

## **SEO DETAILS:**

Page Title: IRS Pauses New ERS Claims Amid Fraud Concerns | [INSERT RELATED SERVICE] | [INSERT FIRM NAME]

Meta Description: [NAME OF FIRM] covers ERC eligibility and how to navigate the recent IRS suspension, ensuring you don't miss out on valuable tax credits.

Headline: IRS Pauses New ERS Claims Amid Fraud Concerns

## **BODY COPY:**

Congress created the [Employee Retention Credit \(ERC\) program](#) near the beginning of the COVID-19 pandemic in an effort to prevent widespread loss of jobs. The program gives employers a credit against their payroll tax obligations if they keep employees on their payrolls during certain situations. It was only available during a specific period of time in 2020 and 2021. Nevertheless, qualifying employers that have yet to claim it have still been able to do so for the applicable time periods. The IRS recently announced, however, that it is [temporarily suspending new ERC claims](#). The agency is experiencing lengthy backlogs due to a massive influx of claims, and it has expressed concerns about fraud, largely on the part of promoters falsely informing employers that they are eligible.

### **Who Is Eligible for the ERC?**

Businesses, nonprofits and certain government entities — but not individuals — may be eligible for the ERC for specific calendar quarters in 2020 or 2021 if they experienced any of the following during that quarter:

- Due to a government order, they had to fully or partially suspend their operations.
- In 2020, their gross receipts were less than 50% of their gross receipts for the corresponding quarter in 2019.
- In 2021, their gross receipts were less than 20% of their gross receipts for the corresponding quarter in 2019.

The IRS provided a rather detailed explanation of what constituted a “government order” and a full or partial suspension of business, as well as what it meant to be subject to a government order. For example, a business did not necessarily have to be the direct subject of a government shutdown order. It could qualify if it had to suspend operations because one or more suppliers were subject to such an order.

No employer may be eligible for the ERC for any quarter beginning on or after January 1, 2022. Two additional categories of employers, “Recovery Start-up Businesses” and “Severely Financially Distressed Employers,” became eligible for the ERC in the fourth quarter of 2021.

### **What Are the IRS’s Concerns?**

In May 2023, the IRS issued a news release [warning about the risk of fraud](#) amid “aggressive marketing” of the ERC to businesses and nonprofit organizations. The agency accused “aggressive promoters” of “wildly misrepresenting and exaggerating who can qualify for the credits.” The release accused promoters of making false representations to employers about their eligibility for the credit.

The ERC is a refundable credit, meaning employers may be able to receive cash payments from the IRS. This creates a clear potential for fraud. The IRS identified warning signs of ERC marketing that could lead to fraudulent claims, including:

- Unsolicited ads or calls;
- Claims of an “easy application process”;
- Claims to be able to “determine ERC eligibility within minutes”;
- Claims that an employer is eligible “before any discussion of the group's tax situation”; and
- Upfront fees or fees that are based on a percentage of the refund received.

The IRS [announced in July 2023](#) that it would be “increasing scrutiny on dubious [ERC] submissions.” It would also continue its efforts to warn employers about “aggressive marketing” that could lead to fraudulent ERC claims. This news release stated that the IRS had received over 2.5 million ERC claims since the start of the program, leading to backlogs in processing.

Anyone who makes an improper ERC claim and receives a refund, the IRS noted in its July news release, will have to pay that money back. Penalties and interest may apply. In cases that involve intentional fraud by an employer, the consequences could be even worse. The IRS also stated that having to pay the credit back could put an employer “in a much worse cash position...than if the credit was never claimed in the first place.”

### **How Big Is the Backlog of ERC Claims?**

Employers may claim the ERC using [Form 941-X](#). This form is typically used to correct errors on previous Forms 941.

As of September 29, 2023, the IRS [reported a backlog](#) of 43,000 Forms 941. The backlog of unprocessed Forms 941-X, reported as of September 27, was about 779,000. The IRS states that it cannot process some of these forms until it processes the underlying Forms 941.

### **Learn More About the ERC and Other Tax Benefits**

Employers that kept paying their employees despite business slowdowns or government-ordered shutdowns during the COVID-19 pandemic may be eligible for payroll tax credits through the ERC program. The rules for the program can be complicated, though, and the IRS is cracking down on suspected fraud. A tax professional can help you understand your options.

### **CLOSE:**

If you have any questions or would like additional information, please contact [NAME] in our [DEPARTMENT] at [NUMBER] or [EMAIL].

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