The ERC program is no different. And the IRS has noticed. Thank goodness.

Real small business owners are extremely suspicious of governmental "assistance." They believe firmly what Ronald Reagan said way back in 1986:

*"The nine most terrifying words in the English language are: I'm from the Government, and I'm here to help."*



Many would rather go out of business than accept government "help". It is hard to know how many small businesses have already gone bust thanks to COVID. Estimates are in the hundreds of thousands. How many could have been saved by an ERC refund? We will never know. How many small businesses that survived are now staggering? How many will fail? How many could have been saved by a refund of just a small portion of the payroll and benefit money they paid out during COVID? No one knows.

Many small businesses, despite the overwhelming challenges they face today, are reluctant to seek their ERC refunds. Many are put off by the carnival atmosphere of TV personalities and telephone hucksters offering Free Money! Money! Money! Who can blame them?

### PARTY'S OVER,

THANK GOODNESS THE COPS HAVE ARRIVED

Fraudsters will never stop. Legitimate businesses will always have to fight. But there is good news. The IRS is taking firm action against those who do not follow the rules.

On September 14, 2023, the IRS issued IR-2023-169. This was a great favor to taxpayers legitimately claiming the ERC. The IRS said:

Amid rising concerns about a flood of improper Employee Retention Credit claims, the Internal Revenue Service today announced an immediate moratorium through at least the end of the year on processing new claims for the pandemic-era relief program to protect honest small business owners from scams.

The IRS emphasizes that payouts for [claims filed before the moratorium] will continue during the moratorium period but at a slower pace due to the detailed compliance reviews. With the stricter compliance reviews in place during this period, existing ERC claims will go from a standard processing goal of 90 days to 180 days – and much longer if the claim faces further review or audit. The IRS may also seek additional documentation from the taxpayer to ensure it is a legitimate claim.

When properly claimed, the ERC – also referred to as the Employee Retention Tax Credit or ERTC -- is a refundable tax credit designed for businesses that continued paying employees during the COVID-19 pandemic while their business operations were fully or partially suspended due to a government order or they had a significant decline in gross receipts during the eligibility periods.

The ERC is a complex claim with precise requirements to help businesses during the pandemic, and the IRS has received approximately 3.6 million of these claims over the course of the program.

IR-2023-169 further states that "more than 600,000 claims [are] awaiting processing".

As the IRS says, "The ERC is a complex claim with precise requirements..." And when these precise requirements are met, small businesses can get the funds they need to survive. Carrier Robins has carefully analyzed, thoroughly documented, and assisted more than 7000 eligible businesses in preparing and filing their "complex claims" to get their full refund. Not a penny more, not a penny less.

Carrier Robins appreciates the IRS efforts to weed out the bad actors that have disadvantaged legitimate claimants and cast an undeserved shadow over the entire ERC program. Our personal relationships with thousands of small business owners who weathered the pandemic and did not abandon

their employees are a daily inspiration to every member of the Carrier Robins team.

Since IR-2023-169 does not prohibit legitimate claimants from filing legitimate claims during the moratorium period, Carrier Robins intends to conduct business as usual during this period.

As a practical matter, the moratorium on processing newly filed claims is a good thing for all taxpayers who file legitimate claims now. Especially with the holidays approaching, the IRS needs this opportunity to catch up with the more than 600,000 unprocessed claims which constitute 20% of the 3.6 million claims filed.

On April 15, 2024, eligibility arising from 2020 operations expires. Do you think there'll be a rush to file as soon as the moratorium is lifted? Why not get to the head of the line by filing during the moratorium? First come, first served beginning January 1, 2024?

The moratorium greatly benefits legitimate taxpayers in two ways. First, it should free up IRS resources to police bad actors. Second, we should get additional authoritative guidance for preparing these "complex claims" to meet the IRS' "precise requirements."

### WARNING SIGNS OF AGGRESSIVE ERC MARKETING!

Back on July 26, 2023, the IRS issued IRS News Release, IR-2023-135. The IRS didn't like certain practices and said so. Here's what the IRS said, and our response.

"There are important tips that people should be wary of involving the Employee Retention Credit. Warning signs to watch out for include:

- **Warning Sign:** Unsolicited calls or advertisements mentioning an "easy application process."

**Response:** Various sources refer taxpayer clients to us. Many come from long-term relationships. Many more come from public marketing efforts. We do not make "unsolicited calls". We do work hard to make the process as easy and simple for the taxpayer as possible. It is not "easy". We agree, the ERC "is a complex credit that requires careful review before applying." But our highly trained staff, professional tax preparers, and automated systems are engineered to make the process as straightforward as possible for our clients.

- **Warning Sign:** Statements that the promoter or company can determine ERC eligibility within minutes.

**Response:** Some screening can be done quite promptly. It is possible, in some cases, to determine that a business is NOT eligible for the ERC in minutes:

- ✓ Businesses that did not exist in 2020 or 2021.
- ✓ Businesses with no W-2 employees.
- ✓ Businesses owned by and employing only close family members.
- ✓ Other disqualifying factors can also be detected quickly.

On the other hand, no one can determine eligibility for or the amount of credit "within minutes." Determinations require extensive documentation and examination of underlying financial, payroll, and tax records. Carrier Robins has always conducted live interviews with qualified representatives of the taxpayer business to investigate those aspects of ERC eligibility not revealed by the numbers alone.

