

Published: April 27, 2026 | Last Updated: May 1, 2026

Protect Your Employee Retention Credit Claim: Use IRS’s New Streamlined Process to Request an Extension



Pressed for time? Listen to a summary of this blog →

A strict two-year deadline applies to taxpayers whose Employee Retention Credit (ERC) claims have been disallowed – and that clock does not stop while the IRS or the IRS Independent Office of Appeals (Appeals) reviews the case. If the deadline expires, the consequences are severe: the taxpayer loses the right to file suit in federal court, and the IRS is barred from issuing the refund, even if the claim is otherwise valid.

This is not a technicality – it is a significant and often overlooked risk that can permanently deprive taxpayers of relief Congress intended for them to receive. [As I have previously observed](#), taxpayers should not assume that administratively working with the IRS, filing a protest, or meeting with an Appeals Officer will protect their refund rights. Once the statutory deadline passes, those rights are gone – it’s game over.

But wait: the IRS has introduced a new streamlined process to help certain taxpayers with disallowed ERC claims request an extension of this deadline, which will better protect their refund rights. While this is a positive step, **taxpayers must act quickly and remain vigilant**. If the deadline expires, the right to a refund is lost. Additionally, it is important to note that this new process only applies to taxpayers who have protested an ERC disallowance, not those who protested a disallowance of any other issue.

Background

During the pandemic, Congress created the ERC as a critical financial lifeline for struggling businesses. Years later, many taxpayers are still navigating the administrative process to substantiate their claims. As these cases move from Examination to Appeals and sometimes back again, an important statutory deadline continues to run quietly in the background.

Under IRC § 6532(a), taxpayers generally have two years from the date on the notice disallowing the claim – typically a [Letter 105C](#), Disallowance of the Employee Retention Credit, or [Letter 106C](#), Claim Partially Disallowed – to either:

- File a refund suit in a U.S. district court or the U.S. Court of Federal Claims,
- Reach an agreement with the IRS and receive their refund, or
- Execute an extension of time to resolve the issue.

If none of these actions occur within the two-year period, the result is final. Generally, the IRS is barred from paying the refund – even if the refund is otherwise allowable, and the taxpayer may no longer file a refund suit to litigate the merits of the credits.

Why This Matters

This issue is particularly critical when considering how long it takes cases to move through the IRS administrative process. In fiscal year 2025, the average time from the initial taxpayer request for an appeal to resolution of all cases – not just ERC cases – including both IRS Compliance and Appeals review, was **337 days**. In practice, that means a significant portion of the two-year period can be consumed while the case is still working its way through administrative channels.

For ERC claims, the risk is even more urgent. In the summer of 2024, the IRS issued approximately **28,000 disallowance notices**, many based on the results of risk filter analyses rather than a prior examination. Taxpayers responded to these disallowances by filing protests and expecting prompt review by Appeals. Instead, many of these cases were routed to IRS Compliance for initial review because no examination had previously occurred. Although this Compliance review allowed the IRS to consider taxpayer-submitted documentation, it took place while the two-year period continued to run. Ordinarily, this type of review would occur during an examination prior to the notice of disallowance and before the two-year clock begins running.

As a result, some taxpayers may reach the end of the two-year period before the IRS completes its review, losing their right to both a refund and judicial review. This creates a fundamentally unfair situation where administrative delay alone can determine the outcome.

Positive Step: New Streamlined Process – But Limited to Employee Retention Credit Claims

Working closely with TAS, the IRS has recently taken an important step to address this problem for ERC taxpayers. Shortly after April 27, 2026, the IRS will send Notice CP320B, Important Reminder Regarding Your Disallowed Employee Retention Credit (ERC) Claim, to taxpayers who submitted a response after the IRS disallowed their ERC claim, and whose cases have six months or less remaining on the two-year period.

These new notices alert taxpayers to the approaching deadline and direct them to complete a [Form 907](#), Agreement to Extend the Time to Bring Suit. This form, once signed by **both** the taxpayer and the IRS, extends the time to file a refund suit or receive payment. The notice includes a QR code linking to a fillable Form 907 that the taxpayer can print, sign, and electronically submit via the [IRS Document Upload Tool \(DUT\)](#). Upon receipt, the IRS will review the form and confirm the taxpayer’s case meets the specified criteria (*i.e.*, the taxpayer responded to an ERC disallowance, and there are six months or less remaining on the two-year statute). If the taxpayer meets these criteria, the IRS will execute the form and return a signed copy to the taxpayer.

Note: Generally, the Form 907 extension is no longer than two years in length and can be renegotiated if additional time is needed.

If corrections are required, or the taxpayer does not otherwise qualify (*i.e.*, there are more than six months remaining on the two-year statute), the IRS will notify the taxpayer by sending a Letter 3064C explaining how to perfect the Form 907 or why they do not otherwise qualify.

The IRS plans to issue Notice CP320B on a rolling basis as it works through the backlog of ERC-related responses. This is a meaningful improvement and reflects the importance of protecting taxpayers’ statutory rights.

