

IRS announces a second Employee Retention Credit Voluntary Disclosure Program

The IRS on August 15 announced in news releases IR-2024-212 and IR-2024-213, the reopening of the Employee Retention Credit (ERC) Voluntary Disclosure Program for employers to resolve erroneous claims for credit or refund involving the ERC through November 22, 2024. In March 2024, the IRS had a temporary Voluntary Disclosure Program available to taxpayers who had received an ERC claim refund that the taxpayer had since identified to be improper. This process allowed taxpayers to withdraw an ERC claim without interest or penalties by paying back 80 percent of the total refund to the IRS.

URL: <https://www.taxnotes.com/research/federal/other-documents/irs-news-releases/irs-offers-second-chance-rectify-erroneous-erc-claims/7l4k1>

URL: <https://www.taxnotes.com/research/federal/other-documents/irs-news-releases/irs-explains-how-tap-erc-claims-relief/7l4k2?highlight=IR-2024-213>

IRS Announcement 2024-30 provides more details and describes the eligibility criteria, terms, and procedures for electing to participate in the second Voluntary Disclosure Program. However, participants in this second ERC Voluntary Disclosure Program are allowed to retain only 15 percent of the claimed ERC amount (that is, they must pay back 85 percent of the total refund to the IRS).

URL: <https://www.taxnotes.com/research/federal/irs-guidance/announcements/irs-announces-second-disclosure-program-erc-claimants/7l4jz>

Any participant that has claimed the ERC for tax periods in 2021 and has received a credit or refund prior to August 15, 2024, is eligible to participate in the second ERC Voluntary Disclosure Program. Participation also includes common-law employers who used a third-party payer to claim the ERC on their behalf.

Participants in the second ERC Voluntary Disclosure Program must notify the IRS of their election by completing and submitting Form 15434, Application for Employee Retention Credit Voluntary Disclosure Program, on or before 11:59 p.m. local time on November 22, 2024. IRS Announcement 2024-30 outlines additional specific procedures for participants in this program.

URL: <https://www.irs.gov/forms-pubs/about-form-15434>

ERC compliance work continues

IRS announced plans to mail thousands of additional letters reversing or recapturing improperly paid ERC claims, anticipating this round of mailings could reach up to 30,000 letters this fall. The IRS notes that those who receive these recapture letters will be ineligible to participate in the Voluntary Disclosure Program for the calendar quarter the letter covers.

The IRS also announced in IR-2024-203 that it has shifted the moratorium period for processing new claims and is now processing claims filed through January 31, 2024.

URL: <https://www.taxnotes.com/research/federal/other-documents/irs-news-releases/irs-begin-erc-payments-shifts-moratorium-period/7kktb>

Special withdrawal program for taxpayers with unprocessed ERC claims

The IRS special withdrawal program for taxpayers with unprocessed ERC claims remains available. Not to be confused with the voluntary disclosure program, the withdrawal program is limited to taxpayers who have not yet received their refund. This program offers a simplified method for taxpayers to “undo” an ERC claim if they have reason to believe the claim was improper. The IRS will treat the claim as if it was never filed and no interest or penalties will apply.

For more information, review the IRS FAQs on the second ERC Voluntary Disclosure Program and the IRS news releases (IR-2024-212 and IR-2024-213).

URL: <https://www.irs.gov/newsroom/frequently-asked-questions-about-the-second-employee-retention-credit-voluntary-disclosure-program>

URL: <https://www.taxnotes.com/research/federal/other-documents/irs-news-releases/irs-offers-second-chance-rectify-erroneous-erc-claims/7l4k1>

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— Michael DeHoff
Tax Policy Group
Deloitte Tax LLP

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