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KEEPING UP
WITH THE
TAX
CODE

2024 Federal Tax Update for CFOs & Controllers

By David Peters, CPA, MST, CLU, CPCU

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*Keeping Up with the
Tax Code Series*

About your instructor



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Learning Objectives

- State who is subject to the beneficial ownership disclosure rules
- Identify changes to the taxation of software development costs
- Recognize which green energy credits are available to owners of commercial vehicles
- Identify changes to retirement plans that may allow for better employee retention and recruitment

I. Beneficial Ownership

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Requirement to Report Beneficial Owners



- As a part of the Corporate Transparency Act (CTA), a new rule will go into effect on January 1, 2024 requiring certain entities (“reporting company”) to report beneficial ownership to the US Department of the Treasury electronically through FinCen’s website.
- The point of the new law is to provide transparency on the individuals who ultimately own particular entities in an effort to combat criminal activities, including money laundering, that utilize US companies.

Reporting Company

- A reporting company created or registered to do business before January 1, 2024, will have until January 1, 2025 to file its initial beneficial ownership information report.
- A reporting company created or registered on or after January 1, 2024, will have 30 days to file its initial beneficial ownership information report.
- This 30-day deadline runs from the time the company receives actual notice that its creation or registration is effective, or after a secretary of state or similar office first provides public notice of its creation or registration, whichever is earlier.

Extended Deadline for NEW companies



- On 11/30/2023, FINCEN issued a final rule that extended the reporting deadline for new companies for 2024 only.
- Reporting companies created or registered in 2024 will have 90 calendar days from the date of receiving actual or public notice of their creation or registration becoming effective to file their initial reports. FinCEN will not accept BOI reports from reporting companies until January 1, 2024—no reports should be submitted to FinCEN before that date.
- Reporting companies created or registered before January 1, 2024, will continue to have until January 1, 2025, to file their initial BOI reports with FinCEN, and reporting companies created or registered on or after January 1, 2025, will continue to have 30 calendar days to file their initial BOI reports with FinCEN.

Two Types of Reporting Companies

- 1) “Domestic Reporting Companies” which include:
 - Corporations
 - Limited Liability Companies
 - Any other entity created by the filing of a document with a secretary of state or any similar office under the law of a state or Indian tribe.
 -
- 2) “Foreign Reporting Companies” which include:
 - Corporation, limited liability company, or other entity formed under the law of a foreign country, which are “registered to do business in any U.S. state or in any Tribal jurisdiction, by the filing of a document with a secretary of state or any similar office under the law of a U.S. state or Indian tribe.”
 - A Foreign Reporting Company does not include one that is not registered in the United States. For example, a Canadian company that is registered with the MN Secretary of State **would need** to file. A Canadian company that is only registered in Canada would not need to file.

It should be noted that only foreign companies which are registered to do business in the US are subject to the reporting requirement.

Beneficial Owners

- Reporting companies will be required to disclose “beneficial owners” which are any individual:
 - (1) who directly or indirectly exercises “substantial control” over the reporting company, or
 - (2) who directly or indirectly owns or controls 25 percent or more of the ownership interests of the reporting company. The term “ownership interests” appears to be all-encompassing, including stock ownership, ownership through more complex arrangements, and indirect ownership.
- “Substantial control” is based on the power that an individual has over the reporting entity. However, the FinCen website says that a senior officer of an entity will always be deemed to have substantial control. Also, anyone who directs, determines, or exercises substantial influence over, important decisions of the reporting entity is deemed to have substantial control.

For Each Beneficial Owner...

The following is reported:

- The individual's name, date of birth, and residential street address (not a business address);
- A unique identifying number from an acceptable identification document (like an unexpired driver's license or passport) along with an image of the document; and
- The name of the state or jurisdiction that issued the identification document.

Company Applicants



- In addition to providing information about beneficial owners, reporting companies that are created or registered on or after January 1, 2024 must also report the same information for “company applicants”, which include individuals who directly file the document that creates, or first registers, the reporting company; as well as individuals that are primarily responsible for directing or controlling the filing of the relevant document.
- If a company engages a business to file the formation papers (like a law firm), then a business address may be used (rather than the residential address of the paralegal or attorney).

