

Area 6 – First Thursday Notes

October 3, 2024

Internal Revenue Service – First Thursday Area 6 Stakeholder Liaison Team

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ERC – New process for payroll companies, third-party payers

[IRS opens new process for payroll companies, third-party payers to help clients resolve incorrect claims for the Employee Retention Credit | Internal Revenue Service](#)

About supplemental claims

A supplemental claim is an adjusted employment tax return that allows a third-party payer to correct and/or consolidate previous claims that they filed on or before Jan. 31, 2024, if those claims have not yet been processed by the IRS.

By filing a supplemental claim, the third-party payer is asking the IRS not to process outstanding adjusted employment tax returns for the tax period. The IRS will treat claims filed before the supplemental claim as if they were never filed.

The supplemental claim process is for third-party payers to which all of the following apply:

- The third-party payer has filed one or more claims aggregating Employee Retention Credits for itself and/or clients using the TPP's Employer Identification Number.
- The third-party payer made the claim on an adjusted employment tax return (Forms 941-X, 943-X, 944-X or CT-1X).
- The IRS has not processed any of the claims the third-party payer is including in the supplemental claim.

This process is not for:

- Common law employers who did not use a third-party payer and instead filed adjusted employment tax returns using their own Employer Identification Number. These employers may be eligible for either the [claim withdrawal process](#) if their claim is pending, or for the IRS's second [Voluntary Disclosure Program](#) if they received the ERC.
- Third-party payers that received the full amount of ERC claimed on behalf of themselves and their clients. They may be eligible for the IRS's second [Voluntary Disclosure Program](#).

Drought Relief for Farmers

The Internal Revenue Service has recently issued guidance providing tax relief for farmers and ranchers in applicable regions forced to sell or exchange livestock because of drought conditions.

Under the guidance, farmers and ranchers may have an extended period of time to replace their livestock and defer tax on any gains from the forced sales or exchanges.

[Notice 2024-70](#) provides a list of the applicable areas, by county or other jurisdiction, designated as eligible for federal assistance. The list includes 41 states and other regions for which drought was reported during the 12-month period ending on Aug. 31, 2024.

The tax relief generally applies to capital gains realized by eligible farmers and ranchers on sales or exchanges of livestock held for draft, dairy or breeding purposes. Sales of other livestock, such as those raised for slaughter or held for sporting purposes, or poultry, are not eligible.

The replacement period extension announced in the notice gives eligible farmers and ranchers four years until the end of their first tax year after the first drought-free year to replace the sold or exchanged livestock. As a result, eligible farmers and ranchers whose drought-sale replacement period was scheduled to expire at the end of 2024 will have until the end of their next tax year to replace the sold or exchanged livestock.

The IRS provides this extension to eligible farmers and ranchers if the applicable region is listed as suffering exceptional, extreme or severe drought conditions during any week between Sept. 1, 2023, and Aug. 31, 2024. This determination is made by the National Drought Mitigation Center.

Details, including an example of how this provision works, can be found in [Notice 2006-82](#), available on IRS.gov.

More information on reporting drought sales and other farm-related tax issues can be found in [Publication 225, Farmer's Tax Guide](#), available on IRS.gov.

Beneficial Owners Information (BOI)

Preparers and small business representatives in Nebraska and South Dakota both expressed concern to Neki Cox at their Practitioner Liaison Meetings and Small Business Forums about the Beneficial Owners Information (BOI) that has to be filed with FINCen. They have questions such as, “Do preparers have the authority to do the report for their clients or is that delving into the area of an attorney?” Also, many are concerned that their clients will not know to file this report and be assessed penalties.

On [Beneficial owners | Internal Revenue Service \(irs.gov\)](#), it states, “Contact [FinCEN](#) for more information and questions regarding BOI. **Do not contact the IRS regarding BOI; all inquiries must be directed to FinCEN.**”

Therefore, Neki Cox, requested that IRS host a national webinar with FINCen presenting and answering questions about BOI. The coordinator for the national webinars has a relationship with FinCEN and is making it happen! She will soon post the November 7th webinar on [Webinars for tax practitioners | Internal Revenue Service \(irs.gov\)](#) for registration.

