

November 11, 2021

Infrastructure Bill Includes Termination of Employee Retention Tax Credit

Tax Planning & Structuring

The Infrastructure Investment and Jobs Act (IIAJ), expected to be signed by President Joe Biden next week, will retroactively terminate the employer retention tax credit so that it will not apply to wages paid after September 30, 2021 (originally scheduled to apply to wages paid through December 31, 2021), except for wages paid by employers that qualify as recovery startup businesses.

These businesses are subject to a maximum total credit of \$100,000 for 2021 (\$50,000 for the third quarter and \$50,000 for the fourth quarter):

- For the third quarter, a recovery startup business is defined as a business that (1) began operating after February 15, 2020, (2) had average annual gross receipts of less than \$1 million, and (3) did not meet the eligibility requirement, applicable to other employers, of having experienced a significant decline in gross receipts or having been subject to a full or partial suspension under a governmental order
- For the fourth quarter, a recovery startup business is defined as a business that (1) began operating after February 15, 2020 and (2) has average annual gross receipts of less than \$1 million

If you have any questions about whether you are eligible to claim the credit for the fourth quarter of 2021 or otherwise, please contact one of the attorneys in Gould & Ratner's [Tax Planning Practice](#).