

IRM PROCEDURAL UPDATE

DATE: 05/10/2024

NUMBER: ts-21-0524-0631

SUBJECT: Updated Handling for Certain RAAS Analyzed ERC Claims

AFFECTED IRM(s)/SUBSECTION(s): 21.7.2.7.6.3

CHANGE(s):

IRM 21.7.2.7.6.3 Revised guidance in (3), (8), and (11) to address handling of certain cases being released/returned to AM to be worked after RAAS analysis.

(1) This subsection provides handling guidance for adjusting the Employee Retention Credit as reported on Form 94XX (or duplicate filed employment tax returns being processed as a Form 94XX).

Note: All other Form 94XX processing guidelines and requirements also apply to Forms 94XX reporting changes to Employee Retention Credit.

Caution: Due to concerns with increasing volumes of dubious and inaccurate claims, the IRS has instituted a moratorium on processing new ERC claims through the end of 2023 and possibly longer. In addition, the IRS has slowed the pace of processing previously filed but unpaid ERC claims. See (5) in IRM 21.7.2.7.2 for more information including guidance on resolving related phone contacts. **Until further notice, take no actions to process Forms 94XX reflecting new or revised ERC amounts unless specifically directed to do so.** This IRM will be updated when processing resumes for all or a part of the ERC claims case inventory.

Note: Certain Form 94XX cases reflecting Employee Retention Credit (ERC) adjustment requests are being released to be worked by AM after having been analyzed by Research, Applied Analytics & Statistics (RAAS). These cases will be delivered to AM with instructions on how the ERC portion of the claim or adjustment is to be handled (i.e., additional handling required, assessment to be made, claim is allowable, disallowance criteria, or partial disallowance criteria).

(2) Employee Retention Credit can be a non-refundable credit, a refundable credit, or both, depending on the amount of the Employee Retention Credit that can be claimed for a particular tax period and the amount(s) of any other non-refundable credit(s) being reported.

Note: For general information regarding this credit, see IRM 21.7.2.7.2, *Employee Retention Credit (ERC)*, (and the four subsections that follow the cross-referenced IRM section).

(3) The following IRNs and CRNs are associated with adjustments to the Employee Retention Credit:

TXMOD Field Name	BMFOLR Field Name	Form 941 Line Number and Title	Form 941-X Line Number and Title	IRN/CRN
CR-EMP-RTN	CR EMP RTNTN	<u>Line 11c</u> Nonrefundable portion of employee retention credit	<u>Line 18a</u> Nonrefundable portion of employee retention credit	IRN 203
N/A Review posted CRN 296 transaction amounts	RFDBL EMP RTNTN	<u>Line 13d</u> Refundable portion of employee retention credit	<u>Line 26a</u> Refundable portion of employee retention credit	CRN 296 to alter posted transaction amount, posted field value will not change.
WGS-EMP-RTN-COV	QLF WGS EMP RTNTN	<u>Line 21</u> Qualified wages for employee retention credit	<u>Line 30</u> Qualified wages for employee retention credit	IRN 206
HLTH-PLN-EXP-RPT	QLF HLTH PLN EXP	<u>Line 22</u> Qualified health plan expenses allocable to wages reported on Line 21	<u>Line 31a</u> Qualified health plan expenses for the employee retention credit	IRN 207
EMP-MARCH-WG-PD	QLF EMP MARCH WG	<u>Line 24</u> April 2020 Revision: Qualified wages paid March 13 through March 31, 2020, for the employee retention credit July 2020 Revision: Deferred amount of the employee share of social	<u>Line 33a</u> April 2020 Revision: Qualified wages paid March 13 through March 31, 2020, for the employee retention credit	IRN 208 Caution: Line 24 of Form 941 represents different tax reporting items for 202006 versus 202009 and 202012. See (5) in IRM 21.7.2.8.2, <i>Notice 2020-65 — Deferred Payment of Employee’s Share of Social Security Taxes for 2020</i> , for more information.

		security tax included on line 13b		
HLTH-PLN-MARCH	QLF HLTH PL MAR	<u>Line 25</u> April 2020 Revision: Qualified health plan expenses allocable to wages reported on Line 24 July 2020 Revision: Reserved for future use	<u>Line 34</u> Qualified health plan expenses allocable to wages reported on Form 941 or Form 941-SS, line 24	IRN 209 Caution: Only applicable to second quarter 2020 Form 941 tax returns.

Caution: Form 941-X is revised on a regular basis and line numbers for particular adjustment items occasionally change. However, there is no requirement for the taxpayer to use the most current version of Form 941-X. Although line numbers are provided in the table above for easy reference, employees are responsible for ensuring the proper adjustment action is taken based on the form version filed by the taxpayer.

(4) **IRN 203** is used along with TC 290, TC 291, or TC 298 (as appropriate) to record adjustments to the non-refundable portion of Employee Retention Credit on Form 941, Form 943, Form 944 and Form CT-1 tax accounts.

- An increase to the credit will be recorded with a positive IRN 203 amount and a corresponding decrease to tax (i.e., a TC 291 for the same amount if no other changes were reported).
- A decrease to the credit will be recorded with a negative IRN 203 amount and a corresponding increase to tax (i.e., a TC 290/298 for the same amount if no other changes were reported).

