



Decoding Orlando Governmental Orders

How Orlando-based businesses can
navigate and mitigate potential IRS
inquiries amid the COVID-19 pandemic.



BROTMAN LAW



INTRODUCTION

In the wake of the transformative impact of COVID-19, business owners across the nation find themselves navigating an altered landscape shaped by a series of governmental orders, compelling them to adapt, strategize, and redefine their operations in unprecedented ways.

As an Orlando-based business owner navigating the intricate web of governmental orders that unfolded, you may find yourself at the crossroads of understanding and responding to the Employee Retention Tax Credit (ERC) compliance requirements.

The ERC was an employment tax credit introduced as a lifeline for businesses that faced closures, reduced capacities, and operational challenges due to governmental orders. In fact, Employers that qualify for the ERC can receive up to \$26,000 for each eligible employee.



< What To Do If You Have Not Filed – File With Brotman Law

- 1. Financial Impact Test:** This test is measured by comparing a quarter in 2019 to the same quarter in 2020 or 2021. In doing so, **if a business has shown a decline in revenue that meets the designated amount set by the IRS**, the business qualifies for the Employee Retention Tax Credit based on the financial impact test.
- 2. Operational Impact Test:** This test addresses if your business was **more than nominally impacted** by a government order during the qualifying period. While CPAs and other tax professionals are familiar with qualifying a business under the financial impact test, we have found that a large number of businesses have been told they do not qualify when they actually do under the operational impact test. Most businesses will at least qualify in Q2 of 2020, so we encourage you to speak with a tax attorney to determine if you qualify for the ERC.



As the deadline approaches, we strongly urge you to consider filing for the ERC to maximize the financial support available to your business. Brotman Law is here to assist you through the filing process. Our experienced team can guide you through the intricacies of ERC compliance, ensuring that you take full advantage of this valuable resource. Do not wait until it is too late – contact us today to initiate the filing process and secure the financial relief your business deserves.

The ERC application deadline is approaching fast – Contact Brotman Law today to stay ahead of the curve and position your business for success.

Book a Call



< What To Do If You Have Filed – Have Brotman Law Review It

If you are an Orlando-based business owner who utilized the ERC credit, it is important to be aware that the Internal Revenue Service (IRS) may soon come knocking. Understanding the specific governmental orders that impacted Orlando and your business is paramount in ensuring compliance, as well as preparing substantiation for any potential IRS inquiries.

The Employee Retention Tax Credit (ERC) is intricately detailed, therefore you should have a trusted professional review your filing for any errors or miscalculations. If you have already submitted an ERC claim, you can engage Brotman Law to conduct a thorough review of your application. Numerous instances of ERC scams have been documented, with companies inundating business owners with enticing advertisements, promising substantial refunds ranging from hundreds of thousands to even millions of dollars. Unfortunately, many businesses and non-profit organizations have underestimated the risks associated with these entities. Exercise caution, especially when an organization charges a contingent fee based on the credited amount.



Watch out for ERC companies claiming to be “one of the largest ERC processors” or boasting about the number of businesses they have helped. If your ERC company provided calculations on an amended payroll tax return using a spreadsheet, exercise caution. Additionally, if your business did not experience specific detriment due to a government order, or if your revenue increased during the pandemic, it is important to review your eligibility.

If any of these scenarios apply to your ERC filing, contact Brotman Law immediately for a thorough check. Our expert firm can assess the legitimacy of your ERC claim, help you rectify any errors, provide support for your claim, and ensure compliance with IRS requirements. Your peace of mind is our priority, and we are here to assist you in navigating the complexities of the ERC.

Protect your business from possible IRS inquiries — Contact Brotman Law today to stay ahead of the curve and position your business for success.

Book a Call



< **What To Do If You Are Being Audited – Contact Brotman Law Right Away**

As the IRS intensifies efforts to crack down on fraud, businesses are at an increased risk of being audited, especially if they claimed the Employee Retention Tax Credit (ERC). Audits can result in significant consequences, including having to pay back the credit, along with interest and penalties.