Reported Company Information



- Legal name
- Any trade names, “doing business as” (d/b/a), or “trading as” (t/a) names
- Current street address of its principal place of business if that address is in the United States (for example, a domestic reporting company’s headquarters), or, for reporting companies whose principal place of business is outside the United States, the current address from which the company conducts business in the United States (for example, a foreign reporting company’s U.S. headquarters)
- Its jurisdiction of formation or registration
- Its Taxpayer Identification Number
- Type of filing it is making (initial report, correction to a prior report, or an update)

23 Exempt Entities

- 1) Any issuer of securities that is: (A) an issuer of a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l); or (B) required to file supplementary and periodic information under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)). 31 CFR 1010.380(c)(2)(i)
- 2) A U.S. governmental authority
- 3) Any bank, as defined in: (A) section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); (B) section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)); or (C) section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)). 31 CFR 1010.380(c)(2)(iii).
- 4) Federal or state credit unions as defined in section 101 of the Federal Credit Union Act.
- 5) Bank holding company as defined in section 2 of the Bank Holding Company Act of 1956, or any savings and loan holding company as defined in section 10(a) of the Home Owners' Loan Act.
- 6) Any money transmitting business registered with FinCEN under 31 U.S.C. 5330, and any money services business registered with FinCEN under 31 CFR 1022.380. 31 CFR 1010.380(c)(2)(vi)

23 Exempt Entities

- 7) Any broker or dealer, as defined in section 3 of the Securities Exchange Act of 1934, that is registered under section 15 of that Act (15 U.S.C. 78).
- 8) Securities exchanges or clearing agencies as defined in section 3 of the Securities Exchange Act of 1934, and that is registered under sections 6 or 17A of that Act.
- 9) Certain other types of entities registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.
- 10) Certain types of investment companies as defined in section 3 of the Investment Company Act of 1940, or investment advisers as defined in section 202 of the Investment Advisers Act of 1940.
- 11) Certain types of venture capital fund advisers.
- 12) Insurance companies defined in section 2 of the Investment Company Act of 1940.

23 Exempt Entities

- 13) State-licensed insurance producers with an operating presence at a physical office within the United States, and authorized by a State, and subject to supervision by a state's insurance commissioner or a similar official or agency.
- 14) Commodity Exchange Act registered entities.
- 15) Any public accounting firm registered in accordance with section 102 of the Sarbanes-Oxley Act of 2002**
- 16) Certain types of regulated public utilities.
- 17) Any financial market utility designated by the Financial Stability Oversight Council under section 804 of the Payment, Clearing, and Settlement Supervision Act of 2010.
- 18) Certain pooled investment vehicles.

23 Exempt Entities

- 19) Certain types of tax-exempt entities.
- 20) Entities assisting a tax-exempt entity described in 19 above.
- 21) Large operating companies with at least 20 full-time employees, more than \$5,000,000 in gross receipts or sales, and an operating presence at a physical office within the United States.
- 22) The subsidiaries of certain exempt entities.
- 23) Certain types of inactive entities that were in existence on or before January 1, 2020, the date the Corporate Transparency Act was enacted.

Recent court cases

- ***National Small Business United v. Yellen, No. 5:22-cv-1448-LCB (N.D. Ala. 3/1/24)***
 - Federal judge ruled that BOI reporting is unconstitutional.
 - DOJ has appealed.
 - FinCEN issued a notice announcing that it will not enforce the BOI requirements against the plaintiffs — the National Small Business Association (NSBA) and its 65,000 members and an Alabama businessman.
- AICPA and others have encouraged continued compliance with the rules until further clarification and/or repeal.