Example: A Form 941-X is filed claiming an increase to non-refundable Employee Retention Credit in the amount of \$75. Assuming all processing requirements are met, the adjustment to be made would be a TC 291 for \$75.00- and an IRN 203 for \$75.00.

Example: A Form 941-X is filed reporting a decrease to non-refundable Employee Retention Credit in the amount of \$90. Assuming all processing requirements are met, the adjustment to be made would be a TC 290 (or TC 298 as applicable) for \$90.00 and an IRN 203 for \$90.00-.

Note: IRN 203 can be combined on Command Code ADJ54 adjustments with any other IRN or CRN valid for the form being adjusted.

(5) **CRN 296** is used to record adjustment to the refundable portion of Employee Retention Credit on Form 941, Form 943, Form 944 and Form CT-1 tax accounts. Use a positive CRN 296 when increasing the credit (TC 766 is generated) or a minus (-) CRN 296 when decreasing the credit (TC 767 is generated).

Note: CRN 296 can be combined on Command Code ADJ54 adjustments with any other IRN or CRN valid for the form being adjusted.

(6) Corrections to this credit will usually be seen along with corrections to a related wage figure and/or allocable qualified health plan expenses.

- **IRN 206** is used to either increase or decrease qualified wages for employee retention credit.
- **IRN 207** is used to either increase or decrease qualified health plan expenses allocable to wages reported on Line 21 (i.e., qualified wages for employee retention credit).

(7) In addition, for second quarter 2020 Form 941 accounts (**only**), it may be necessary to record changes to figures relating to amounts of Employee Retention Credit attributable to first quarter 2020 which were required to be reported on second quarter Forms 941. (See the last bullet in (7) of IRM 21.7.2.7.2.1 IRM 21.7.2.7.2, *Employee Retention Credit (ERC) — Coronavirus Aid, Relief, and Economic Security (CARES) Act Provisions*, and IRM 21.7.2.7.2.5, *First Quarter 2020 Form 941 — Employee Retention Credits and Notice 1447*, for more information on that topic.)

- **IRN 208** is used to either increase or decrease qualified wages paid March 13 through March 31, 2020, for the employee retention credit.

Caution: Line 24 on Form 941 represents different tax reporting items for 202006 versus 202009 and 202012. See (5) in IRM 21.7.2.8.2, *Notice 2020-65 — Deferred Payment of Employee’s Share of Social Security Taxes for 2020*, for more information.

- **IRN 209** is used to either increase or decrease qualified health plan expenses allocable to wages reported on Line 24 (i.e., qualified wages paid March 13 through March 31, 2020, for the employee retention credit).

(8) An increase to the refundable or nonrefundable (i.e., decrease to tax) portions of the credit may meet examination criteria. See Exhibit 21.5.3–2, *Examination Criteria (CAT-A) — General*. # [REDACTED]

[REDACTED] #

#

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

#

(9) Process Forms 94XX claiming non-refundable or refundable amounts of Employee Retention Credit as per guidance in the paragraphs which follow.

Caution: When working Forms 94XX filed for tax year 2020, review the tax account for which the Form 94XX was filed for any posted CRN 280 deferred payment amount. If the account reflects a previously recorded CRN 280 amount, or if the Form 94XX under consideration includes a change to deferred payment amounts (increase or decrease), see IRM 21.7.2.8.13, *Form 94XX — Adjusting Accounts with a Posted CRN 280 and/or Corrections to Deferred Social Security Tax Payment Amounts*, for handling guidance prior to adjusting the account.

(10) Reject any Form 94XX claiming non-refundable or refundable amounts of Employee Retention Credit that is filed for an **invalid** tax period or tax form. As appropriate, follow guidance in IRM 21.5.3.4.6.3, *No Consideration Procedures*, and issue Letter 916C advising the employer the credit is not available for the form/tax period (specify) for which they filed a Form 94XX. The valid forms and tax periods for the Employee Retention Credit are as follows:

- **Form 941:** Tax periods 202006 through 202112 **only**.
- **Form 943, Form 944, and Form CT-1:** Tax period 202012 and 202112**only**.

Reminder: For Form 941, any Employee Retention Credit attributable to first quarter 2020 must be claimed on an original or adjusted employment tax return filed for the second quarter of 2020. See (7) above.

