



IRS Announces Moratorium on Processing New ERTC claims

Claims already filed will be subject to increased scrutiny

The IRS [announced](#) on September 14 an immediate moratorium on the processing of **new** employee retention tax credit (ERTC or ERC) claims through at least the end of 2023. In addition, the IRS issued a second [announcement](#) renewing its warning to taxpayers about so-called “ERTC mills,” aggressive promoters misleading employers into making improper ERTC claims.

Key points from the IRS announcements:

- **ERTC Claims Filed Prior to Moratorium:** The IRS states that it *continues to work previously filed ERTC claims* that were received prior to the moratorium. However, increased fraud concerns mean that *processing times will be longer*. Payouts for these claims will also be “at a slower pace due to the detailed compliance reviews.” Due to those stricter compliance reviews, the IRS’s standard processing goal has been increased from 90 days to 180 days. The IRS cautions that the timeline could be much longer if the claim faces additional review or audit. The IRS “may also seek additional documentation from the taxpayer to ensure it is a legitimate claim.”
- **Moratorium on New Claims:** The purpose of the moratorium is to “protect honest small business owners from scams.” The IRS notes that “a substantial share of new claims from the aging program are ineligible and increasingly putting businesses at financial risk by being pressured and scammed.”
- **New FAQs:** The IRS updated its [FAQs](#) on the ERTC, with a focus on helping taxpayers determine their eligibility for the ERTC and protecting themselves from promoters pushing fraudulent claims.
- **New Q&A Guide on ERTC Eligibility:** The IRS has provided a new “[eligibility checklist](#),” which asks a series of questions designed to help a taxpayer determine whether they are eligible to claim the credit.
- **Withdrawing Improper Claims:** For taxpayers with a pending ERTC claim who determine that their claim was improper, the IRS states, “[Y]ou will be able to withdraw your amended return that included your ERC claim as long as your claim has **not** been processed and paid. Requesting a withdrawal means you would be asking the IRS **not** to process your entire amended return that included your ERC claim.” Filers of the more than 600,000 claims awaiting processing will have this option available. The IRS notes that withdrawing a fraudulent claim will not exempt the filer from potential criminal investigation and prosecution. More information on the withdrawal option is forthcoming.
- **Returning Refunds Received Due to Improper Claim:** The IRS is developing new initiatives, including a settlement program for repayments of improper ERTC payments, to help businesses who found themselves victims of aggressive promoters. The settlement program will allow businesses to “avoid penalties and future compliance action.” The IRS notes that it is “continuing to assess options on how to deal with businesses that had a promoter contingency fee” paid for out of its ERTC payment. More information on the settlement program will be available this fall.
- **ERTC Audits:** The IRS has referred “thousands” of ERTC cases for audit. Auditors are focusing on those ERTC claims “posing the greatest risk.”
- **No Expediting of Individual Claims:** “Due to the large volumes and the need for compliance checks to protect against fraud, the IRS is unable to expedite individual claims. The IRS believes many of the applications currently filed are likely ineligible....”