II. Business Updates

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Disaster Relief

- Affected businesses and individuals have until Feb. 3, 2025, to file returns and make tax payments.
- Taxpayers affected by the disaster include individuals who live, and businesses (including tax-exempt organizations) whose principal place of business is located, in the covered disaster area (Treas. Reg. §301.7508A-1(d)(1)) as well as taxpayers not in the covered disaster area but whose records necessary to meet a deadline are located in the covered disaster area (Treas. Reg. § 301.7508A-1(c)).
- All relief workers affiliated with recognized government or philanthropic organizations assisting in the relief area as well as any individual visiting the disaster area who was injured or killed are entitled to the disaster relief.

Disaster Relief

- Tax returns and tax payments due on or after the FEMA disaster declaration start date and before Feb. 3, 2025 (the period), are eligible for the Feb. 3, 2025, deadline.
- The deadline applies to:
 - a. Individuals who had an extension to Oct. 15, 2024, to file their 2023 return. As tax payments for 2023 were due on April 15, 2024, no relief is available for those payments.
 - b. Businesses (including tax-exempt organizations) with an original or extended due date during the period, including 2023 calendar-year partnerships and S corporations with extensions to Sept. 16, 2024, to file, and calendar-year corporations with extensions to Oct. 15, 2024, to file.
 - c. Payments normally due during the period, including quarterly estimated payments due Sept. 16, 2024, and Jan. 15, 2025. This does not apply to payroll or excise tax deposits. Penalties for underpayment of estimated taxes will not apply. d. Quarterly payroll and excise tax returns normally due Oct. 31, 2024, and Jan. 31, 2025, as well as Form 5500 series returns due during the period. .

North Carolina (NC-2024-07)



- Start date of disaster declaration: Aug. 5, 2024.
- FEMA disaster declaration number: 3608-EM. Covered areas: Individuals and households that reside or have a business in Alamance, Alleghany, Anson, Beaufort, Bertie, Bladen, Brunswick, Cabarrus, Camden, Carteret, Caswell, Chatham, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Davie, Davidson, Duplin, **Durham**, Edgecombe, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Hyde, Iredell, Johnston, Jones, Lee, Lenoir, Martin, **Mecklenburg**, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Surry, Tyrrell, Union, Vance, Wake, Warren, Washington, Wayne, Wilkes, Wilson and Yadkin counties qualify for tax relief.
- In addition, penalties on payroll and excise tax deposits due on or after Aug. 5, 2024, and before Aug. 19, 2024, will be abated provided the tax deposits are made by Aug. 19, 2024.

South Carolina (SC-2024-07, Aug. 9, 2024).



- Start date of disaster declaration: Aug. 4, 2024. FEMA disaster declaration number: 3606-EM.
- Covered areas: Individuals and households that reside or have business in **all 46 counties** qualify for tax relief. In addition, penalties on payroll and excise tax deposits due on or after Aug. 4, 2024, and before Aug. 19, 2024, will be abated provided the tax deposits are made by Aug. 19, 2024.

Reminders

- Bonus depreciation is only 60% for 2024
- Businesses can generally take advantage of two different clean vehicle credits.
- ERC withdrawal program available.
- Sec 174 expenses is 5 or 15 years of amortization now.

ERC Overview

- **Under the CARES Act:**

- Up to 50% of eligible wages paid plus health plan expenses up to \$10,000 per employee
- Eligible period March 13, 2020, to December 31, 2020
- \$5,000 maximum credit

- **After the Consolidated Appropriations Act (CAA), American Rescue Plan (ARPA), and the Infrastructure Bill:**

- Up to 70% of eligible wages paid plus health plan expenses up to \$10,000 per employee **per quarter**
- Eligible period January 1, 2021, to September 30, 2021 (unless a Recovery Start-Up Business)
- \$7,000 maximum credit per quarter

New ERC Claims



- There is an IRS moratorium on new ERC claims starting September 14, 2023. On June 20, 2024, the IRS announced that additional processing would begin again on low-risk claims (high risk claims continuing to be denied).
- Practitioners may help clients still submit new claims
- There have been two ERC withdrawal programs available. A second round of the VDP is now available through Nov 22, 2024.

