

IRM PROCEDURAL UPDATE

DATE: 11/05/2025

NUMBER: ts-21-1125-3662

SUBJECT: Section 70605(d) of One, Big, Beautiful Bill

AFFECTED IRM(s)/SUBSECTION(s): 21.7.2

CHANGE(s):

IRM 21.7.2.7.11.1 Added paragraph with instructions for replies to letter 105C issued bases on limitations of Section 70605(d) of OBBBA.

(1) The guidance in this subsection is intended to be applied by AM employees specifically designated to process responses to ERC claim disallowance Letter 105C and Letter 106C that have been sent to CAT-A HQ Reserved 9. CAT-A will provide a case note in CII.

(2) Cases meeting Appeals criteria will be sent directly to Appeals by compliance. AM will be responsible for sending the Letter 86C.

(3) Follow the table below based on case note left by compliance in CII.

Case note	Actions
Accepted - Allow in full	Process the Form 94XX based on the figures on the Form per existing IRM guidance. Note: The ERC Math Verification Worksheet found in IRM 21.7.2.7.6.3 will NOT be used.
Accepted - Allow in part	<ol style="list-style-type: none">1. Process the Form 94XX allowing the credits based on the figures provided in the CII case note.2. Send the Letter 106C. Use the notes in CII to provide the reason for the disallowance. Note: More information on the disallowance can be found in each applicable subsection of IRM 21.7.2.7.8, <i>Additional Case Processing Actions and/or Disallowance Actions for Forms 94XX Meeting ERC - related Filtering Criteria</i> . Note: The ERC Math Verification Worksheet found in IRM 21.7.2.7.6.3 will NOT be used.
Routed to Appeals	<ol style="list-style-type: none">1. Exam will send case directly to appeals.2. AM will issue the Letter 86C<ul style="list-style-type: none">○ In an open paragraph include the following text, "Your claim has been sent to the Independent Office of Appeals. Please allow 120 days for them to contact you regarding

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	<p>your claim.”</p> <ul style="list-style-type: none"> ○ Provide the Appeals Customer Service telephone number 855-865-3401.
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Note: If cases sent to CAT-A HQ Reserved 9 need more information, compliance will obtain the information from the taxpayer.

(4) Instructions for replies to 105C letters issued based on the limitation of Section 70605(d) of the One, Big, Beautiful Bill Act (OBBBA) are in IRM 21.7.2.7.12.1, *Replies to 105C Letters Issued Due to the Timeliness Limitations of Section 70605(d) of the One, Big, Beautiful Bill Act (OBBBA)*.

IRM 21.7.2.7.12 Added new subsection for ERC claims subject to limitations of Section 70605(d) of OBBBA

(1) Section 70605(d) of Public Law 119-21, The One, Big, Beautiful Bill Act (the OBBBA), was signed into law on July 4, 2025. Section 70605(d) bars the IRS from allowing employee retention tax credits (ERTC) under IRC 3134, or issuing any refund with respect to such ERTCs, after the date of enactment, unless a claim for such credit or refund was filed on or before January 31, 2024.

(2) The criteria for cases meeting the limitations of Section 70605(d) of OBBBA are Form 941-X, Form 943-X, Form 944-X, and Form CT-1-X that are:

- Received after January 31, 2024.
- For 3rd and 4th quarter of 2021.
- Claiming ERC credit.

(3) Upon enactment of Section 70605(d) of OBBBA, cases in inventory meeting this criteria were moved to IDRS number **0230279266**. Cases moved were at various stages of processing. Some cases will have CII case notes from exam or RAAS risking. The timeliness limitations of Section 70605(d) of OBBBA legislation takes precedence over RAAS risking or prior exam determination. The case notes should only be used to process cases that are determined to be timely filed per section 70605(d) of OBBBA.

(4) Follow the steps below to determine the timeliness of ERC claims based on 70605(d) of OBBBA:

Step	Action
1) Is the IRS received date on or before January 31, 2024?	Yes: Claim is timely filed, proceed to paragraph 5 below. No: Proceed to step 2.
2) Is the claim timely filed based on IRM 21.5.1.4.2.4, <i>Received Date - Grace Periods</i> ?	Yes: Claim is timely filed, proceed to paragraph 5 below.

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	No: Proceed to step 3.
3) Is the postmark date on or before January 31, 2024?	Yes: Claim is timely filed, proceed to paragraph 5 below. No: Proceed to step 4. Caution: If yes, see paragraph 6 row 1 below for IRS received date and amended claims date exception.
# [REDACTED] #	# [REDACTED] # # [REDACTED] # Caution: # [REDACTED] #

Example: # [REDACTED] #

Example: If a claim has a received date of February 9, 2024, but the postmark date is January 30, 2024, the case is considered timely filed based on the postmark date. Update the received date in CII to January 30, 2024.

Example: # [REDACTED] #

(5) Use the following table for Section 70605(d) of OBBBA ERC claims once timeliness has been determined in paragraph 4 above:

If	And	Then
1) The ERC claim is timely filed	The claim has been risked by RAAS:	Process the claim following the appropriate procedures in IRM 21.7.2.7, <i>COVID-19 Related Employment Tax Relief</i> . Caution: # [REDACTED] #
2) The ERC claim is timely filed	The claim has NOT been risked by RAAS:	Move the case to 0230281416 for RAAS risking.
3) The ERC		Disallow the claim.