At Brotman Law, we pride ourselves on our credibility and track record in handling and representing Miami-based business’ ERC claims and audits. Our established law firm has processed over \$125 million in ERC claims, supervising thousands of individual ERC claims with a deep understanding of the requirements. With a seasoned audit representation

team that has collectively been involved in more than a thousand audits, we have the expertise to navigate even the most complex business structures.

If you are facing an audit or have concerns about the eligibility of your ERC, give us a call. Brotman Law is here to guide you through the ERC process to ensure compliance and peace of mind for your business.

Due to the complex landscape of the governmental orders that unfolded as a result of the COVID-19 pandemic, Brotman Law has crafted a comprehensive guide specifically tailored for Orlando business owners like you.

This guide details the chronological sequence of executive orders and measures enacted by the state of Florida in response to the COVID-19 pandemic. Its primary objective is to provide clarity on the detailed specifics that impacted Orlando-based business operations, empowering you with the knowledge to proactively navigate and mitigate potential IRS inquiries.

Do not face the IRS alone—Contact Brotman Law today to stay ahead of the curve and position your business for success.

Book a Call

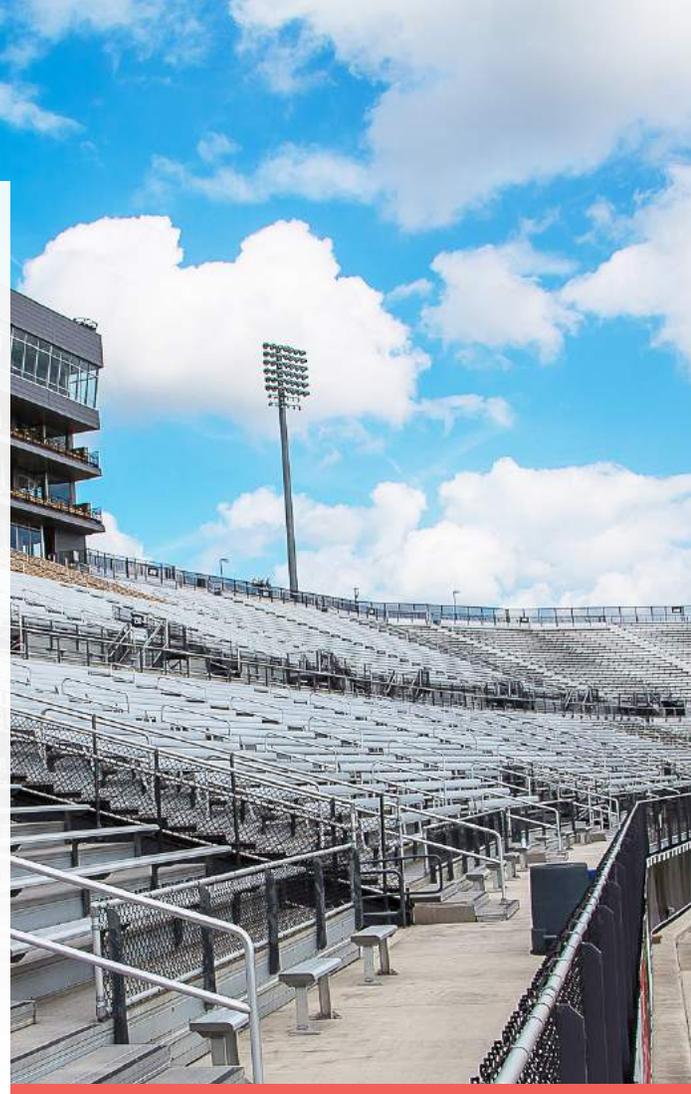


LOCAL LANDSCAPE

In Florida, there were notable variations in restrictions between Miami-Dade County and Orlando. Statewide orders placed specific restrictions on various establishments like bars, nightclubs, restaurants, gyms, museums, libraries, amusement parks, salons, and more. Personal services such as tattooing, body piercing, acupuncture, etc., were also subject to these restrictions, along with capacity limitations for in-store retail sales. Temporary restrictions were imposed on elective procedures and surgeries, and vacation rentals faced a ban.

