

## IRM PROCEDURAL UPDATE

**DATE:** 12/17/2024

**NUMBER:** ts-21-1224-1231

**SUBJECT:** New Subsection with Information About 105C and 106C Replies to ERC Claim Disallowances

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

**CHANGE(s):**

**IRM 21.7.2.7(11) Updated instructions to include wall number for replies to 105C and 106C letters that disallowed ERC claims.**

(11) **Specialization of COVID-related credit PAPER cases within AM.** Form 94XX and other paper cases involving COVID-related employment tax credits (Employee Retention Credit (ERC), Credit for Qualified Sick and Family Leave Wages and COBRA Premium Assistance Credit) received within AM will be handled by designated employees (only). Submission Processing (SP) is screening Form 94XX work prior to ICT scanning to identify claims for ERC and Credit for Qualified Sick and Family Leave Wages (but not claims for COBRA Premium Assistance Credit). Cases identified by SP will be assigned with case Priority Code 1 for ERC cases and case Priority Code 3 for Credit for Qualified Sick and Family Leave Wages cases. However, to ensure proper tracking and delivery, employees must take the following actions when such cases are identified in AM inventory, including those missed during SP screening:

- **Unprocessed Form 94XX ERC claims (tax decreases or credit increases) including correspondence with unprocessed Form 94XX claims attached:** Unprocessed Forms 94XX (or duplicate filed employment tax returns being processed as a Form 94XX), including correspondence with unprocessed Form 94XX claims attached, reporting ERC related tax decreases or credit increases are to be controlled with **Priority Code 1**, case category **SPC6**, and IDRS number **0230281416**. Use OFP Code 710-10056 when processing ERC claims.

**Note:** Case category SPC6 is also used with ERC claim withdrawal requests as discussed in (3) of IRM 21.7.2.7.1, *ERC Claim Withdrawal Requests — Case Receipts and Case Association Actions*.

- **Unprocessed Spanish Form 941X (SP) ERC Claims that have NOT had RAAS analysis completed:** should remain in IDRS number 0420281416.
- **Unprocessed Spanish Form 941X (SP) ERC claims (tax decreases or credit increases) including Spanish correspondence with unprocessed**

**Form 941X (SP) claims attached with RAAS analysis**

**completed:** Unprocessed Spanish Forms 94XX (or duplicate filed employment tax returns being processed as a Form 941X (SP), including correspondence with unprocessed Form 94X1X (SP) claims attached, reporting ERC related tax decreases or credit increases **with completed RAAS analysis** are to be controlled with **Priority Code 1**, case category **SPC6**, and IDRS number **0433020103**. Use OFP Code 710-10056 when processing ERC claims.

- **Forms 94XX reporting ERC reversals (tax increases or credit decreases):** Forms 94XX (or duplicate filed employment tax returns being processed as a Form 94XX) reporting ERC related tax increases or credit decreases are to be controlled with IDRS number **0430404307** with no priority code and with the usual case category.
- **ERC Adjacent/Related cases (including correspondence):** Paper cases involving ERC related inquiries are to be controlled with **Priority Code 1**, usual case category, and IDRS number **0430404307**.

**Exception:** If the case includes or is in regards to an unprocessed ERC claim, follow guidance in the first bullet above.

- **Spanish ERC Adjacent/Related cases (including correspondence):** Spanish paper cases involving ERC related inquiries are to be controlled with **Priority Code 1**, usual case category, and IDRS number **0433055447**.
- **Replies to ERC disallowance letters 105C or 106C:** Replies to full and partial disallowance letters (105C and 106C) issued on ERC claims are to be controlled with **Priority Code 1**, case category **SPC6**, and IDRS number **0234086256**.

**Exception:** If the case includes or is in regards to an unprocessed Spanish ERC claim, follow guidance in the third bullet above, specific to unprocessed Spanish Form 941X (SP) ERC claims.

- **Cases involving Credit for Qualified Sick and Family Leave Wages:** Form 94XX and other paper cases involving claims for Credit for Qualified Sick and Family Leave Wages are to be controlled with **Priority Code 3**, usual case category, and IDRS number **0430404307**.

**Exception:** If the case also involves ERC, follow guidance in the first, second or third bullets above as appropriate.

- **Cases involving Credit for COBRA Premium Assistance Credit:** Form 94XX and other paper cases involving claims for COBRA Premium Assistance Credit are to be controlled with IDRS number **0430404307** with no priority code and with the usual case category.

**Exception:** If the case also involves ERC, follow guidance in the first, second or third bullets above as appropriate.

**Note:** The appropriate Priority Code **must** be recorded on CII cases for ERC claims (tax decreases or credit increases) and Credit for Qualified Sick and Family Leave Wage cases prior to closing the case. Case category **SPC6** must be recorded on CII cases for ERC claims (tax decreases or credit increases) prior to closing the case.

