



IRS reopens Voluntary Disclosure Program to help businesses with problematic Employee Retention Credit claims; sending up to 30,000 letters to address more than \$1 billion in errant claims



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WASHINGTON —The Internal Revenue Service announced today a limited time reopening of the Voluntary Disclosure Program to help businesses fix incorrect Employee Retention Credit claims as the agency continues compliance work.

The Employee Retention Credit (ERC) Voluntary Disclosure Program (VDP) will run through November 22 and allow businesses a chance to correct improper payments at a 15% discount and avoid future audits, penalties and interest. During the first disclosure program that ended in March, there were more than 2,600 applications from ERC recipients that disclosed \$1.09 billion worth of credits.

To underscore the importance of participating in the Voluntary Disclosure Program, the IRS also announced it plans to mail up to 30,000 new letters to reverse or recapture potentially more than \$1 billion in improper ERC claims. Thousands more mailings on additional questionable payments will be made in the fall.

“The limited reopening of the Voluntary Disclosure Program provides an opportunity for those with improper claims to come in ahead of IRS compliance work and get a discount on repayments,” said IRS Commissioner Danny Werfel. “This is especially important given increasing IRS compliance actions involving bad claims, many of them are the result of aggressive marketing tactics to lure unsuspecting businesses into claiming the complex credit. This provides a final window of opportunity for those misled businesses to make adjustments and avoid future compliance action by the IRS.”

“The push by promoters flooded the IRS with questionable ERC claims, which clogged our systems and slowed work,” Werfel added. “We recognize well-meaning businesses are caught up in this, and we are taking important steps to help them. This includes reopening the Voluntary Disclosure Program as well as getting more payments out to qualifying businesses.”

Last week, the IRS announced it was taking [additional steps](#) to move forward with ERC, including updates on the processing moratorium, compliance actions and upcoming payments. In recent weeks, the IRS separately sent out 28,000 disallowance letters to businesses whose pending claims showed a high risk of being incorrect. The IRS estimates that these disallowances will prevent up to \$5 billion in improper payments. The IRS has also identified 50,000 valid ERC claims and is quickly moving them into the pipeline for payment processing in coming weeks. These payments are part of a low-risk group of claims.

The ERC program began as an effort to help businesses during the pandemic, but as time went on, the program increasingly became the target of aggressive marketing – and potentially predatory in some cases – well after the pandemic ended. For example, some promoter groups called the credit by another name, such as a grant, business stimulus payment or government relief besides ERC or the Employee Retention Tax Credit (ERTC) to increase claims. The IRS continues compliance work on questionable ERC claims on multiple fronts, with thousands of audits underway and 460 criminal cases initiated.

ERC Voluntary Disclosure Program reopens; special discount available through November 22

Today’s announcement features a special reopening of the [ERC Voluntary Disclosure Program \(VDP\)](#) through November 22 to help businesses that received questionable payments to self-correct and repay the credit they received after filing ERC claims in error. The IRS urged businesses with claims that show [warning sign indicators](#) to review eligibility requirements and talk to a [trusted tax professional](#) to see if the disclosure program is a good option for them.

As the IRS continues intensifying its compliance work involving improper ERC claims, the disclosure program protects businesses from more costly future compliance action. The second VDP offers a 15% discount for businesses repaying credits for tax periods in 2021, a slightly reduced rate from the first program’s 20% discount that ended in March.

Businesses should act soon to resolve incorrect claims and avoid potential future issues such as audits, full repayment, penalties and interest. Full details are available in [IRS Announcement 2024-30](#) [PDF](#), also released today, with highlights outlined in another IRS news release, IR-2024-213, [IRS provides details of second Employee Retention Credit Voluntary Disclosure Program; program for improper claims open through Nov. 22.](#)

Thousands of new recapture letters going out for improper ERC claims made for Tax Year 2021, some Tax Year 2020

As part of ongoing compliance work, the IRS announced today plans to mail thousands of additional letters reversing or recapturing improperly paid ERC claims. The IRS currently anticipates this round of mailings could reach up to 30,000 letters this fall. These “clawback” notices potentially represent more than \$1 billion in claims from Tax Year 2021 and some additional, later-filed Tax Year 2020 claims. These letters notify taxpayers that the IRS is reversing or recapturing their previous credit. Several thousand of the letters have been mailed, with more coming in upcoming weeks and into the 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.

This is the second round of these letters. Previously, the IRS determined that more than 12,000 entities filed claims that were improper for Tax Year 2020, resulting in \$572 million in assessments.

The latest letters generally involve larger claims than earlier letters regarding 2020 because Congress increased the maximum ERC in 2021. Congress increased the maximum ERC from \$5,000 per employee per year in 2020 to \$7,000 per employee for each quarter of the year in 2021.

When the IRS identifies an employer that has received excessive or erroneous ERC, the agency will reclaim that ERC through normal tax assessment and collection procedures.

"This new round of letters serves as another incentive for businesses that believe they received an erroneous Employee Retention Credit payment to come forward and participate in the disclosure program and resolve the matter on more favorable terms," Werfel said. "The disclosure program provides a limited, unique opportunity to avoid future IRS compliance problems as well as sidestep a significant repayment fee with penalties and interest."

Separate ERC Claim Withdrawal Program remains available for those with pending claims

The IRS also continues to urge employers with pending, unpaid ERC claims to consider a separate [ERC Claim Withdrawal Program](#) that allows them to remove a pending ERC claim – one that the IRS has not processed yet. They can withdraw the claim and pay no interest or penalty. Already, the claim withdrawal process for those with unprocessed ERC claims has led to more than 7,300 entities withdrawing \$677 million.

ERC compliance work continues

The IRS continues analyzing ERC claims, intensifying audits and pursuing promoter and criminal investigations. Beyond the disallowance letters, current initiatives results include:

- **Criminal investigations:** As of July 1, 2024, IRS Criminal Investigation has initiated 460 criminal cases, with potentially fraudulent claims worth nearly \$7 billion. In all, 37 investigations have resulted in federal charges so far, with 17 investigations resulting in convictions and nine sentencings with an average sentence of 20 months.
- **Promoter investigations:** The IRS is gathering information about suspected abusive tax promoters and preparers improperly promoting the ability to claim the ERC. The IRS's Office of Promoter Investigations has received hundreds of referrals from internal and external sources. The IRS will continue civil and criminal enforcement efforts of these unscrupulous promoters and preparers.
- **Audits:** The IRS has thousands of ERC claims currently under audit.

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