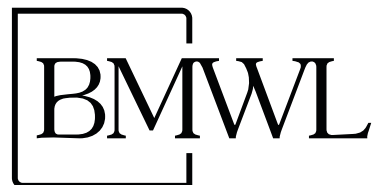


IRS IS INCORRECTLY DENYING MANY ERC CLAIMS

*By Kaylyn Varnum, CPA
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NONPROFIT SPECIAL ALERT™



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By Kaylyn Varnum, CPA & Mike Batts, CPA

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As we have reported previously, the IRS enacted a moratorium on the processing of ERC claims beginning in September 2023. Until very recently, we have not seen much movement in the IRS processing of ERC claims. However, in recent weeks, we have observed that the IRS has begun processing certain claims, and, in doing so, we have observed that, unfortunately, the IRS is incorrectly fully or partially denying some claims. Many of the IRS denials seem to be based on assumptions the IRS (or its software) is making about the claims without having the actual relevant information.

For claims made by churches or associations of churches, we have observed that the IRS has requested in some cases, as a condition of processing their claims, that applicants waive their special statutory protections related to IRS examinations under Internal Revenue Code (IRC) Section 7611. We are not sure the IRS has the authority under the law to make such a request.

Even if it does have such authority, a decision to waive IRC Section 7611 protection is a very important matter that, in our opinion, should be addressed under the advice of an organization's tax counsel. Such a decision could affect your organization's rights and claims.

Exempt organizations that have outstanding ERC claims should be on the lookout for IRS notices regarding their claims and immediately work with tax counsel to evaluate appropriate action in response to such communications. Often, exempt organizations will be required to file a formal protest to challenge the IRS denial of ERC claims.

BMWL Can Help

BMWL has helped numerous nonprofit organizations (churches, private schools, charities, etc.) claim significant Employee Retention Credit amounts based on careful analysis of the facts and available guidance. In many cases, our analysis includes consideration of input from legal counsel regarding certain key criteria. We also help our clients document the basis for any ERC claims that we help them make. We have a highly knowledgeable and experienced task force dedicated to assisting clients in addressing the ERC and certain other pandemic-related matters.

Additionally, BMWL has formed a team to represent nonprofits in IRS Employee Retention Credit Audits. Nonprofit organizations that have been notified of an IRS inquiry or examination in connection with an ERC claim can reach the BMWL IRS ERC Audit Representation Team at ERCAuditTeam@NonprofitCPA.com.

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