

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220



**TO:** Levesz, Administrator, Office of Information and Regulatory Affairs  
**FROM:** Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records

**SUBJECT:** Justification for Emergency Processing: ERC-VDP Form 15434

The Department of the Treasury and the Internal Revenue Service (IRS) are requesting expedited approval for Form 15434, Application for Employee Retention Credit (ERC) Voluntary Disclosure Program, under emergency procedures in connection with provisions of sections 3134.

The Employee Retention Credit, first enacted as part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), is a refundable tax credit to encourage employers (businesses and tax-exempt organizations) to retain employees on their payroll during the COVID-19 pandemic if they met certain requirements for eligibility. In general, the credit is allowed against applicable employment taxes for eligible employers, including tax-exempt organizations, that paid qualified wages, including certain health plan expenses, to some or all employees after March 12, 2020, and before January 1, 2022.

The Employee Retention Credit – Voluntary Disclosure Program (ERC-VDP) will allow employers who claimed the ERC erroneously to correct their claims. The combination of “ERC Mills” and the IRS’s recent communication and outreach efforts to alert the public of ERC scams has caused an increased interest from the tax community for a voluntary disclosure program. This program will enable the Government to recover ERC claims that were paid erroneously and process the voluntary disclosure from the employer without having to use enforcement or litigation resources.

The IRS needs to be able to announce ERC-VDP and make it available to taxpayers through Form 15434 as soon as possible because of the upcoming 4/15/2024 assessment statute of limitations expiration for the employment tax periods that include calendar year 2020.

Following normal Paperwork Reduction Act clearance procedures would result in harm to the government as the statute date of 4/15/2024 would pass and not afford taxpayers the opportunity to correct their misfiling. Without immediate OMB approval for the ERC-VDP, the only avenue for IRS to recapture the erroneous credit claims would be during audit. Therefore, due to the extraordinary circumstances and statutory deadlines for assessing the ERC, Treasury and IRS request emergency processing of this information collection request by December 15, 2023. 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.