The stay-at-home order took effect on April 1, 2020. Orlando initiated Phase 1 of reopening on May 4, 2020, followed by Phase 2 on June 3, 2020. In Miami, Phase 1 reopening commenced on May 15, 2020, with Phase 2 rolling out in September 2020. This resulted in more extensive restrictions in Miami-Dade County compared to Orlando.

In Orlando, non-essential businesses were permitted to conduct minimal basic operations during the shutdown. An important development during this time was Orange County's Emergency Executive Order 2020-12 on May 1, 2020, which mandated essential businesses and those allowed to remain open to practice social distancing, wear face coverings, and display signage. Unlike many other places, there were no testing requirements, quarantine measures, or mandated cleaning procedures in place.



FLORIDA STATE ORDERS

EO 20-52: March 9, 2020

State of Emergency. Extended numerous times.

EO 20-68: March 17, 2020

Bars, pubs and nightclubs must suspend sale of alcoholic beverages for 30 days.

Restaurants must limit capacity to 50%, social distance patrons at least six feet apart. Limit parties to no more than 10. Restaurants must screen employees and not allow entrance to:

- ▶ Any person with COVID-19
- ▶ Any person showing signs or symptoms or disclosing the presence of a respiratory infection including cough, fever, shortness of breath, or sore throat
- ▶ Any person who has been in contact with any person known to be infected with COVID-19 who has not tested negative in the last 14 days
- ▶ Any person who traveled through any airport in the last 14 days
- ▶ Any person who traveled on a cruise ship in the last 14 days

EO 20-72: March 20, 2020

All hospitals, ambulatory surgical centers, office surgery centers, dental, orthodontic offices, and other health care practitioners' offices are prohibited from providing any medically unnecessary, non-urgent or non-emergency procedure or surgery.

EO 20-71: March 20, 2020

All vendors licensed to sell alcoholic beverages for consumption on the premises must suspend the sale of alcoholic beverages for consumption on the premises. Such vendors may continue to sell alcoholic beverages in sealed containers for consumption off-premises.

Restaurants may sell alcoholic beverages in sealed containers for consumption off-premises if accompanied by the sale of food within the same order.

Vendors shall make and keep record of all events canceled in response to COVID-19 that comply with section 561.55 Florida Statutes and Rule 61A-1.01028(2) Florida Administrative Code. Licensed distributors shall make and keep record of all





returns that comply with the record keeping requirements of section 561.55 Florida Statutes and Rule 61A-1.01028(2) Florida Administrative Code.

All restaurants and food establishments must suspend on-premises food consumption for customers but may provide delivery or take-out services. All gyms and fitness centers must close.

EO 20-87: March 27, 2020

Vacation rental properties must suspend vacation rental operations. The order does not include hotels, motels, inns, resorts, or time-shares. This order was extended by EO 20-103 on April 10, 2020; EO 20-111 on April 29, 2020; EO 20-112 on April 30, 2020.

EO 20-89: March 30, 2020

Miami-Dade, Broward, Palm Beach, and Monroe Counties must restrict public access to businesses and facilities deemed non-essential. County administrators may determine additional essential retail and commercial establishments. Essential businesses shall adopt and maintain reasonable measures to ensure sanitation and cleanliness and take reasonable action to ensure that people adhere to CDC social distancing guidelines. (Cites Miami-Dade County Emergency Order 07-20.)

EO 20-91: April 1, 2020: Stay-at-home

All persons in Florida shall limit their movements and personal interactions outside their home to only those necessary to obtain or provide essential services or conduct essential activities. All businesses are encouraged to provide delivery, carry-out or curbside service. Extended to May 4, 2020 by EO 20-111 on April 29, 2020.

EO 20-112: April 29, 2020: Effective May 4, 2020

Some business are allowed to reopen, (but not in Miami-Dade, Broward, or Palm Beach Counties).

Bars, pubs and nightclubs that derive more than 50 percent of gross revenue from the sale of alcoholic beverages shall continue to suspend the sale of alcoholic beverages for on-premises consumption.



Restaurants and food establishments may allow on-premises consumption of food and beverage so long as they adopt appropriate social distancing measures and limit indoor occupancy to no more than 25 percent of building capacity.

