STRATEGIC TAX PLANNING

EMPLOYEE RETENTION CREDIT (ERC)

CANNABIS INDUSTRY

IF YOU OPERATE A BUSINESS IN THE CANNABIS INDUSTRY, WERE IMPACTED BY COVID RESTRICTIONS, AND HAVE W2 EMPLOYEES--YOU ARE LIKELY ELIGIBLE TO RECEIVE ERC.

Business owners in the Cannabis Industry that were affected by Covid restrictions in 2020 and 2021 were not eligible for the Payment Protection Program (PPP) funded by the SBA despite significant pandemic-induced financial impacts. Eligibility was based on the fact that cannabis cultivation and sales were and are still not considered legal under federal law. Even states that could legally sell cannabis products were unable to factually contest on the SBA PPP application that their operations did not violate federal law. And while many Cannabis companies remained open during the pandemic as they were considered essential, government mandates of certain aspects of this vertically integrated business operation imparted real financial stress. This may have included but was not limited to capacity limitations on the number of patrons allowed in the store, as well as orders imposed that prohibited sniff jars, “deli-style” sales, and permitted curbside transactions and delivery sales only.

Fortunately, the Cannabis Industry can still potentially benefit from the Employee Retention Credit (ERC), an additional source of Covid relief passed by the CAREs Act at the same time as the PPP. Unlike the PPP, eligibility for the ERC is based upon payroll taxes and not income taxes rendering Cannabis owners as possible ERC recipients if they had full-time (>30 hours/week) W2 employees during the pandemic. The two qualifying tests, independent from each other are as follows: 1) your business(es) experienced decreased revenue during quarters 1-4 and 1-3 in 2020 and 2021, respectively, compared to 2019, OR; 2) your business(es) suffered from government mandates including, but not limited to, full/partial closures, hourly and/or capacity restrictions, and certain modifications or operation suspensions imposed anywhere along the production pipeline from “start to finish”.

Strategic Tax Planning will diligently and thoroughly research both revenue- and mandate-based qualifications for all 7 quarters from 2020-2021 in which the Covid pandemic may have impacted your Cannabis business. We are here to help you receive the best ERC for wages you have already paid to your employees you were able to retain during the pandemic.

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