Thank you to South Dakota and Nebraska small business associations and tax practitioners for your suggestion!

State Revenue Updates

Colorado Department of Revenue

No Updates

Kansas Department of Revenue

No Updates

Minnesota Department of Revenue

[Draft Forms and Instructions | Minnesota Department of Revenue \(state.mn.us\)](#)

- Near final forms, including instructions, were released on this past Tuesday, October 1. M1 instructions will be released later this month. Withholding forms and instructions will not be available until later this year.
- We are working on a Partnership and S corporation Basics class. The class is 1 hour and will be offered beginning in December. The class will provide information about business entity types, steps needed to start a Partnership or S corporation business, common return errors and e-Services information. Subscribe to our email updates to receive information when registration opens.
- Annual tax pro filing season update webinars will be the afternoon of December 11 and the morning of January 7. Watch for email updates later this month for registration information.
- There is a new intake form on the Taxpayer Rights Advocate page. Instead of calling to request help with an issue, the intake form should be created instead and the goal is to respond within 2 business days. A pdf version of the intake form is also available.

Missouri Department of Revenue

No Updates

Montana Department of Revenue

No Updates

Nebraska Department of Revenue

Nebraska's draft forms are available on our website and we are still working on instructions. Also, our Major legislative changes document is available on the website.

There was a question on the Opportunity Scholarship Act that I referred to featured items FAQs on our website and to our major legislative changes document. Here is the link to that information.

New Mexico Taxation & Revenue Department

The NM tax department imposes the gross receipts tax on the vendors doing business in NM. If you prepare a personal income tax with a Schedule C, it would be a great customer service to your clients to ask if the clients have filed the NM gross receipts or if they have a business tax account with the tax department. If the taxpayer files a schedule C and there is no gross receipts tax reported to the department, the department will send the taxpayers a notice of intent to assess gross receipts based on the amounts reported on the Schedule Cs. If the taxpayers do not respond to this notice, the department will assess the tax even if the gross receipts are not subject to tax. The taxpayers need to contact the auditor and provide document as evidence to show that the gross receipts are not subject to the tax.

When a taxpayer has not filed back taxes, the managed audit is the best option to report those non-filer periods <https://www.tax.newmexico.gov/businesses/request-a-managed-audit/>

The NM Tax department's website provides contact information under the "Contact us" and "About Us" page <https://www.tax.newmexico.gov/>

<https://www.tax.newmexico.gov/businesses/businesses/taxpayer-advocate/>

<https://www.tax.newmexico.gov/tax-professionals/tax-practitioner-liaison/> The department has a tax practitioner liaison to assist practitioners who have tried to operate within the normal departmental channel without success.

North Dakota Office of State Tax Commissioner

No Updates

Oklahoma Tax Commission

No Updates

South Dakota Department of Revenue

No Updates

Utah State Tax Commission

No Updates

Wisconsin Department of Revenue

Estimated payment lookup: [https://tap.revenue.wi.gov/eslookup/ /](https://tap.revenue.wi.gov/eslookup/)

Training page to register for upcoming webinars: [DOR Training \(wi.gov\)](#)

Page to subscribe to our e-news: [DOR Subscribe to DOR E-News \(wi.gov\)](#) (we will message the tax professionals listserv when registration opens for our fall tax updates for practitioners)

Questions and Answers:

Q: As practitioners, are we permitted to mail a response to an IRS notice in on behalf of our clients? We have 3rd party authorizations on all clients (but not a POA on most) and have been responding via mail to the IRS like this for YEARS, but recently, the IRS is sending a letter back to the client telling them..."we received correspondence....but the person did not have authorization to act on your behalf..." This correspondence is very confusing to our clients. Is there a different/better process we should be utilizing to respond for our clients?