Note: See (6) in IRM 21.7.2.7.2.2, *Employee Retention Credit (ERC) — Taxpayer Certainty and Disaster Relief Act of 2020 Provisions*. Certain employers eligible to retroactively claim ERC credits for earlier tax periods during 2020 were permitted (but not required) under a special rule to claim the combined amounts on their original Form 941 for the fourth quarter. Employers who were eligible to apply the special rule when filing original fourth quarter 2020 Form 941 returns are also eligible

to apply the same special rule to combine eligible ERC amounts from earlier quarters on Forms 941-X filed for fourth quarter of 2020. # [REDACTED]

(11) All verification requirements applicable to other Form 94XX filings are required to be completed prior to processing a Form 94XX requesting a change to the non-refundable or refundable portions of Employee Retention Credit (e.g., for a tax decrease - claim for refund filed on Form 941-X, follow IRM 21.7.2.4.7.6.2, *Form 941-X Tax Decrease — Claim*), including those released to be worked by AM after RAAS analysis. As usual, verify the math on the face of the Form 94XX for the credit adjustment (i.e., verify Column 2 matches IRS records and the math across Columns 1 through 4 are correct). [REDACTED]

[REDACTED]

#

[REDACTED]

[Redacted text block]

Note: # [Redacted text] #

Caution: # [Redacted text] #

[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
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	[REDACTED]
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#
Reminder: # [REDACTED] #

Note: # [REDACTED] #

Exception: ERC claims for which no corresponding wages or qualified health plan expenses were reported (on either the Form 94XX being processed, the original employment tax return, or previously processed Form(s) 94XX) are unprocessable. Reject the Form 94XX using Letter 4384C and insert the following text in an open paragraph:
"We could not process your claim for Employee Retention Credit because you did not report any corresponding qualified wages or qualified health expenses."

Exception: Disallow Forms 94XX (claims and adjustments) filed for tax periods in tax year 2020 adding or increasing non-refundable or refundable Employee Retention Credit if the account reflects Employment Code "A," "F", "G", "Q", or "T".

Send Letter 105C or Letter 106C (as appropriate) per instructions in IRM 21.5.3.4.6.1, *Disallowance and Partial Disallowance Procedures* and insert the following text in an open paragraph:

"You aren't eligible to claim a 2020 Employee Retention Credit because you are a Federal, State or local government entity according to your previous filings."

Exception: For MFT 01, tax periods 202109 and 202112 (only): If Line 31b of Form 941-X is checked and the amount of ERC claimed on a Form 941-X reporting an increase to non-refundable or refundable ERC exceeds \$50,000, including any amount claimed on the original return or as previously adjusted, limit the amount of ERC allowed with the Form 941-X to \$50,000 # [REDACTED]

[REDACTED] # unless there is a Schedule R indicator present on the original return (verify via Command Code BRTVU or BMFOL definer "R"). If ERC is being limited per these instructions, send Letter 105C or Letter 106C (as appropriate) per instructions in IRM 21.5.3.4.6.1, *Disallowance and Partial Disallowance Procedures* and insert the following text in an open paragraph:

"The maximum amount of Employee Retention Credit which can be claimed by an employer which is a recovery startup business is \$50,000 per quarter."

Exception: For MFT 01, tax period 202112 only: Disallow any claim for ERC on a Form 941-X reporting an increase to non-refundable or refundable ERC if Line 31b of Form 941-X is not checked (regardless of whether Line 18b of Form 941 was checked). Send Letter 105C or Letter 106C (as appropriate) per instructions in IRM 21.5.3.4.6.1, *Disallowance and Partial Disallowance Procedures* and insert the following text in an open paragraph:

"Only employers which are recovery startup businesses are eligible for the Employee Retention Credit for wages paid in the fourth quarter of 2021. Your Form 941-X did not indicate on Line 31b that you were a recovery startup business."

Exception: # [REDACTED]

[REDACTED] # As appropriate, follow guidance in IRM 21.5.3.4.6.3, *No Consideration Procedures*, and issue Letter 916C with the following text inserted in two open paragraphs:

"We processed any other changes requested on your Form [specify] but could not process the requested changes to [specify credit(s)] because the amounts you reported exceeded the tax against which the credit is applied."

"If you are eligible for employment tax credits which have not been recorded, complete and file a new Form [specify form] after using the appropriate worksheet(s) in the Instructions for Form [specify form] to compute eligible credit amounts to be entered on specific lines of Form [specify form]."

(12) After following (11) above to determine the adjustment amounts for the non-refundable and refundable portions of the Employee Retention Credit, record the

corrections with IRNs 203/206/207/208/209 and CRN 296 as described in (3), (4), (5), (6), and (7) above.

Note: See IRM 21.7.2.7.6.5, *Form 94XX — Adjustments When the Number of CRN and IRN Corrections Exceed Command Code ADJ54 Input Limitations*, to determine the order of adjusting IRNs and CRNs when multiple adjustments are required to record a single Form 94XX.

Caution: If the amount claimed for either the non-refundable or the refundable portions of Employee Retention Credit is being disallowed or partially disallowed for a reason other than those specified in the exceptions in (11) above, send Letter 105C or Letter 106C (as appropriate) per instructions in IRM 21.5.3.4.6.1, *Disallowance and Partial Disallowance Procedures*, and state the basis for the disallowance in the letter.

(13) After applying the processing guidance provided above, continue processing complete claims and requests for adjustment of the Employee Retention Credit as per the general procedures in IRM 21.7.2.4.6, *Adjusted Employer's Federal Tax Return or Claim for Refund*, and the specific procedures applicable to the type of Form 94XX filed (e.g., for a tax decrease - claim for refund filed on Form 941-X, follow IRM 21.7.2.4.7.6.2, *Form 941-X Tax Decrease — Claim*).