Outdoor seating is permissible with appropriate social distancing.

Gyms and fitness centers shall remain closed.

The prohibition on vacation rentals remains in effect for the duration of this order.

In-store retail sales establishments may open storefronts if they operate at no more than 25 percent of their building occupancy and abide by safety guidelines issued by the CDC and OSHA.

Museums and libraries may open at no more than 25 percent of their building occupancy if permitted to be open by local government. Interactive functions or exhibits, including child play areas, must remain closed.

Elective medical procedures may resume only if:

- ▶ The facility has the capacity to immediately convert additional facility beds for the treatment of COVID-19 in a surge capacity situation;
- ▶ The facility has adequate personal protective equipment (PPE) to complete all medical procedures and respond to COVID-19 treatment needs without the facility seeking any additional federal or state assistance regarding PPE supplies;
- ▶ The facility has not sought any additional federal, state, or local government assistance regarding PPE supplies since resuming elective procedures; and
- ▶ The facility has not refused to provide support to and proactively engage with skilled nursing facilities, assisted living facilities and other long-term care residential providers.





EO 20-120: May 9, 2020

Palm Beach County may move to Phase I reopening.

Persons in Florida may provide or obtain services at the following establishments in counties that have been authorized to proceed to Phase I:

- ▶ Barbershops, cosmetology salons, and cosmetology specialty salons that adopt appropriate social distancing and precautionary measures as outlined by the Department of Business and Professional Regulation.

EO 20-122: May 14, 2020

Broward and Miami-Dade Counties may move to Phase I reopening.

EO 20-123: May 14, 2020 effective May 18, 2020

Restaurants and food establishments may serve patrons at indoor seating so long as they limit indoor occupancy up to 50 percent of their seating capacity, excluding employees. The requirement for a minimum of 6 feet between parties is superseded to the extent appropriate partitioning is in place. Bar counters are to remain closed to seating, and outdoor seating remains available with social distancing.

In-store retail sales establishments may operate up to 50 Percent of their building occupancy and abide by the safety guidelines issued by the CDC and OSHA.

Museums and libraries may operate up to 50 percent of their building occupancy, provided, however, that local public museums and local public libraries may operate only if permitted by local government.

Gyms and fitness centers may operate up to 50 percent of their building occupancy so long as they adopt safety measures including appropriate social distancing for classes and sufficient cleaning supplies to ensure, at a minimum, patrons' individual self-cleaning of surfaces and machines using sanitation wipes following each use.



Professional sports may operate in the State of Florida and venues may host training, competitions, events and games. Amusement parks may submit a re-opening plan to the state of Florida that includes a proposed date for resumption of operations and proposed guidelines to ensure guest and staff safety.

Counties may seek approval to operate vacation rentals with a written request from the County Administrator and the county's safety plan for vacation rental operations submitted to the DBPR Secretary.

EO 20-131: May 22, 2020

EO 20-123 is extended with the following modification:

Organized youth activities may operate, including youth sports teams and leagues, youth clubs and programs, and childcare. Summer camps and youth recreation camps may operate including, but not limited to, those defined 409.175 and 513.02, Florida Statutes, respectively.

EO 20-139: June 3, 2020

Phase 2 reopening.

In Miami-Dade, Broward and Palm Beach counties, the re-opening provisions of Section 4 of this order will be considered after each county seeks approval with a written request from the County Mayor or if no mayor the County Administrator.

All persons in Florida are encouraged to follow appropriate social distancing and safety protocols issued by the CDC and OSHA.

In-store retail businesses, including gyms and fitness centers, should maintain appropriate social distancing and sanitation protocols.

Restaurants and other establishments, and bars and other vendors licensed to sell alcoholic beverages for consumption on the premises, may operate at 50 percent of their indoor

capacity, excluding employees, as under Executive Order 20-123, Section I. Bar areas may be open with seated service. In addition, outdoor seating is permissible with appropriate social distancing. This section does not apply to nightclubs. Entertainment businesses, including but not limited to movie theaters, concert houses, auditoriums, playhouses, bowling alleys, and arcades may operate at 50 percent of their building capacity, with appropriate social distancing between groups and appropriate sanitation.