A: The check box authority was only intended to be used for handling return processing related issues. If the issue is for anything else, the check box does not authorize practitioners to handle taxpayer issues. A Form 2848 or Form 8821 is required to handle those issues. If it is return processing issues then, it could be training issues, and you may need to request to speak with a manager on the phone. Also, normally, we will take information on an issue from any source but may not respond to the unauthorized representative. If you continue to see this type of situation and you think that they should be allowing you to handle these issues, keep all information associated with the issue and contact the SL for your state. The IRS.gov site provides the different levels of third party information authorizations available: [Power of attorney and other authorizations | Internal Revenue Service \(irs.gov\)](#)

Q: Are we still supposed to report ERC monies on the tax return which corresponds with the period the ERC claim was for? For example, a claim was filed for 2020 and the taxpayer just now received a letter stating that the refund will be issued. There are multiple quarters where amended 941's have been filed. The taxpayer didn't go back and amend corresponding 1120-S forms because the IRS had suspended the processing of ERC claims. They are an accrual basis taxpayer.

A: Yes, you are required to reduce the amount of the ERC received on your tax return i.e. 1040, 1065, 1120 etc... here is the link [Employee Retention Credit | Internal Revenue Service \(irs.gov\)](#)

Eligible businesses that didn't claim the credit when they filed their original employment tax return can claim the credit by filing adjusted employment tax returns. For example, businesses that file quarterly employment tax returns can file

[Form 941-X, Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund PDF](#), to claim the credit for prior 2021 quarters.

Reminder: If you file Form 941-X to claim the Employee Retention Credit, you must reduce your deduction for wages by the amount of the credit for that same tax period. Therefore, you may need to amend your income tax return (for example, Forms 1040, 1065, 1120, etc.) to reflect that reduced deduction. For more information, see:

- [Notice 2021-20](#), Section III.L., Question and Answer 60
- [Notice 2021-49](#), Section IV.C., Timing of Qualified Wages Deduction Disallowance

Q: The mission critical page on irs has been updated and it no longer has updates on collection activity. Any update on when systemic liens or levies will be issued again?

A: Collection provided this information:

As part of its plan to resume collection programs which were paused during the COVID 19 pandemic, the IRS has restarted its Automated Levy Programs. Similar to the collection notice and non-filer notice efforts announced earlier this year, Automated levies have resumed under a phased approach. Automated Levy Programs include the Alaska Permanent Fund Dividend Program (AKPFD), the Federal Payment Levy Program (FPLP), the State Income Tax Levy Program (SITLP), the Municipal Income Tax Levy Program (MTLP), and ACS systemic levies. Taxpayers subject to levy receive a notice encouraging them to contact the IRS to reach a voluntary payment arrangement.

Q: Are agents still allowed to abate penalties over the phone and what are the restrictions?

A: Phone assistors can abate penalties depending on the circumstances. If the penalty was assessed during an audit or collection activity, they cannot remove them. If they are placed on the account systemically, they can abate them depending on if all requirements are met. The assistors use a system called Reasonable Cause Assistor (RCA) to determine if reasonable cause exists for abatement of the penalty. You can also request first time abatement of the penalty. If first time abate or reasonable cause is present, they can remove the penalties. The Internal Revenue Manual is used in these determinations. For mor information, review [Part 20](#) which deals with penalties.

Q: Client with payroll tax issues from 2021 and IRS is not responding to our POA. Should we go to tax payer advocate or where?

A: Yes, if the timeframe for a normal response has expired, you can request Taxpayer Advocates assistance in resolving the matter. Contact your local Taxpayer Advocate office.

Q: Is there a dollar threshold on the forgiveness, for example, I called in trying to get an estimated tax payment abated (it should have never been assessed) and was told it was over the threshold to be able to remove via phone.

A: In this specific example, if you provided them with a completed Form 2210 to show that the penalty should not be asserted, they can remove it with no threshold.

Next Meeting

Thursday November 7, 2024
9:00 a.m. – 10:00 a.m. CT

Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 241 938 273 298

Passcode: VdxVtm

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Phone Conference ID: 838 814 991#

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