Amending a 941 To Take an ERC



- You generally have 3 years from the date you filed your original return to amend a 941 or 2 years from the date you paid the tax (using Form 941-X)
- Qualified wages for the ERC are reported on Form 941-X, Line 30. Qualified health plan expenses for ERC are reported on Form 941-X, Line 31. The sum of Line 30 and Line 31 multiplied by the credit percentage of either 50% (2020) or 70% (2021) should generally equal the total ERC presented on Lines 18 and 26.
- IRS Notice 2021-49: Employers must amend the income tax return for the same year the credit is taken on the payroll tax return

GLAM 2023-005

- Not authoritative but gives the IRS's position on a legal issue.
- A supply chain disruption in itself generally does not rise to the level of a full or partial suspension of operations.
- Many aggressive ERC marketers would use a “supply chain disruption” as a reason why a taxpayer qualifies for the ERC.

GLAM 2023-005

- For a supply chain disruption to qualify as a partial or full suspension of operations, the IRS would generally want documentation stating/demonstrating the following:
 - a) the specific governmental order that caused the supplier to suspend operations,
 - b) the inability to obtain the supplier's goods or materials directly caused a full/partial suspension of the employer's business operations, and
 - c) the employer was not able to obtain these critical goods or materials from an alternate supplier (presumably documenting which alternatives were tried and documenting how they were unsuccessful).

ERC Withdrawal Process (IR-2023-193, Oct. 19, 2023)



You can use the ERC claim withdrawal process if all of the following apply:

- You made the claim on an adjusted employment tax return (Forms 941-X, 943-X, 944-X, CT-1X)
- You filed your adjusted return only to claim the ERC, and you made no other adjustments
- You want to withdraw the entire amount of your ERC claim
- The IRS has not paid your claim, or the IRS has paid your claim, but you haven't cashed or deposited the refund check

“Please note that if you willfully filed a fraudulent ERC claim, or if you assisted or conspired in such conduct, withdrawing a fraudulent claim will not exempt you from potential criminal investigation and prosecution”

3 different processes depending on situation – See “Withdraw an Employee Retention Credit (ERC) claim” on IRS.gov

Form **941-X: Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund**
(Rev. April 2023) Department of the Treasury — Internal Revenue Service OMB No. 1545-0029

Employer identification number (EIN) -

Name (not your trade name)

Trade name (if any)

Address

Number Street Suite or room number

City State ZIP code

Foreign country name Foreign province/county Foreign postal code

Return You're Correcting...

Check the type of return you're correcting.

941

941-SS

Check the ONE quarter you're correcting.

1: January, February, March

2: April, May, June

3: July, August, September

4: October, November, December

Enter the calendar year of the quarter you're correcting.

(YYYY)

Enter the date you discovered errors.

(MM/DD/YYYY)

Withdrawn

Part 1: Select ONE.

1. Adjustment process to correct the errors. You must check this box if you're correcting both underreported and overreported tax amounts on this form. The amount shown on line 27, if less than zero, may only be applied as a credit to your Form 941, Form 941-SS, or Form 944 for the tax period in which you're filing this form.

2. Claim. Check this box if you overreported tax and the claim process to ask for a refund or abatement. Don't check this box if you're correcting ANY underreported tax.

Part 2: Complete the certifications.

3. I certify that I've filed or will file Forms W-2 as required.

Write your name, position in the company or organization, signature and date in the right margin of form

John Doe, President, John Doe, Date (MM/DD/YYYY)

Note: If you're correcting underreported tax amounts only, go to Part 3 on page 2 and skip lines 4 and 5. If you're correcting overreported tax amounts, for purposes of the certifications on lines 4 and 5, Medicare tax doesn't include Additional Medicare Tax. Form 941-X can't be used to correct overreported amounts of Additional Medicare Tax unless the amounts weren't withheld from employee wages or an adjustment is being made for the current year.

4. If you checked line 1 because you're adjusting overreported federal income tax, social security tax, Medicare tax, or Additional Medicare Tax, check all that apply. You must check at least one box.

