

IRS Starts Asking Direct Questions to Taxpayers on Their ERC Claims

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As previously reported by Miller Canfield, unscrupulous promoters caused many taxpayers to file claims for the Employee Retention Credit even when they did not qualify. As a result, the IRS views claims for this credit with suspicion and has created several programs allowing taxpayers to withdraw their claims without penalty. In conjunction with this approach, the IRS has now begun sending letters to taxpayers who have claimed the Employee Retention Credit requesting additional evidence supporting the claim.

Beginning in January, certain businesses that claimed the Employee Retention Credit received an IRS Letter 6612 alerting them that their credit claim was under audit and on hold. The letters included Form 4564, which required the taxpayer to respond to 13 multi-part questions and provide detailed documentation supporting the answers.

The questions on the Form 4564 are intended to demonstrate that the taxpayer was eligible for the Employee Retention Credit. The taxpayer is also asked to provide documentation supporting the answers and showing that business operations were fully or partially suspended as a result of a government shutdown, worksheets the taxpayer used to calculate the credit, and documentation on the taxpayer's gross receipts for the period of time for which the Employee Retention Credit was claimed.

The letter provides that, if the taxpayer answers all the questions and provides all the required documentation, the IRS will finish processing the return. If the IRS determines that the documentation does not support the full amount of credit claimed, the IRS will send the taxpayer an audit report detailing changes to their taxes. Failure to respond to the request will result in full denial of the credit. The letter also provides that the taxpayers may withdraw the claim if they no longer believe they are entitled to the credit.

If you have received a letter requesting documentation for a claimed ERC, or if you would like to look into withdrawing your ERC claim prior to receiving an IRS letter, Miller Canfield can help you. Please contact your Miller Canfield attorney or the authors of this alert if you wish to discuss the matter further.