

CRAINE, THOMPSON & JONES, P.C.

CERTIFIED PUBLIC ACCOUNTANTS

225 WEST FIRST NORTH STREET
SUITE 300, MILLENNIUM SQUARE
P.O. Box 1779
MORRISTOWN, TENNESSEE 37816-1779
PHONE: (423) 586-7650

248 BRUCE STREET
SUITE 8
SEVIERVILLE, TENNESSEE 37862
PHONE: (865) 366-1450
FAX: (423) 586-0705

July 24, 2023

Senator Steve Southerland
Nashville, Tennessee

Re: State Taxation of Federal Employee Retention Tax Credit (ERC)

Senator,

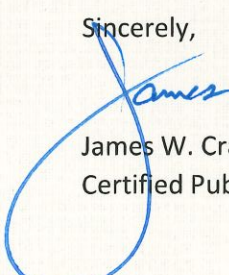
Good afternoon. I am seeking your guidance and efforts related to the Employee Retention Credits (originating from Federal relief programs due to COVID, IRC Sec. 3134) being received by Tennessee Businesses. As you are most likely aware, these credits (aka ERC) are currently being obtained by businesses who were affected by COVID and yet remained open and continued to pay their employees during 2020 and 2021 and keeping them off Tennessee's unemployment rolls. These payments range from several thousand dollars to millions of dollars. At issue is the Tennessee Department of Revenue's desire to tax these Federal benefits via the Tennessee Excise Tax of 6.5%.

Financial advisors/CPAs like me understood this Federal Aid being subject to Federal taxation by the IRS as this was detailed as part of the ERC guidelines, but we did not anticipate this Federal Aid being subject to Tennessee taxation since many states are unequivocally not taxing this Aid (e.g., Arkansas, California, Georgia, Illinois, Louisiana, Maryland, New York, South Carolina, Texas...). Tennessee's taxation stance was just made known with the June 2023 release of the Tennessee Franchise and Excise Tax Manual. Thus, many clients have already spent this Aid within their businesses buying new equipment, making repairs, and paying higher wages (all good for our Tennessee economy). So, now to be made to pay an additional 6.5% in state taxes will create a cash flow burden.

I think it is important to note that it is my understanding any potential revenues from the Excise Tax on this Federal Aid were not anticipated/included in the state's budgeting process.

Senator, I am asking you to introduce legislation to make these economic relief payments non-taxable for Tennessee Excise Tax thereby continuing to make Tennessee the pro-business state that it is known for.

Sincerely,


James W. Craine
Certified Public Accountant