

## IRM PROCEDURAL UPDATE

**DATE: 09/04/2024**

**NUMBER: ts-21-0924-0956**

**SUBJECT: Second ERC Voluntary Disclosure Program (ERC VDP)**

**AFFECTED IRM(s)/SUBSECTION(s): 21.7.2.7.9**

**CHANGE(s):**

**IRM 21.7.2.7.9 Altered title and updated throughout to address operation of a second ERC Voluntary Disclosure Program (ERC VDP).**

ERC Voluntary Disclosure Programs (VDP)

(1) As part of an ongoing initiative aimed at combating dubious and inaccurate Employee Retention Credit (ERC) claims, the IRS announced two separate new ERC Voluntary Disclosure Programs (ERC VDP). These programs were created to help businesses who want to pay back the money they received after filing incorrect ERC claims.

(2) The **first** ERC Voluntary Disclosure Program (ERC VDP) was open for taxpayer applications from the date of announcement on December 21, 2023 through March 22, 2024. Employers meeting requirements for the first ERC VDP:

- Were generally required to repay **80 percent** of the erroneous ERC amount claimed.
- Were not required to repay associated overpayment interest allowed when erroneously claimed ERC was recorded by the IRS.
- Were not charged penalties and interest otherwise associated with the erroneous ERC claimed if the required amount was paid in full when due.
- For the first ERC VDP, employers could request consideration for ERC claimed on employment tax returns filed for tax periods **202006 through 202112**.
- The first ERC VDP announcement can be found at the following link: [Announcement 2024-03](#)
- Additional information for the first ERC VDP can be found by searching for "IR-2023-247" on the IRS website or via the following link: [IRS: New Voluntary Disclosure Program lets employers who received questionable Employee Retention Credits pay them back at discounted rate; interested taxpayers must apply by March 22](#)

(3) The **second** ERC Voluntary Disclosure Program (ERC VDP) was open for taxpayer applications from the date of the announcement on August 15, 2024

through November 22, 2024. Employers meeting requirements for the second ERC VDP:

- Will generally be required to repay **85 percent** of the erroneous ERC amount claimed.
- Will not be required to repay associated overpayment interest allowed when erroneously claimed ERC was recorded by the IRS.
- Will not be charged penalties and interest otherwise associated with the erroneous ERC claimed if the required amount is paid in full when due.
- For the second ERC VDP, employers can request consideration for ERC claimed on employment tax returns filed for tax periods **202103 through 202112** (but not for tax periods 202006 through 202012).
- The program announcement for the second ERC VDP can be found at the following link: [Announcement 2024-30](#)
- Additional information for the second ERC VDP can be found by searching for "IR-2024-213" on the IRS website or via the following link: [IRS provides details of second Employee Retention Credit Voluntary Disclosure Program; program for improper claims open through Nov. 22](#)

(4) To apply for ERC VDP consideration, employers are required to file Form 15434, *Application for Employee Retention Credit Voluntary Disclosure Program*, via the Document Upload Tool (DUT).

**Note:** The form was updated in August 2024 to correspond with the second ERC VDP.

**Note:** Paper receipts of Form 15434 are expected to be exceedingly rare. However, if a paper Form 15434 is received in AM inventory, fax the Form 15434 along with any directly associated attachments or correspondence to Erik W. Anderson at e-fax 877-455-6833. As appropriate, close any case opened in association with receipt of the Form 15434.

(5) AM telephone assistors should **not** attempt to assist callers with questions regarding the ERC VDP programs. Instead, direct any caller making inquiries regarding the ERC VDP to the appropriate IRS website information as identified above in (3) or (4) depending on whether the inquiry relates to either the first or second ERC VDP.

**Note:** Callers can also be informed of the option to leave a voice message with questions via the ERC-VDP hotline (not toll-free) identified in the Form 15434 instructions.

(6) Accepted ERC VDP requests will be recorded via a tax adjustment on the associated tax account in the amount of either 80 percent (applications received for the first ERC VDP) or 85 percent (applications received for the second ERC VDP) of the previous erroneous ERC amount claimed.

(7) Payments made for ERC VDP applications will be posted to the associated tax account(s) for which erroneous ERC claims were filed and processed.

(8) Documentation of final actions for applications under ERC VDP include input of TC 971 transactions with Action Code (AC) 804:

- TC 971 with AC 804 and a MISC field entry of "C ERC-VDP ACCEPT" indicates an accepted application. The TC 804 transaction date is the execution date of the associated closing agreement.
- TC 971 with AC 804 and a MISC field entry of "C ERC-VDP REJECT" indicates a rejected application. The TC 804 date is generally the date the application was closed in the ERC-VDP group.