

IRS Resumes ERC Processing for Pre-Moratorium Claims, Announces Results of Recent ERC Review

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The Internal Revenue Service (IRS) recently announced that it would resume processing and payment for low-risk Employee Retention Credit (ERC) claims filed in 2023.

These claims have been pending since the moratorium that began on Sept. 14, 2023 and are expected to be processed at a much slower pace than processing times that were seen prior to the moratorium.

Resumption of claims processing is welcome relief for the many businesses that have been waiting for ERC refunds for over a year and were considering options to recover these refunds in the face of a moratorium with no scheduled ending date. The IRS advised businesses that filed claims for refunds prior to the moratorium to take no further action at this time.

Impact of Moratorium

The IRS reviewed more than one million claims totaling over \$86 billion since the start of the moratorium. As part of that review, the IRS flagged 10-20% of these claims as high risk and began issuing denial notices. An additional 60-70% of claims were flagged as having an unacceptable level of risk and will undergo an additional level of review to determine eligibility. It is expected that many claims will also be denied at the conclusion of the additional review.

In addition, the IRS identified 12,000 entities that filed improper claims and received refunds for 2020. These entities will begin receiving assessment notices seeking the return of any refunds plus penalties and interest. The IRS is planning to issue thousands of additional notices covering the 2021 tax year by end of 2024.

Lastly, IRS Criminal Investigations Unit has initiated 450 criminal cases worth nearly \$7 billion. There have been 36 investigations resulting in 16 convictions with an average sentence of 25 months.

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ERC REVIEW Cont.

This latest update by the IRS highlights the continued efforts it is making to combat abuse of this program by third party promoters and to recover improperly paid refunds. The IRS is expected to leave the moratorium in place indefinitely. According to IRS Commissioner Werfel, “ending the moratorium might trigger a gold rush by aggressive marketers that could lead to a new round of improper claims, which would be a bad result for taxpayers or tax administration.”

What you can do Today

If your business filed an ERC claim prior to the start of the processing moratorium on Sept. 14, 2023, the IRS says that no action is needed to expedite the processing of your claims. The IRS will continue to process claims on a first in, first out basis. Businesses can expect to start seeing these refunds hit their mailboxes later this summer.

The processing moratorium remains in place for any ERC claims made on or after Sept. 14, 2023. Any claims submitted on or after that date are expected to remain in the queue for processing at the IRS indefinitely. The IRS has not announced an ending date for the moratorium impacting these claims.

IRS officials are urging businesses to talk to a legitimate tax professional rather than a promoter to review their ERC claims and take steps to withdraw their claims or voluntarily return refunds if there are any issues.