

Supporting Statement
Internal Revenue Service
Employee Retention Credit Voluntary Disclosure Program
OMB Control 1545-NEW

1. CIRCUMSTANCES NECESSITATING THE COLLECTION OF INFORMATION

In recent months, there has been a proliferation of false and misleading public advertisements and scams taking advantage of taxpayers by encouraging the filing of improper Employee Retention Credit (ERC) refund claims. The IRS has been inundated with hundreds of thousands of refund claims, many of which the IRS believes contain improper claims for the ERC.

On November 30, 2023, under Internal Revenue Code (IRC) Section 7803, the Internal Revenue Service (IRS) Commissioner approved the Employee Retention Credit Voluntary Disclosure Program (ERC-VDP). The ERC-VDP was created in order to provide a streamlined avenue for taxpayers to return funds and be afforded a 20% reduction in the amount to return. IRS will announce the ERC-VDP for taxpayers who improperly claimed the ERC and received the refund.

To participate in the initiative, taxpayers must submit information about the improper ERC claimed, refund received, their identifying information, and the identifying information of any preparer/advisor who assisted them with the ERC claim. IRS has created a Form 15434 to capture these collection requirements. In order to qualify for the ERC-VDP, taxpayers must not currently be under audit or criminal investigation.

Additionally, the IRS will provide procedures and requirements with respect to closing agreements that must be entered in to by taxpayers that qualify for the ERC-VDP. These closing agreements will be captured on Form 15434-A. This form is exempt from the Paperwork Reduction Act (PRA) under 5 CFR 1320.4(a)(2) as an administrative action for a specific individual and is not subject to the Office of Management and Budget (OMB) review and approval.

2. USE OF THE DATA

The information collected on Form 15434 will be used by the IRS to (1) allow taxpayers an opportunity to correct issues with inadvertently claiming the ERC, (2) identify taxpayers who were not eligible for ERC, and (3) identify preparers/advisors that are encouraging and aiding taxpayers in filing improper claims for possible investigation.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

These collections will be 100% electronic. Form 15434 is available as fillable pdf on IRS.gov. Additionally, taxpayers will submit their application for the ERC-VDP through the Document Upload Tool available at <https://www.irs.gov/help/irs-document-upload-tool>.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

The collection of information requirement will not have a significant economic impact on a substantial number of small entities.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

The information collected will be used to make appropriate adjustments to taxpayer accounts and identify promoters who are encouraging a proliferation of improper refund claims. A less frequent collection will not enable the IRS to appropriately adjust accounts or investigate promoters causing harm to taxpayers.

7. CIRCUMSTANCES REQUIRING SPECIAL INFORMATION COLLECTION

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

8. SOLICITATION OF COMMENTS ON INFORMATION COLLECTION

Due to the extraordinary circumstances resulting from the upcoming assessment statute of limitations expiration date of 4/15/2024 with respect to 2020 employment tax periods, the Department of Treasury and IRS request emergency processing of this information collection. Given the inability to seek public comment during such a short timeframe, IRS also respectfully requests a waiver from the requirement to publish a notice in the Federal Register seeking public comment during the period of Office of Management and Budget review.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift will be provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Business Master File (BMF)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.046--Customer Account Data Engine Business Master File, and IRS 34.037--IRS Audit Trail and Security Records System. The Department of Treasury PIAs can be found at <https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Description	# of Respondents	# Responses per Respondent	Annual Response	Hours per Response	Total Burden
Form 15434	5,000	1	5,000	2.36	11,800
Total	5,000		5,000		11,800

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

IRS does not anticipate that there will be any out-of-pocket costs to respondents to file and complete these forms.

14. ESTIMATED COST TO THE FEDERAL GOVERNMENT

Cost estimate for product development is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized startup expenses, operating and maintenance expenses, and distribution of the product that collects the information. The costs to the Federal government will vary depending on whether the IRS will incur printing or copying costs for all the materials. These costs do not include any activities such as taxpayer assistance and enforcement. IRS estimates have determined that the cost of developing, printing, distribution and overhead for the form is \$29,014.

15. REASONS FOR CHANGE IN BURDEN

This is a new collection.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis, and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the form sunsets as of the expiration date. Taxpayers are not likely to be aware that IRS intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO CERTIFICATION STATEMENT

There are no exceptions to the certification statement.