Seigfreid Bingham Attorneys Secure Auditor Reversal on Employee Retention Credit

Seigfreid Bingham attorneys Ryan White and John Neyens persuaded a community healthcare provider's independent auditor to reverse its conclusion that the provider was ineligible for the federal Employee Retention Credit (ERC). The auditor had proposed recording a substantial liability on the provider's audited financial statements.

The ERC was available to employers whose operations were fully or partially suspended by a COVID-19 governmental order. IRS guidance confirms that essential businesses, including healthcare providers, can qualify when such an order affects more than a nominal portion of their operations. The auditor initially concluded that the orders the provider relied on were insufficient under the law.

Ryan and John showed that a binding local public health order directly limited patient capacity in a service line well above the IRS's 10% "more than nominal" threshold. After reviewing their analysis, the auditor changed its position.

Auditors are increasingly scrutinizing ERC claims. This result shows that an auditor's initial adverse conclusion need not be final. A precise, well-documented analysis of the governmental orders and the IRS guidance made the difference.

To learn more about Ryan's practice, please click here, and to learn more about John's practice, click here.