I certify that:

IRS Announcement 2024-3 (Dec 21, 2023)



- New Voluntary Disclosure Program to help businesses who want to pay back the money they received after filing ERC claims in error
- Interested employers must apply to the ERC Voluntary Disclosure Program by **March 22, 2024 (Round 2 is through November 22, 2024)**
- Those that the IRS accepts into the program will need to repay only 80%/85% of the credit they received. If the IRS paid interest on the employer's ERC refund claim, the employer doesn't need to repay that interest.
- To apply, the employer must first file **Form 15434, Application for Employee Retention Credit Voluntary Disclosure Program**, available on IRS.gov.
- **This form must be submitted using the IRS Document Upload Tool.** Employers will be expected to repay their full ERC, minus the 20%/15% reduction allowed through the Voluntary Disclosure Program.

IRS Announcement 2024-3 (Dec 21, 2023)



- **Any employer who already received the ERC for a tax period but isn't entitled to it can apply if the following are also true:**
 1. The employer is not under criminal investigation and has not been notified that they are under criminal investigation.
 2. The employer is not under an IRS employment tax examination for the tax period for which they're applying to the Voluntary Disclosure Program.
 3. The employer has not received an IRS notice and demand for repayment of part or all of the ERC.
 4. The IRS has not received information from a third party that the taxpayer is not in compliance or has not acquired information directly related to the noncompliance from an enforcement action.
- ▶ **Employers who are unable to repay the required 80% of the credit may be considered for an installment agreement on a case-by-case basis, pending submission and review of a Form 433-B,** Collection Information Statement for Businesses, available on IRS.gov, and all required supporting documentation

IRS Announcement 2024-3 (Dec 21, 2023)

- Many employers outsource their payroll obligations to a third party who reports, collects, and pays employment taxes on the employer's behalf using the third party's employer identification number. **In this situation, the third party, not the employer, must file Form 15434.** See the form and its instructions for details.
- If the IRS approves the employer's application, they will mail the employer a closing agreement. **The employer must then repay 80%/85% of the ERC they received, either online or by phone, using the Electronic Federal Tax Payment System (EFTPS)**
- **FAQ page on IRS.gov:** <https://www.irs.gov/coronavirus/frequently-asked-questions-about-the-employee-retention-credit-voluntary-disclosure-program>

Frequently Asked Questions About the Employee Retention Credit Voluntary Disclosure Program

General information about the Employee Retention Credit Voluntary Disclosure Program

Q8. *If I already amended my employment tax return to eliminate my entire ERC or if IRS already disallowed it all, can I still get the 20%/15% reduction? (added December 21, 2023)*

A8. *Generally, you aren't eligible for ERC-VDP. However, if you filed amended employment tax returns before December 21, 2023, to eliminate all of your ERC, the IRS will review your application on a case-by-case basis for eligibility into ERC-VDP. See “Who is eligible for the ERC-VDP?” in the ERC-VDP eligibility questions section for additional information about eligibility.*

Frequently Asked Questions About the Employee Retention Credit Voluntary Disclosure Program

Calculating and paying the balance due under ERC-VDP

Q2. *How do I calculate how much employment tax, interest, and penalties I owe under the terms of ERC-VDP? (added December 21, 2023)*

A2. *ERC-VDP requires payment of the entire ERC received minus 20%. You must make separate payments for each tax period. The fillable Form 15434 will help you calculate an estimate of your ERC re-payment amount for each tax period.*

ERC-VDP terms don't require you to repay any interest that was paid to you with the ERC refund

Interest and penalties will not apply to your ERC-VDP liability (what you have to pay back) if full payment is received by the time you return the signed ERC-VDP closing agreement to the IRS. If IRS approves you for an installment agreement to pay your ERC-VDP liability, interest and penalties will apply from the agreement date.