- **Warning Sign:** Large upfront fees to claim the credit.

**Response:** We refuse to accept referrals from any source requiring any upfront fee, large or small, from any taxpayer business.

- **Warning Sign:** Fees based on a percentage of the refund amount of Employee Retention Credit claimed. This is a similar warning sign for average taxpayers, who should always avoid a tax preparer basing their fee on the size of the refund.

**Response:** We do accept referrals that base the fee on the size of the refund. Many different fee structures were considered. We spoke with many potential claimants. Overwhelmingly they wished our interests to be aligned with theirs. They wanted us to have skin in the game. We agreed.

- **Warning Sign:** Preparers refusing to sign the ERC return being filed by the business, exposing just the taxpayer claiming the credit to risk.

**Response:** All of our professional tax preparers are licensed attorneys. All 941X tax returns as signed as professional tax preparers. We always stand behind our professional tax preparation work.

- **Warning Sign:** Aggressive claims from the promoter that the business receiving the solicitation qualifies before any discussion of the group's tax situation. In reality, the Employee Retention Credit is a complex credit that requires careful review before applying.

**Response:** We employ a rigorous, multi-layered approach to ERC tax refund claims. Thorough review of all client-supplied documents by accounting personnel supervised by Certified Public Accountants. Cross-referenced fact-checking. Additional spot-checking of data. Computerized analysis to confirm positive trends and detect any untoward patterns.

Our unique, exclusive, centralized database of governmental orders from all levels of government authority supports each

claim. Thousands of hours were spent by dozens of attorneys and paralegals to research, track down, characterize, and catalog federal, state, and local orders related to the COVID pandemic.

Following comprehensive analysis of financial statements, balance sheets, tax returns, profit-and-loss statements, employee lists, and payroll records, among others, our tax preparation professionals work with taxpayer company officials to accurately document the truth about the taxpayer business operations and performance, quarter by quarter, in 2019-2021.

Our tax professionals personally review all relevant information provided by the taxpayer. We interview appropriate taxpayer officials to develop an "Affirmation of Facts" document covering each quarter for which the ERC refund is claimed. The tax preparer then reviews this document with the taxpayer agent or official and obtains their signature.

As noted above, we limit our tax preparation professionals to licensed attorneys. Although the work they provide is limited to tax preparation, we believe that the intricacies of the ERC and the care required to successfully prepare an ERC case demand the highest level of skill and conscientious appreciation of the law. Others may rely on off-shore tax preparers or individuals with brief, limited training, we are confident that this, admittedly extreme, approach produces the best, most reliable results.

- **Warning Sign:** The IRS also sees wildly aggressive suggestions from marketers urging businesses to submit the claim because there is nothing to lose. In reality, those improperly receiving the credit could have to repay the credit – along with substantial interest and penalties.

**Response:** We deplore "wildly aggressive" marketing that urges honest taxpayers to attempt "gaming the system".

Carrier Robins forcefully discloses the consequences of misrepresenting information to obtain undeserved ERC refunds.

Our tax preparation professionals, while not practicing law in the ERC context, have many years of experience ferreting out fact from fiction.

- **Warning Sign:** Unscrupulous promoters may lie about eligibility requirements, including refusing to provide detailed documents supporting their computations of the ERC. In addition, those using these companies could be at risk of someone using the credit as a ploy to steal the taxpayer's identity or take a cut of the taxpayer's improperly claimed credit.

**Response:** Eligibility requirements are fully disclosed and discussed with taxpayers in writing, verbally, and through educational videos.

We routinely provide "detailed documents supporting their computations of the ERC" and take the extra step of requiring taxpayer agents to certify the accuracy of the documents and statement on which those computations are based.

Our offices are physically located in the United States and street addresses are provided with all materials.

We seek long-term relationships with our ERC refund clients, through comprehensive, reliable, accurate tax preparation services.

We also make clear the need, on the part of many successful ERC refund claimants, to analyze the possibility of amended tax returns for 2020 and 2021.

American small businesses are the backbone of the American economy. We have seen that ERC refunds, properly justified, applied for, and received, have been a godsend to the deserving small businesses that have received these well-earned refunds.

Is it a bad idea to determine the size of the refund you are leaving on the table? How much of your money is still in the IRS vault right now? Simply call. "Rough and ready" estimates can be determined promptly.

And then, when we have analyzed your payroll records, your profit and loss statements, Payroll Protection Plan, and other records, and most importantly interviewed you to determine your unique facts, we will reach the precise tax refund you are owed. Not a penny more, not a penny less.

Look in your e-mail inbox. You've probably got at least half a dozen emails promising \$26,000 per employee. Hogwash! \$26,000 per employee is the absolute maximum you might recover. And you may have overpaid that maximum amount. But experience born of 7300 cases and over \$1.5 billion in thoroughly documented, elegantly substantiated, totally deserved refunds suggest that that maximum number is unlikely.

Are you happy to lose your potential refund? And if we conclude that there is no refund due (as we have many times), won't you sleep better at night without wondering what might have been? Can it be fair for the government to keep your refund money?

**IT'S EASY TO GET STARTED, CALL TODAY**

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Easy!

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