However, this process is limited to ERC claims. Many other taxpayers with disallowed claims face the same two-year deadline without similar safeguards or reminders. In 2025, the IRS **issued about 720,000** Notices of Claim Disallowance, of which the ERC notices were only a small fraction.

Navigating the Process in Appeals

For those taxpayers who otherwise qualify for the streamlined process but whose ERC protest resides in Appeals, the process for handling the Form 907 depends on the status of the case. If the case has not yet been assigned to an Appeals Officer, a taxpayer’s request for an extension of time submitted through the DUT will be forwarded to a designated Appeals point of contact (POC), who will coordinate review and signing of the Form 907 if all other requirements are met. The IRS employees manning the streamlined process will send a letter to the taxpayer informing them that their Form 907 has been sent to Appeals for consideration, and to anticipate further correspondence from Appeals.

If the Appeals POC determines that the taxpayer’s case has been assigned to an Appeals Officer, the POC will forward the signed Form 907 to the Appeals Officer for consideration. These taxpayers will be notified that the Form 907 has been sent to their assigned Appeals Officer, and the taxpayers should work directly with them to finalize the request.

As noted by David Borden, Chief of Appeals:

“The Independent Office of Appeals remains committed to protecting taxpayer rights. Where taxpayers have not been contacted within six months of the statute running, and they know their assigned Appeals Officer, we encourage contacting the officer directly to request an extension of time to file suit. Appeals [has] worked with [Small Business/Self Employed] (SB/SE) to ensure that all taxpayers who have requested appeals may submit extension requests using the Document Upload Tool as announced by SB/SE. Our goal is for all taxpayers who wish to have their case heard by Appeals to have an opportunity to do so while assisting taxpayers in protecting their statute of limitations on the right to file suit.”

What Taxpayers Should Do Now

As the IRS begins informing taxpayers of the impending two-year period, and offering this streamlined process, taxpayers and practitioners should consider the following:

- **Independently track the two-year deadline:** Taxpayers and practitioners must monitor the statute of limitations based on the date of the claim disallowance notice, as the IRS does not display this deadline on the notice itself or on transcripts.
- **Act promptly upon receipt of IRS Notice CP320B (Form 907):** For Form 907 to be valid, it must be signed by both the taxpayer and the IRS before the expiration of the two-year statutory period.
- **Follow CP320B instructions precisely:** When completing Form 907, adhere strictly to the instructions provided in the notice. Even minor errors can delay processing and jeopardize timely execution.
- **Proactively file Form 907 if needed:** If eligible but no CP320B is received, taxpayers may still submit Form 907. For instructions, visit [Understanding Letter 105-C, Disallowance of the Employee Retention Credit \(ERC\)](#).
- **Maintain thorough documentation:** Keep detailed records of all communications and submissions to the IRS, including a copy of the fully executed Form 907 for your files.

Conclusion

This new streamlined process for ERC claims is a step in the right direction toward protecting taxpayer rights, but it highlights a broader issue. The two-year deadline under IRC § 6532(a) is unforgiving, and too many taxpayers, practitioners, and IRS employees are unaware of its consequences until it is too late. Once it expires, the taxpayer’s rights to a refund or to seek judicial review are permanently lost, regardless of the merits of the claim.

With many ERC claims, the IRS administrative delays consumed much of this limited window, placing taxpayers at real and immediate risk. Taxpayers who are working in good faith with the IRS should not be forced to file protective lawsuits simply to preserve their claims. Congress created legislation to provide an extension of time (Form 907) as a mechanism to prevent that outcome, but a safeguard must be accessible, understandable, and available to be effective for all taxpayers.

The IRS’s new process is an important step toward protecting taxpayer rights in ERC cases, but needs to be expanded to all disallowance cases. Until processes are fully aligned for all claim disallowances, taxpayers must remain vigilant. The statutory clock continues to run, and waiting can mean losing the refund entirely. Don’t let this happen to you!

Resources

- [IRS Announces New Option For Certain Taxpayers to Request More Time After Certain ERC Claim Disallowance](#)
- [Form 907, Agreement to Extend the Time to Bring Suit](#)
- [NTA Blog: Notice of Claim Disallowance: Don't Make This Mistake](#)
- [NTA Blog: The ERC Claim Period Has Closed – The IRS Must Now Prioritize Resolution, Communication, and Taxpayer Protections](#)
- [National Taxpayer Advocate 2024 Annual Report to Congress, Most Serious Problem: Employee Retention Credit: IRS Processing Delays Are Resulting in Uncertainty and are Harming and Frustrating Business Owners](#)

[Read the past NTA Blogs](#) ➔

The views expressed in this blog are solely those of the National Taxpayer Advocate. The National Taxpayer Advocate presents an independent taxpayer perspective that does not necessarily reflect the position of the IRS, the Treasury Department, or the Office of Management and Budget. NTA Blog posts are generally not updated after publication. Posts are accurate as of the original publication date. Portions of this blog may have been developed with the assistance of artificial intelligence. All AI-assisted content has been reviewed, verified, and approved by the National Taxpayer Advocate or TAS staff to ensure accuracy and integrity.

[Subscribe to the NTA Blog](#) ➔