**Caution:** If a non-COVID-related case is identified in the inventory of COVID-related credit cases (either assigned to IDRS number 0230281416 or to an employee designated to work COVID-related credit cases), remove any Priority Code 1 or Priority Code 3 recorded for the case on CII and reassign it to either IDRS number **0230265402** (CAMC) or **0440078330** (OAMC) as appropriate.

**Reminder:** See (3) in IRM 21.7.2.8, *Deferred Payment of Social Security Taxes for 2020*, for instructions on controlling inquiries and cases involving deferred social security tax.

**IRM 21.7.2.7.11 Added new subsection with information about 105C and 106C replies to ERC claim disallowances.**

Replies to 105C Disallowance and 106C Partial Disallowance Letters issued disallowing ERC claims

(1) The guidance in this subsection is intended to be applied by AM employees specifically designated to process replies to ERC claim disallowance letters. A response to Letter 105C or Letter 106C is treated as a new case using the guidelines in this subsection.

(2) AM assistors receiving calls from taxpayers regarding these 105C or 106C letters should direct the callers to the [irs.gov/ERC105c](https://irs.gov/ERC105c) webpage Understanding Letter 105-C, Disallowance of the Employee Retention Credit. The web page provides the taxpayers with the steps to take in determining if they may be eligible, the time line 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. The Letter 105C and the Letter 106C also instruct taxpayers on what to submit if they disagree with the determination to disallow the ERC claim.

(3) Use the table below for 105C or 106C letter replies regarding ERC claims.

If	And	Then
The taxpayer submits a copy of the Letter 105C or Letter 106C they received.	No additional information is included and there is no indication the taxpayer is appealing the determination.	Close the case as a “no consideration.” Follow the procedures in IRM 21.5.3.4.6.3, No Consideration Procedures.
The taxpayer	The disallowance was <b>NOT</b> a	Follow normal adjustment

<p>submits a reply to the Letter 105C or Letter 106C and additional information regarding the ERC claim.</p>	<p>result of RAAS analysis, or provided by CAT-A <b>AND</b> CSR can review the prior ERC claim and the additional information to determine the taxpayer is eligible.</p>	<p>procedures.</p>
<p>The taxpayer submits a reply to the Letter 105C or Letter 106C and additional information regarding the ERC claim.</p>	<p>The disallowance was <b>NOT</b> a result of RAAS analysis, or provided by CAT-A <b>AND</b> determination cannot be made to allow the claim.</p>	<ul style="list-style-type: none"> <li>• Link the prior CII case where the disallowance letter was sent.</li> <li>• Follow the procedures in IRM 21.5.3.4.6.3, No Consideration Procedures, and explain what additional information is needed to make a determination.</li> </ul>
<p>The taxpayer submits a reply to the Letter 105C or Letter 106C and additional information regarding the ERC claim.</p>	<p>The prior determination to disallow the claim was provided by CAT-A <b>OR</b> based on RAAS analysis.</p>	<ul style="list-style-type: none"> <li>• Link the prior CII case where the disallowance letter was sent.</li> <li>• Attach any needed documentation listed in paragraph 4 below,</li> <li>• Forward the case to HQ Reserved 9.</li> </ul>
<p>Taxpayer resubmits the same claim or resubmits a claim without new or additional information and a determination cannot be made to allow the claim.</p>	<p>The taxpayer submits a statement requesting an appeal, where no prior Appeals consideration was made and was not previously closed with finality. See IRM 8.7.7.2.2, <i>Liability Issues Previously Closed with Finality</i>.</p>	<ul style="list-style-type: none"> <li>• Link the prior CII case where the claim was disallowed.</li> <li>• Attach any needed documentation listed in paragraph 4 below,</li> <li>• Forward the case to HQ Reserved 9.</li> </ul> <p><b>Note:</b> A reviewer will make a determination based on the taxpayer's documentation and return the case to AM with instructions if an adjustment is required. If the reviewer determines the case is an appeal they will forward a complete case to appeals. If the reviewer needs more information from the taxpayer, reviewer will contact the taxpayer for the</p>

		missing information. If the reviewer determined the case should go to appeals the reviewer will send the 86C letter to the taxpayer.
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(4) Ensure the following documents are attached to the CII case or link the CII case that the document is attached to before sending the case to HQ Reserved 9.

- Taxpayer's original disallowed claim.
- Copy of the Letter 105C or Letter 106C
- Taxpayer's request for an appeal (if the taxpayer submitted one.)
- Any additional documentation the taxpayer provided that may enable the ERC claim to be processed.

(5) See IRM 20.1.1.4, Methods of Appealing Penalties, for penalty appeal procedures.