

National Tax Advisory News

IRS SENDING OVER 20,000 LETTERS TO TAXPAYERS CLAIMING ERC

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The Internal Revenue Service (IRS) announced that more than 20,000 letters would go out this week to inform Taxpayers of a disallowed Employee Retention Credit (“ERC”) claim. The IRS has also stated that this is simply the first round, and it is focused on entities that did not exist or did not have employees during the period of eligibility. This communication will be in the form of a Letter 105 C “We Can’t Allow Your Claim” (Claim Disallowed), an example of which can be seen [here](#).

These letters are being sent as part of the IRS’s increased scrutiny of what they see as widespread fraud in the market. This also follows the IRS’s announcement on September 14th introducing a moratorium, through at least the end of 2023, which you can read about [here](#). As part of the announcement the IRS reminded again of the withdrawal option for entities that have pending ERC claims that they realize may be inaccurate, see the above link for more details.

This is the IRS’s first official announcement about a voluntary disclosure program in connection with ERC claims, and the program is stated to be unveiled later in December. A voluntary disclosure program is meant generally for taxpayers who inadvertently, or unknowingly, were misled in regard to claiming this credit. If you have questions or would like a review of your claim, contact us today to review the underlying claim and your options moving forward. While the details of the voluntary disclosure project are unknown, there are a lot of steps that can be taken in preparation for one. Tax professionals, such as us, who are familiar with voluntary disclosure programs, are well suited to help your organization through a program.

The IRS also took the opportunity to again raise concerns of aggressive marketing and reinforce its work by their audit and criminal investigation teams. The IRS continues to urge taxpayers to work with a trusted tax professional and review the options which may involve a withdrawal or a future voluntary disclosure of an ERC claim.

The IRS noted that enhanced compliance reviews of existing claims submitted before the moratorium is critical to protect against fraud and to also protect businesses and organizations from facing penalties and interest payments stemming from bad claims pushed by promoters.

The mailing reflects just part of the ongoing IRS review of ERC claims. In this group, two categories of claims have been identified and are being disallowed:

- **Entity not in existence during period of eligibility:** The ERC applies to qualified wages for periods between March 13, 2020, and Dec. 31, 2021. Entities established after Dec. 31, 2021, are not entitled to the ERC under the law passed by Congress.
- **There are no paid employees during the period of eligibility:** The ERC is intended as a credit against qualified wages paid. Entities that did not pay any wages are not eligible for ERC.

It is important to note that you should read your notice carefully should you get one. As with any of the automated notices, it is possible that those with legitimate ERC claims will receive this notice. Therefore, if you disagree with the notice, you should respond immediately with the documentation to support the ERC claim or file an administrative appeal.

As always, with tax credits, it is important to work with a trusted advisor to review the qualifications of the credit as well as proper calculation of it. Contact us today if you would like us to review your options with you.

Have questions or need more information? Please reach out to your Prager Metis professional.