



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

December 19, 2025

Control Number: SBSE-05-1225-0070
Expiration Date: 12/19/2027
Affected IRMs: 5.1.8; 5.9.1; 5.12.7;
5.17.4; 5.17.14; 5.19.1

MEMORANDUM FOR DIRECTORS, FIELD COLLECTION;
DIRECTORS, CAMPUS COLLECTION;
DIRECTOR, SPECIALTY COLLECTION – OFFER-IN-COMPROMISE
DIRECTOR, SPECIALTY COLLECTION – INSOLVENCY

FROM: Thomas Kramer
Director, Collection Policy Thomas D. Kramer
SUBJECT: Guidance for Collection Actions on Tax Assessments Related to
Erroneously Issued COVID-19 Employer Tax Credits

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Date: 2025.12.19 13:41:31 -08'00'

This memorandum provides guidance to employees who need to take collection actions on accounts with assessments related to the reversal of erroneously issued COVID-19 employer tax credits.

Background: IRS issued recapture regulations, titled, “Recapture of Certain Excess Employment Tax Credits Under COVID-19 Legislation”, under Document #2023-15690, recorded at the Federal Register. These regulations became effective 07/24/2023 and implemented the statutory authority granted under sections 7001(f) and 7003(f) of the Families First Coronavirus Response Act (FFCRA), section 2301(l) of the Coronavirus Aid, Relief and Economic Security (CARES) Act, and sections 3131(g), 3132(g), and 3134(m) of the Internal Revenue Code (IRC) and apply to any credit refund paid on or after July 24, 2020. These regulations authorize the IRS to assess, reconcile, and recapture any portion of the credits erroneously credited, paid, or refunded in excess of the actual amount allowed as if the amounts were taxes imposed under section 3111(a) or 3111(b), whichever is applicable, in lieu of the use of erroneous refund procedures. IRC section 6432(c) provides IRS the authority to assess improperly claimed Consolidated Omnibus Budget Reconciliation Act (COBRA) credits, and refunds of such credits, as an underpayment of tax.

Source of Authority: Document #2023-15690, Recapture of Certain Excess Employment Tax Credits Under COVID-19 Legislation, and IRC section 6432(c) are the sources of authority for this guidance.

Effective Date: This guidance is effective 12/19/2025 through 12/19/2027.

Identifying Assessments Related to Erroneously Issued COVID-19 Employer Tax Credits

Employees can identify additional assessments related to COVID-19 employer tax credits via IDRS CC TXMODA, transaction codes (TC) 290, 298, 300, or 308 that is followed by a TC 767 with a credit reference number (CRN) of 296, 299, 271, or 276 (see table below for further details). The TC 290, 298, 300, or 308 assessment will share the same document locator number (DLN) as the related TC 767. The TC 290, 298, 300, or 308 assessment amount indicates the nonrefundable portion of the credit (and any additional tax assessment amount), and the TC 767 indicates the reversal of the refundable portion of the credit.

Cases with assessments related to the Employee Retention Credit (ERC) Voluntary Disclosure Program (VDP) can be identified via a TC 298 followed by a TC 767 CRN 296 (for the amount of the refundable portion of the credit) and a TC 971 AC 256 to indicate “settlement agreement”.

Collection employees may identify COVID-19 employer tax credits through the following transaction codes:

Credit Type	Transaction Code
Employee Retention Credit (ERC)	TC 766 CRN 296
Credit for Qualified Sick and/or Family Leave Wages for Leave Taken Prior to 04/01/2021	TC 766 CRN 299
Credit for Qualified Sick and/or Family Leave Wages for Leave Taken After 03/31/2021	TC 766 CRN 271
COBRA Credit	TC 766 CRN 276

Collection Actions on Assessments Related to Erroneously Issued COVID-19 Employer Tax Credits

Collection employees may use standard administrative collection procedures, which include filing of the Notice of Federal Tax Lien (NFTL) and issuance of a notice of levy, as appropriate, in cases where there is an additional tax assessment related to an erroneously issued COVID-19 employer tax credit.

Employees must follow the guidance outlined in IRM 5.1.8.8.1, Recovery of Unassessable Erroneous Refunds, and related subsections if there is **no** additional assessment of tax (290, 298, 300, or 308) related to the reversal of a COVID-19 employer tax credit. The IRS **cannot** take administrative lien or levy action to recover an **unassessable** erroneous refund. The remedies generally available to the IRS to recover unassessable erroneous refunds include requesting the taxpayer to voluntarily repay the amount due, filing of a civil suit as authorized by IRC 7405, Action for Recovery of Erroneous Refunds (see IRM 5.17.4.14, Suits to Recover Erroneous Refunds), or refund offset.

Collection Actions if Refund Recipient is Different than the Entity Assessed

In cases where the erroneous refund recipient is different than the entity with the additional tax assessment, Collection employees may utilize the following, existing collection tools to pursue collection from the erroneous refund recipient:

- Special Condition NFTL (e.g., alter ego, nominee, successor-in-interest), followed by levy, seizure, and/or suit, or

- Suit referral to the Department of Justice (DOJ) for appropriate action.

See IRMs 5.12.7.6.2, Alter Ego NFTL, 5.17.14.7, Nominee, Alter Ego, and Transferee Elements, and 5.17.14.5.4, Establishing Transferee or Fiduciary Liability for Suit, for more information.

Letter 6577 or Letter 6577-C Reconsideration Requests

SB/SE Campus Examination issued Letter 6577 or Letter 6577-C to employers who claimed too much ERC. Disallowance reasons on Letter 6577 include:

- Employer claimed too much ERC based on the count of 2020 Forms W-2 filed,
- Employer claimed too much ERC based on 50 percent of reported ERC wages plus ERC health care expenses, or
- Employer claimed too much ERC based on the amount of total compensation they reported.

Disallowance reasons on Letter 6577-C (which included 2021 tax periods) are similar to the above and vary depending on the limits for the applicable tax period.

Campus Examination letters can be recognized by TC 971 AC 804 with the MISC field, "LXXXX Y MMYYYY (or MMDDYY)", which is defined as follows:

- **LXXXX:** The type of letter sent.
- **Y:** The letter paragraph included (if applicable).
- **MMYYYY or MMDDYY:** The month and year (or the month, day, and year) the letter was issued.

Collection employees who receive a reconsideration request (timely or late) from a taxpayer in response to Letter 6577 or Letter 6577-C should send the information to ***SBSE OCEA CARES Referral**. The documentation will be assigned to an Examiner for review. Per IRM 5.1.15.3.1, Reconsiderations - General Procedures - Audit, Automated Underreporter (IMF/BMF AUR), Substitute for Return (SFR) and Automated Substitute for Return (ASFR), suspend collection only on the amount being considered for an adjustment while Examination reviews the reconsideration request.

Effect on Other Documents: This guidance impacts IRMs 5.1.8, Courtesy Investigations, 5.9.1, Overview of Bankruptcy, and 5.19.1, Balance Due, and will be incorporated into applicable guidance within two years of the date of this memorandum.

Contact: If you have any questions regarding the guidance in this memorandum, you may contact Employment Tax Program Manager, Kerri Hansen. Field Collection, Campus Collection, Specialty Collection – Insolvency (SCI), and Specialty Collection – Offer-in-Compromise (SCOIC) employees should direct all questions through their local management chain.

Distribution:

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