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IRS Targets Schemes To Claim ERC Employee Retention Credits



IRS audits of businesses claiming the Employee Retention Credit (ERC) are in full swing. The IRS is looking at companies who may be unfairly claiming it, and also at firms promoting assistance to them who the IRS thinks may be bending the rules. Congress provided vast pandemic tax relief in various

forms. One of the most popular and enduring ones that is still drawing fire is the ERC.

The ERC is a refundable tax credit designed for businesses who continued paying employees while shut down due to the COVID-19 pandemic or who had significant declines in gross receipts from March 13, 2020, to Dec. 31, 2021. Eligible taxpayers can claim the ERC on an original or amended employment tax return for a period within those dates. To be eligible, employers must have:

- sustained a full or partial suspension of operations due to [orders from an appropriate governmental authority](#) limiting commerce, travel or group meetings due to COVID-19 during 2020 or the first three quarters of 2021,
- experienced a [significant decline in gross receipts during 2020](#) or
- a [decline in gross receipts during the first three quarters of 2021](#), or
- qualified as a [recovery startup business](#) for the third or fourth quarters of 2021.

The IRS is well aware of radio, TV and internet ads with alluring claims of free money, \$26,000 per employee, with no money down. The IRS has been [warning about this scheme](#) since [last fall](#), but the credit claims continue to pour in. The IRS says that some tax professionals are being pressured to claim credits improperly. People and businesses should not filing improper claims. The IRS says you should be cautious of advertised schemes and direct solicitations promising tax savings that are too good to be true.

Taxpayers are always responsible for the information reported on their tax returns. Improperly claiming the ERC could result in taxpayers being required to repay the credit along with penalties and interest. The IRS continues to see third parties aggressively promoting [Employee Retention Credit](#) (ERC) schemes. In [News Release IR-2023-105](#), the IRS renewed an alert for businesses and tax exempt groups to watch out for warning signs of aggressive Employee Retention Credit marketing. The IRS says that some promoters may lie about eligibility requirements.

ERC is important pandemic-era credit and valuable if claimed properly, but could result in repayment and substantial penalties and interest if it turns out to be improperly claimed. The IRS has trained auditors examining ERC claims that are posing the greatest risk. Plus, the IRS has announced that the IRS Criminal Investigation division is working to identify fraud and promoters of fraudulent claims. Illegitimate claims slow down processing of the credit for everyone.

The IRS also reminds businesses, tax-exempt groups, and others about simple steps to take to protect themselves from making an improper ERC.

- Work with a [trusted tax professional](#); don't rely on the advice of those soliciting these credits.
- Don't apply unless you believe you are legitimately qualified for this credit. Details about the credit are available at [IRS.gov | Employee Retention Credit](#).

Finally, the IRS is calling on people to report ERC fraud where they see it. Employers can report illegal tax-related ERC claims and activities by submitting a completed [Form 14242, Report Suspected Abusive Tax](#)

[Promotions or Preparers](#), and any supporting materials to the IRS Lead Development Center in the Office of Promoter Investigations.

Check out my [website](#).