Frequently Asked Questions About the Employee Retention Credit Voluntary Disclosure Program

Preparer/advisors

Q2. How can I report a promoter who scammed me? (added December 21, 2023)

A2. The IRS encourages people to report:

- Tax-related illegal activities relating to ERC claims,*
- Individuals who promote improper and abusive tax schemes, and*
- Tax return preparers who deliberately prepare improper returns*

Frequently Asked Questions About the Employee Retention Credit Voluntary Disclosure Program

Preparer/advisors

Q2. *How can I report a promoter who scammed me? (added December 21, 2023)*

• *To report tax-related illegal activities relating to ERC claims, take these steps:*

1. Complete **Form 14242, Report Suspected Abusive Tax Promotions or Preparers**
2. Include with your form any supporting materials
3. Provide your contact information: This is optional but will be helpful if we have questions and will let us acknowledge receipt of your referral
4. Send your form and materials by fax or U.S. mail to the IRS Lead Development Center in the Office of Promoter Investigations. **Fax: 877-477-9135** or Mail:

**Internal Revenue Service Lead
Development Center**

Stop MS5040
24000 Avila Road
Laguna Niguel, CA 92677-3405

Bonus Depreciation vs. 179 Depreciation



- Bonus must be elected out of (by asset class). 179 is elected into (asset by asset).
- There is a taxable income limitation on 179. Not the case with Bonus.
- Ordering Rules: 179, Bonus, MACRS

Clean Vehicle Credit (Sec 30D)

- Now \$7,500 per vehicle with no limit on the number of eligible vehicles. (\$3,750 “critical minerals requirement” and \$3,750 “battery component requirement”)
- Final assembly of the vehicle must occur in North America
- Final Assembly is *“the process by which a manufacturer produces a new clean vehicle at, or through the use of, a plant, factory, or other place from which the vehicle is delivered to a dealer or importer with all component parts necessary for the mechanical operation of the vehicle included with the vehicle, whether or not the component parts are permanently installed in or on the vehicle.”*

Clean Vehicle Credit (Sec 30D)

- Credit is disallowed if the manufacturer's suggested retail price is over:
 - \$80,000 for vans, SUVs, and pickups
 - \$55,000 for all other vehicles
- Credit is disallowed if the lesser of the MAGI of the taxpayer for the current or preceding tax year exceeds:
 - MFJ or Surviving Spouse: \$300,000
 - Head of Household: \$225,000
 - Others: \$150,000

Commercial Clean Vehicle Credit (Sec 45W)



Credit Calculation:

- **100% Electric Vehicles:** Lesser of 30% of the vehicle's basis or its incremental cost.
- **Hybrid Vehicles:** Lesser of 30% of the vehicle's basis or its incremental cost.
- **Maximum Credit Allowed:**
 - \$7,500 for vehicle with a GVWR of less than 14,000 pounds and
 - \$40,000 for vehicle with a GVWR of 14,000 pounds or more.

Why the commercial version is probably better...

- Higher potential credit for heavier vehicles.... **\$40,000**
- Credit may be carried back 1 year and forward 20 years (no carryback or carryforward of Sec 30D credit)

None of the following apply to the commercial version:

- 1) AGI limitations,
- 2) limitation on cost of the vehicle,
- 3) requirement that final assembly must occur in North America, and
- 4) battery minerals and component requirements.

Sec 174 Expenses

- For tax years after 2021, amortization is over 5 years if the costs are incurred in the United States. 15 years if outside the United States.
- Midpoint convention is used (Rev Proc 2023-11)
- 174 costs include “software development costs”

Software Development Costs might include....



- Software engineering, user experience (UX) design
- Software coding
- UI design
- Quality assurance related to software development
- Architecture
- Software deployment
- Software support and maintenance
- Subscription-based software used in development
- Patent legal/licensing fees associated with software development
- Cloud hosting expenses for the development environment
- Enterprise resource planning (ERP) systems integration, to the extent that it involves development work, such as customization and integration.

Software – 4 Buckets

- **Hardware** – Depreciate over 5 years.
- **Subscription** – Expensed as paid or incurred.
- **Off the shelf (Sec 167(f)(1)(A))**– Amortize over 36 months
- **Software development costs (Sec 174)** – 5 or 15 years.

