

Where's My Employee Retention Credit?



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May 6, 2025 | **CLIENT ALERTS**

In the years since COVID-19 shut down the country, many businesses applied for the Congressionally-authorized Employee Retention Credit (ERC), a valuable relief program created during the pandemic to support businesses who kept staff on payroll during difficult and uncertain times. Many businesses took advantage of this program; however, many have not yet received the relief promised under the statute.

If you have already filed your claim and are still waiting for your funds, you're not alone, and our Tax Controversy Team at Lippes Mathias may be able to help.

What is the Employee Retention Credit?

The ERC was introduced under the CARES Act^[1] in 2020 and expanded in 2021^[2] to offer eligible businesses refundable payroll tax credits worth up to:

- \$5,000 per employee for 2020
- \$21,000 per employee for 2021 (up to \$7,000 per quarter for the first three quarters).^[3]

That's a potential total of \$26,000 per employee, a significant benefit for the employers that qualified under the program.

To be eligible, employers had to meet certain requirements, such as experiencing a significant decline in gross receipts or facing full or partial business suspension due to government orders.[4]

What is Taking So Long?

The IRS has been overwhelmed with the volume of ERC claims, and in mid-2023, it even paused new claim processing to address concerns about fraud and backlog.[5] As a result, many businesses who filed timely and accurate claims are still waiting—sometimes months or even years—with little, if any, communication or clarity. This is of little surprise given the IRS's increased scrutiny of these claims -- In 2023, the IRS added widely circulating promoter claims involving ERCs to its Dirty Dozen list of tax scams.[6]

Alongside the overwhelming number of claims, the IRS continues to struggle with insufficient funding to hire enough staff for claim processing. As of October 2024, the IRS has been working through a backlog of over 400,000 claims, worth about \$10 billion.[7] To address this, the IRS implemented a software program designed to automate and speed up the validation process by identifying potentially fraudulent or suspicious ERC claims. However, Taxpayers are not silently waiting. Lawsuits have been filed alleging that the software has improperly disqualified claims in bulk, resulting in the rejection of many valid applications.[8]

What You Can Do

If you've already filed your ERC claim and haven't received your refund, our firm can help you move things forward! We can assist businesses that are either stuck in the waiting game or confronted with a rejection of their claim. Whether you're unsure of your claim's status, concerned about possible errors or delays, in the midst of an ERC audit, or just need someone to advocate on your behalf, we can assist in navigating through the uncertainty.

Our services include:

- Claim status reviews and escalation;
- IRS follow-up support;
- Representation during IRS ERC audit;
- Appeal of a denial of an ERC claim;
- Substantive claim review and mock audit;
- ERC refund litigation;
- Navigating the ERC Withdrawal Program;
- Guidance regarding amending returns or reporting ERC amounts received; and
- Assist in responding to IRS notices or requests

We understand how frustrating the delay can be, especially when your business is counting on those funds. Let Lippes Mathias help you cut through the red tape and get the answers (and results) you deserve.

If you've already filed for the ERC but haven't received your refund—or if you're facing delays or confusion, contact our team today. We're here to help you track your claim, troubleshoot issues, and pursue the funds your business

is owed.

[1] Pub. L. No. 116-136, 134 Stat. 281 (March 27, 2020); Taxpayer Certainty and Disaster Relief Act of 2020 [Pub. L. 116-260, 134 Stat. 1182 (December 27, 2020)].

[2] The American Rescue Plan Act of 2021 [Pub. L. 117-2, 135 Stat. 4 (March 11, 2021), which enacted 26 U.S.C. § 3134], and the Infrastructure Investment and Jobs Act [Pub. L. 117-58, 135 Stat. 429 (November 15, 2021)].

[3] 26 U.S.C. § 3134

[4] *Id.*

[5] <https://www.tigta.gov/reports/audit/management-took-actions-address-erroneous-employee-retention-credit-claims-however>

[6] <https://www.irs.gov/newsroom/irs-opens-2023-dirty-dozen-with-warning-about-employee-retention-credit-claims-increased-scrutiny-follows-aggressive-promoters-making-offers-too-good-to-be-true>

[7] <https://www.irs.gov/newsroom/irs-accelerates-work-on-employee-retention-credit-claims-agency-currently-processing-400000-claims-worth-about-10-billion>

[8] See *Stenson Tamaddon, LLC v. IRS*, No. CV-24-01123 (D. Ariz.) and *ERC Today LLC, et al. v. John McInelly, et al.*, No. CV-24-03178-PHX-SMM (D. Ariz. Apr. 7, 2025).