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claim is NOT timely filed		<ol style="list-style-type: none"> 1. Input a TC 290 .00 adjustment in blocking series 99 or 98 as appropriate. See paragraph (1) in IRM 21.5.3.4.6.1 <i>Disallowance and Partial Disallowance procedures</i>. 2. Send Letter 105C per instructions in IRM 21.5.3.4.6.1 <i>Disallowance and Partial Disallowance Procedures</i>, and include selective paragraph 4 in the Letter 105C or selective paragraph J if sending the Letter 106C.
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Caution: Some cases previously sent to CAT-A will be returned by exam and have a CII case note "Review for timeliness per OBBBA guidance in IRM 21.7.2.7.12. If unimpacted, return to appropriate CAT-A queue". If the CSR determines the case is timely filed, the CSR should leave a CII case note: "Timely per IRM 21.7.2.7.12" and send the case back to the CAT-A for review.

Reminder: For replies to 105C letters issued due to timeliness limitations of Section 70605(d) of OBBBA see IRM 21.7.2.7.12.1, "Replies to 105C Disallowance and 106C Partial Disallowance Letters issued disallowing ERC claims".

(6) # [REDACTED]

If	Then
1) [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

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(7) There may be various freeze codes on these cases. See the table below to address action needed on Section 70605(d) of OBBBA cases with freeze codes.

Freeze Code	Action needed
P- Freeze	<p>NOREFs were input on some pending refunds when OBBBA legislation was passed. See IRM 21.5.6.4.31.1, <i>P- Freeze with No Return Integrity Verification Operations (RIVO) Involvement</i>.</p> <ol style="list-style-type: none"> 1. Determine if the claim was timely filed. 2. If the claim was timely filed, release the refund. 3. If the claim was not timely filed reverse the adjustment and follow procedures in row 3 of paragraph 5 above <p>Note: Follow IRM 25.6.1.9.5.10, <i>COVID-19 Related Employment Tax Credits, for statute guidance</i>.</p>
-Q Freeze - for OBBBA cases only.	Hold cases with a -Q Freeze pending further guidance.
Other Freeze codes	See IRM 21.5.6, Freeze Codes

(8) See IRM 21.7.2.7.12.1, *Replies to 105C Letters Issued Due to the Timeliness Limitations of Section 70605(d) of the One, Big, Beautiful Bill Act (OBBBA)* for 105C replies regarding section 70605(d) of OBBBA.

IRM 21.7.2.7.12.1 Added new subsection for 105C letters disallowance replies to ERC Claims subject to limitations of Section 70605(d) of OBBBA

(1) The guidance in the subsection is specifically for AM employees working ERC claims that were previously issued Letter 105C disallowing the claim based on timeliness limitation of Section 70605(d) of OBBBA.

(2) AM assistors receiving calls from taxpayers regarding Letter 105C issued due to timeliness limitations of Section 70605(d) of OBBBA should direct callers to the irs.gov webpage (IRS.gov/erc105c). The web page provides the taxpayers with the steps to take in determining if they may be eligible, the timeline for replying, what steps to take if they are disputing the disallowance and what they should include in the reply. It also instructs taxpayers on what will happen once their responses are received.

(3) Use the table below for 105C replies from cases subject to the timeliness limitations of Section 70605(d) of the One, Big, Beautiful Bill Act (OBBBA):

If	And	Then
1) The taxpayer submits a copy of Letter 105C disallowing the claim based on timeliness limitations of	No additional information is included and there is no indication the taxpayer is appealing the determination	Review the claim to ensure it was disallowed appropriately. If it was disallowed appropriately, follow the procedures in IRM 21.5.3.4.6.3, <i>No Consideration</i>

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Section 70605(d) of the OBBBA		<i>Procedures.</i>
2) The taxpayer submits a copy of Letter 105C disallowing the claim based on timeliness limitations of Section 70605(d) of the OBBBA and additional information	The additional information DOES NOT provide evidence the claim was timely filed based on Section 70605(d) of OBBBA.	Review the claim and ensure it was disallowed appropriately. If it was disallowed appropriately, follow the procedures in IRM 21.5.3.4.6.3, <i>No Consideration Procedures</i>
3) The taxpayer submits a copy of Letter 105C disallowing the claim based on timeliness of Section 70605(d) of the OBBBA and additional information	The additional information is evidence the claim was timely filed per Section 70605(d) of OBBBA and the case WAS NOT risked by RAAS,	Move the original claim to 0230281416 for RAAS risking.
4) The taxpayer submits a copy of Letter 105C disallowing the claim based on timeliness of Section 70605(d) of the OBBBA and additional information	The additional information is evidence the claim was timely filed per Section 70605(d) of OBBBA and the case WAS risked by RAAS	Follow the appropriate procedures based on the RAAS risking. See IRM 21.7.2.7, <i>COVID-19 Related Employment Tax Relief</i> .
5) The taxpayer submits additional information and requests an appeal	The information provided does not establish the disallowed claim was timely filed per the limitations of Section 70605(d) of OBBBA.	<ol style="list-style-type: none"> 1. Capture and print to PDF the CII case notes showing RAAS risking determinations to include in the appeals packet. 2. Follow procedures in IRM 21.5.3.4.6.2, <i>Appeals and Responses to Letter 105C and Letter 106C</i>, to send the packet to Appeals. 3. If the case has been risked by RAAS select "AM ERC Claim Timeliness, merits considered" in the case type box. 4. If the case has NOT been risked by RAAS select "AM ERC Claim Timeliness, merits not considered" in the case

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