Sunset of TCJA

- Lifetime exemption back down to about \$7M in 2026
- Top tax bracket back to 39.6%
- Personal exemptions back, standard deduction decrease, SALT limit no longer applies, 50% cash charitable contributions
- Corporate tax rate is permanent, but the QBI deduction is set to sunset

III. Retirement Plan Changes & Opportunities

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Automatic Enrollment in Retirement Plans



- Starting in 2025 (plan years after Dec 31, 2024), new 401(k) and 403(b) plans are required to have automatic enrollment.
- The initial automatic enrollment amount of at least 3%, but not to exceed 10%
- For each following year, the automatic enrollment amount is to increase by 1% until it reaches at least 10%, but not to exceed 15%

Automatic Enrollment in Retirement Plans

- Employees may opt out within 90 days
- Exceptions:
 - Small businesses (10 or fewer employees)
 - In business for less than 3 years
 - Church plans and governmental plans
 - All current 401(k) and 403(b) plans

Credit for Small Employer Pension Plan Startup Costs (Section 45E)



- In previous years, the small business startup credit was available with a maximum annual credit limit of \$5,000
- SECURE 2.0 increased the percentage limitation from 50% to 100% for employers with up to 50 employees
- An additional credit equal to a percentage of the amount contributed by the employer on behalf of employees is available, with a maximum limitation of \$1,000 on a per-employee basis, provided the plan is not a defined benefit plan and the employer has 100 or fewer employees

Credit for Small Employer Pension Plan Startup Costs (Section 45E)



- Phased out for employers with 51 – 100 employees.
- Applicable for tax years beginning after December 31, 2022

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Higher Catch-Up Limits for Employees - Ages 60 to 63



- Starting in 2025, increases in catch-up limits for employees who are 60 to 63
- Greater of \$10,000 or 50 percent more than the regular catch-up amount in 2024 (2025 for SIMPLE plans). Amounts will be indexed for Inflation.
- SECURE 2.0 requires the catch-up contributions to be made as Roth contributions for those with earnings over \$145K (deferred to 2026 with IRS Notice 2023-62 – was originally 2024).

Student Loan Payments & Matching Contributions



- Allows an employer to make matching contributions under a 401(k) plan, 403(b) plan, or SIMPLE IRA with respect to student loan payments (self-certified by the employee).
- Qualified student loan payments are any indebtedness incurred by the employee solely to pay qualified higher education expenses of the employee but limited to the limitation applicable under §402(g) for the year (or, if lesser, the employee's compensation), reduced by the elective deferrals made by the employee for such year.
- Starting in 2024

Military Spouse Retirement Plan Credit



- As of the date of enactment, eligible small employers with a tax credit with respect to their defined contribution if certain conditions are met.
- Equal to the sum of \$200 per military spouse and 100% of all employer contributions (up to \$300) made on behalf of the military spouse (maximum total credit amount of \$500)
- Can be taken for three years with respect to each military spouse
- “Military Spouse” - employee married to individual who is a member of the uniformed services on active duty. Does not include highly compensated employee under §414(q) (earning more than \$155,000 for 2024).
- Plan must provide military spouse 1) is eligible to participate in the plan 2 months after employment begins, 2) must be eligible to receive contributions under the plan for a similar individual that is not a military spouse who has 2 years of service, and 3) amounts contributed for military spouse must be 100% vested.

Retirement Plans - Opportunities



- Lots of opportunities for Roth contributions.
- Harder to not include people in the plan... But you can market that to staff!
- There is more flexibility and more ability to save higher amounts for retirement than ever before.

Thank you!



David R. Peters
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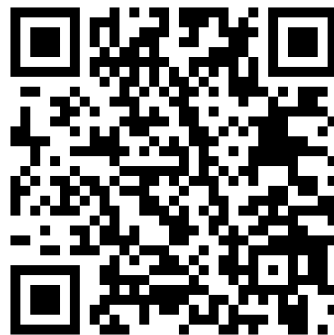
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