

New Option for Taxpayers to Request More Time After ERC Claim Disallowance

Cross References

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The Internal Revenue Service has announced a new, streamlined way for taxpayers to extend the period of time for the IRS and the IRS Independent Office of Appeals to review a taxpayer's response to a disallowance of an Employee Retention Credit (ERC) claim to avoid refund litigation.

When an ERC claim is disallowed by the IRS, taxpayers receive a Letter 105-C or 106-C. These affected taxpayers generally have two years from the date of that letter to resolve their claim administratively or to file a refund suit in federal court if they disagree with the IRS's decision. Taxpayers may protest the IRS's disallowance with the IRS Independent Office of Appeals, but that does not extend this statutory two-year deadline.

After the two-year period ends, the IRS cannot issue a refund, even if it later decides in the taxpayer's favor after reviewing the disallowance. The deadline varies depending on the date of the original 105-C or 106-C letter.

The IRS is aware that some taxpayers are approaching the end of this two-year period and is providing a new way for taxpayers to request more time to resolve their claims administratively or to file suit through the filing of Form 907, *Agreement to Extend the Time to Bring Suit*, if they meet both of the following conditions.

- The taxpayer is waiting for the IRS to consider their response to the notice of disallowance on Letter 105-C or 106-C, and
- The taxpayer has six months or less remaining before their two-year period expires.

Requesting more time to file suit or resolve claim administratively. Under current law, the IRS and a taxpayer can agree in writing to extend the time to file suit, if both parties sign Form 907 before the two-year period expires. A fully executed Form 907 gives the IRS more time to consider the disallowance administratively and gives the taxpayer more time to file suit, if needed.

Taxpayers with six months or less remaining in their time to file suit, and who are waiting for the IRS to consider their disallowance response to Letter 105-C or 106-C, may submit Form 907 requesting an extension via the IRS Document Upload Tool by going to [IRS.gov/DUTReply](https://www.irs.gov/DUTReply) and selecting notice 'CP320B' from the drop-down menu. Properly executed Forms 907 will be given due consideration by the IRS, and taxpayers will be informed in writing whether the IRS has agreed to the extension. Countersigned Forms 907 will be sent to taxpayers or their authorized representative. The IRS will not consider,

as part of this tool, Forms 907 submitted for disallowances unrelated to Letters 105-C or 106-C, and taxpayers should submit these requests through the IRS's normal processes.

The IRS is sending Notice CP320B to taxpayers identified as eligible for this new Form 907 submission method. Step-by-step instructions are available at [IRS.gov/CP320B](https://www.irs.gov/CP320B).

Taxpayers may be eligible to extend the time even if they don't receive Notice CP320B. Step-by-step instructions are available at [IRS.gov/erc105c](https://www.irs.gov/erc105c) and [IRS.gov/erc106c](https://www.irs.gov/erc106c) for those who believe they meet the above-stated criteria, even if they did not receive a letter.

Taxpayers who received an ERC claim disallowance notice and are unsure of their deadline should review the information provided on [IRS.gov](https://www.irs.gov): Understanding Letter 105-C, Disallowance of the Employee Retention Credit or Letter 106-C, Claim Partially Disallowed. Those with additional questions should call the phone number listed on their most recent IRS notice.

The IRS will continue processing ERC claims and appeals in accordance with its established procedures. This new streamlined process is intended to provide taxpayers with clear, timely information about their rights and available options, and thereby observing taxpayers' rights.