SSA/IRS

Reporter

SECOND QUARTER 2023

A Newsletter for Employers

Social Security Administration

Internal Revenue Service

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IRS finalizes rules to lower electronic filing threshold begin in 2024

The IRS finalized regulations to reduce the threshold requirement for business information returns electronically from 250 to ten for returns filed after December 31, 2023, In 2024, all business information returns will be aggregated to calculate if the 10-return threshold is reached.

The final regulations reflect changes made by the Taxpayer First Act of 2019. The final regulations also withdraw regulations the IRS proposed in 2018 to amend the rules for determining whether information returns must be filed electronically. The final regulations will not apply until calendar year 2024,

The aggregation of tax returns

The electronic filing threshold applies to each type of information return individually. Under the final regulations, with a few exceptions, information returns required to be filed during the calendar year will be counted in the aggregate.

The final regulations clarify, if IRS systems do not support electronic filing for a specific type of tax return, the taxpayer will not be required to file that tax return electronically.

Filing corrected information returns

The final regulations require corrected information returns to be filed in the same manner as the original form, electronically or on paper. This will help the agency process corrected information returns more accurately and in a timelier manner.

Waivers will still be granted

Businesses can still request a waiver from the electronic filing requirement for undue hardship, using Application for a Waiver From Electronic Filing of Information Returns.

The IRS grants these waivers on a case-by-case basis – rather than on a per-filer basis – to allow the agency to address differences in filing requirements.

The IRS must consider the taxpayer's ability to comply at a reasonable cost with the regulations' requirements. To determine the reasonable cost, the IRS requires taxpayers to provide two estimates of the costs incurred when converting to electronic filing. The final regulations have been modified to read: One principal factor in determining hardship will be the amount, if any, by which the cost of filing the return electronically in accordance with this section exceeds the cost of filing the return on paper.

IRIS available for filing Form 1099

The IRS opened its new 1099 filing portal, the Information Returns Intake System. IRIS is a free electronic filing service that can be used by businesses that have completed an application and received their IRIS Transmitter Control Code from the IRS.

IRIS is available to all businesses, but the portal may be especially helpful to small businesses that file Forms 1099 on paper. IRIS accepts Forms 1099 only for tax year 2022 and later.

Prepare now for new reporting threshold for Form 1099-K

New reporting threshold for Form 1099-K, *payment card and third party network transactions,* will start in tax year 2023. Make sure you are keeping good records.

Find out why you might receive a Form 1099-K. More information available at IRS.gov/1099k.

IRS issues memo on valuating digital assets

The IRS released a Chief Counsel Advice memorandum that provides a closer look at how the IRS is approaching digital assets This memo addresses the requirement for a qualified appraisal for a charitable contribution deduction and provides a broader look into how the IRS definition of digital assets is evolving.

Defining digital assets

The IRS previously defined digital assets as convertible virtual currency and cryptocurrency, Notice 2014-21, 2014-16 IRB 938; Rev. Rul. 2019-24, 2019-44 IRB 1004.

Notice 2014-21 states that convertible virtual currency should be treated as property and that general tax principles applicable to property transactions would apply.

Rev. Rul. 2019-24 defines cryptocurrency as a type of virtual currency that uses cryptography to secure transactions that are digitally recorded on a distributed ledger, such as a blockchain. Cryptocurrency units are generally referred to as coins or tokens. The distributed ledger technology uses independent digital systems to record, share, and synchronize transactions. These transaction details are recorded in multiple places at the same time, and there is no central data store or administration functionality.

The Infrastructure Investment and Jobs Act that defines a digital asset for purposes of information reporting by brokers effective January 1, 2023. Digital assets are defined in §6045(g)(3)(D) as "digital representations of value that are recorded on a cryptographically secured distributed ledger."

The Taxpayer Advocate Service advocates for businesses

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that ensures every taxpayer is treated fairly and understands their rights. Every year, TAS helps thousands of people and businesses with tax problems. Whether an organization is trying to retain the nonprofit status or having EIN challenges, TAS's suite of business resources dedicated to challenges faced by businesses may be the help needed. Learn more about TAS and its role as the voice of the taxpayer.

Employee Retention Credit

The Employee Retention Credit is a refundable tax credit for businesses that continued paying employees while shut down due to the pandemic or who had significant declines in gross receipts.

Eligible taxpayers can claim the ERC on an original or amended employment tax return during a qualifying period.

To be eligible for the ERC, employers must have:

- sustained a full or partial suspension of operations due to orders from an appropriate governmental authority due to COVID-19 during 2020 or the first three quarters of 2021,
- experienced a significant decline in gross receipts during 2020 or a decline in gross receipts during the first three quarters of 2021, or
- qualified as a recovery startup business for the third or fourth quarters of 2021.

Eligible employers can't claim the ERC on wages that they reported as payroll costs in obtaining Paycheck Protection Program loan forgiveness or that they used to claim certain other tax credits.

Qualifying for Employee Retention Credit

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Avoiding ERC Scams

The IRS continues to report third parties aggressively promoting Employee Retention Credit schemes.

Filers should carefully review the ERC guidelines before claiming the credit and be wary of offers promising tax savings that are too good to be true.

Many of these scams induce ineligible people to file a claim for the credit while charging the filer either large upfront fees or a fee that is contingent on the amount of their refund.

The IRS has been warning about these schemes since last fall, but there continue to be attempts to claim the ERC made by ineligible filers. This is a valuable credit for those who qualify but claiming it improperly could result in taxpayers having to repay the credit along with potential penalties and interest.

Reporting ERC fraud

Employers can report illegal tax-related ERC claims and activities by submitting a completed Form 14242, Report Suspected Abusive Tax Promotions or Preparers and any supporting materials to the IRS Lead Development Center in the Office of Promoter Investigations.

Employers should also report instances of fraud and IRS-related phishing attempts to the IRS at phishing@irs.gov and Treasury Inspector General for Tax Administration at 800-366-4484.

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