What is the employee retention tax credit?

The CARES Act creates a refundable payroll tax credit of up to $5,000 for wages paid by employers to employees during the COVID-19 crisis. The credit is available to employers whose operations were “fully or partially” suspended due to government orders related to COVID-19. The credit is available to private, nonprofit colleges and universities and to their related entities if they are organized as a 501(c)(3). We believe this would include a range of organizations such as university foundations, research institutions, alumni organizations, university presses, etc. Public institutions - if they or their related entities are deemed arms or subsidiaries of a state government - are ineligible. Employers that receive an Emergency Small Business Loan (SBA section 7(a)) are not eligible to receive the credit.

The bill does not define “partial” suspension. We think a reasonable interpretation of the provision would be that employees of offices, services or facilities (e.g. dining, dorms, athletic facilities) that have been “fully or partially” suspended would be covered. The definition would likely not cover, for instance, a faculty member who continues to teach on an online platform.