Personal services, including but not limited to tattooing, body piercing, acupuncture, tanning and massage, may operate with appropriate safety guidelines as outlined by the Department of Health.

EO 20-214: September 4, 2020

Palm Beach County is approved to move to Phase 2.

EO 20-223: September 11, 2020

Miami-Dade and Broward counties are approved to move to Phase 2.

EO 20-244: September 25, 2020

Phase 3. This order supersedes and eliminates any and all restrictions of Executive Orders 20- 112, 20-123 and 20-139, as well as Executive Orders 20-192, 20-214, and 20-223, except as modified herein.

No COVID-19 emergency ordinance may prevent an individual from working or from operating a business.

Restaurants, including any establishment with a food service license, may not be limited by a COVID-19 emergency order by any local government to less than fifty percent (50%) of their indoor capacity. If a restaurant is limited to less than one hundred percent (100%) of its indoor capacity, such COVID-19 emergency order must on its face satisfy the following: I. quantify the economic impact of each limitation or requirement on those restaurants; and II. explain why each limitation or requirement is necessary for public health.

This order suspends the collection of fines and penalties associated with COVID-19 enforced upon individuals.



EO 20-297: November 24, 2020

Executive Order 20-244, following the issuance of this order will be extended and remain in effect for the duration of Executive Order 20-52, as extended by Executive Orders 20-114, 20-166, 20-192, 20-213, and 20-276, unless otherwise modified or rescinded.

EO 21-101: May 3, 2021

In order to protect the rights and liberties of individuals in this state and to accelerate the state's recovery from the COVID-19 emergency, any emergency order issued by a political subdivision due to the COVID-19 emergency which restricts the rights or liberties of individuals or their businesses is invalidated.

ABOUT BROTMAN LAW:

Brotman Law represents clients nationwide as a boutique tax law firm founded in 2013 and was recognized in 2018 by the Law Firm 500 as the 14th fastest-growing law firm in the United States. Today, Brotman Law has nine attorneys and has offices in San Diego, Los Angeles, and Chicago. The Firm's practice areas relate to tax controversy, tax compliance, tax optimization, and tax credit work for businesses and individuals in different jurisdictions across the United States and internationally.

Brotman Law has developed into one of the leaders in Employee Retention Tax Credit compliance work. The Firm has helped its clients and others file for hundreds of millions of dollars in Employee Retention Tax Credits and focuses on larger, more technical, and more complex credit work. Our background in tax controversy, helping thousands of taxpayers through audits and saving them millions of dollars in penalties, makes us well prepared to assist business owners through ERC audits.

The Firm's primary objective when representing a client with respect to the Employee Retention Tax Credit is to try and maximize their claim if eligible, but also protect your business. We make sure that the Employee Retention Tax Credit is done the right way for businesses across the United States.





The Firm equally represents Employee Retention Tax Credit companies and other mid-size and larger organizations with their tax credit compliance. Brotman Law conducts weekly trainings for lawyers and is a frequent speaker on the subject. Sam Brotman has been recognized as a “Super Lawyer - Rising Star,” a distinction awarded to the top 2.5% of lawyers nationwide every year for the last six years, to the San Diego’s “Best of the Bar” list of recommended attorneys and was most recently named a “Leader in Law” by the San Diego Business Journal for 2023.

Brotman Law has been quoted by the Wall Street Journal, the New York Times, the Los Angeles Times, The Sacramento Bee, Fox News, and by many other publications and news outlets. At Brotman Law, our Firm has a practical approach to problem solving that differs from other law firms, putting client goals and objectives, tax, and non-tax, into a framework of making decisions in the best interest of the client.

We draw on a wide range of interdisciplinary skills and business knowledge to help the client make the best decision with their tax challenge, rather than simply solving their problem.

Bottom line: Tax is complicated enough, so we keep things simple and our advice straightforward to help you make the best decisions for you and your business.

Contact Brotman Law for expert ERC assistance or visit our website for more valuable resources.

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