

## IRS Unveils New Webpage Discussing 106C Partial Disallowances for ERC Claims

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On April 22, 2025, the Internal Revenue Service (“IRS”) unveiled a new website discussing what 106C, partial disallowance, letters are and how to respond to the letters if taxpayers disagree. In recent months, the IRS has begun to issue more 106C letters related to Employee Retention Credit (“ERC”) claims. These letters often assert that the taxpayer has overclaimed the amount of ERC for which they are eligible. Generally, taxpayers were permitted to claim 50 percent of up to \$10,000 in Qualified Wages per employee in 2020 as a refundable tax credit. In 2021, the credit increased to 70 percent of \$10,000 in eligible wages per employee per quarter.

The IRS appears to be comparing the amount of refundable credit claimed to the total number of employees reported on the taxpayer’s original Form 941. However, the number of employees reported on that Form only represents the number of employees on payroll on one specific pay date and often does not count all employees who worked for the taxpayer during the quarter.

The IRS on its 106C webpage asks that taxpayers generally respond to the letter, if they wish to appeal the determination, within 30 days to protect the two-year timeframe in which a taxpayer could file a refund claim lawsuit in the federal courts to challenge a disallowance. However, a recipient of a 106C letter can file a protest at any time within that two-year timeframe.

The webpage also identifies supporting documentation the IRS is requesting from taxpayers to include credit calculation worksheets, documentation showing that the claimed credit did not exceed the limits per employee (payroll records), and statements indicating that neither wages of related individuals nor Paycheck Protection Program funds were not included in the credit calculations.

If your business claimed ERC and you received a 106C letter, please seek professional advice. Frost Law is happy to review ERC claims and determine if an appeal is the best course of action. Every business should receive the full amount of credit they are rightfully entitled to receive. If you would like to discuss your ERC claims in greater detail, don't hesitate to reach out to us at (410) 498-6135 or schedule a confidential consultation with our team of tax attorneys.

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