

## New ERC Claims under OBBBA

### Cross References

- FS-2025-07

The IRS recently released frequently asked questions (FAQs) that address the Employee Retention Credit (ERC) compliance provisions, as provided for under the One Big Beautiful Bill Act (OBBBA).

These FAQs are being issued to provide general information to taxpayers and tax professionals as expeditiously as possible. Accordingly, these FAQs may not address any particular taxpayer's specific facts and circumstances, and they may be updated or modified upon further review. Because these FAQs have not been published in the Internal Revenue Bulletin, they will not be relied on or used by the IRS to resolve a case. Similarly, if a FAQ turns out to be an inaccurate statement of the law as applied to a particular taxpayer's case, the law will control the taxpayer's tax liability.

Nonetheless, a taxpayer who reasonably and in good faith relies on these FAQs will not be subject to a penalty that provides a reasonable cause standard for relief, including a negligence penalty or other accuracy-related penalty, to the extent that reliance results in an underpayment of tax. Any later updates or modifications to these FAQs will be dated to enable taxpayers to confirm the date on which any changes to the FAQs were made. Additionally, prior versions of these FAQs will be maintained on IRS.gov to ensure that taxpayers, who may have relied on a prior version, can locate that version if they later need to do so.

This fact sheet provides frequently asked questions about the limitation on credits and refunds for Employee Retention Credits claimed for the third and fourth quarters of 2021 filed after January 31, 2024.

**Q1.** How did the One, Big, Beautiful Bill Act affect the Employee Retention Credit (ERC)?

**A1.** The One, Big, Beautiful Bill Act (OBBBA) introduced new enforcement provisions affecting the ERC. One of these provisions prevents the IRS from allowing or refunding ERCs after July 4, 2025, for the third and fourth quarters of 2021 if those claims were filed after January 31, 2024, even if you otherwise met eligibility requirements. Other parts of the bill strengthen compliance enforcement by imposing penalties on certain promoters of the ERC who fail to meet due diligence requirements when assisting with certain credit claims.

**Q2.** Are all ERC claims for the third and fourth quarters of 2021 limited by OBBBA?

**A2.** No, only new ERC claims filed after January 31, 2024, are limited by OBBBA.

**Q3.** What if I filed a return claiming an ERC for the third or fourth quarter of 2021 after January 31, 2024, and I already got my refund – will I get a bill from the IRS?

**A3.** Generally, no. If your claim was filed after January 31, 2024, but was refunded or credited before July 4, 2025, OBBBA does not apply to your claim.

However, other IRS compliance activities may still result in an adjustment or bill.

**Q4.** What if I claimed an ERC for the third or fourth quarter of 2021 on or before January 31, 2024, and then filed an amended return withdrawing the claimed ERC after January 31, 2024, for the same period?

**A4.** OBBBA does not apply to your amended return. Accordingly, the IRS will process your amended return withdrawing the claimed ERC.

**Q5.** Can I still file a return claiming an ERC for the third or fourth quarter of 2021 if I missed the January 31, 2024, deadline?

**A5.** No. Under OBBBA, effective July 4, 2025, no new ERCs claimed on a return for those periods will be allowed or refunded if filed after the January 31, 2024, deadline.

**Q6.** When is my tax return considered “filed” for purposes of OBBBA?

**A6.** An original or amended return claiming a refund or credit based on an ERC is treated as filed on or before January 31, 2024, if the claim was postmarked and properly mailed or submitted to the appropriate IRS office, by that date.

**Q7.** Can the IRS continue processing other items on a return if an ERC claimed on that return is limited by OBBBA?

**A7.** Yes. If the disallowed ERC claim is just one among other items claimed on your return, the IRS can continue to process the other items as appropriate.

**Q8.** Are appeals rights available if an ERC claimed on a return is disallowed under OBBBA?

**A8.** Yes. If your claim is disallowed, you will receive Letter 105-C, *Claim Disallowed*. You may appeal to the IRS Independent Office of Appeals if you believe your refund claim reporting ERC eligibility was timely filed on or before January 31, 2024, and the IRS improperly disallowed it under OBBBA. Additional information on how to respond to this letter if you disagree with the disallowance can be found at [IRS.gov/erc105c](https://www.irs.gov/erc105c).