



No More Paper Checks: What It Means for ERC Refunds

By Mary Lee

On March 25, 2025, President Trump signed an executive order to discontinue paper checks for tax refunds by September 30, 2025, instead mandating all tax refunds and other Federal payments to be made via Electronic Funds Transfer (“EFT”). Section 4 of the order outlines four categories of exceptions to the new requirement, but based on current language, most Employee Retention Credit (“ERC”) refunds are not likely to be exempt. A limited number of businesses, however, may fall within the first two exceptions.

- **Lack of Access Exception**

To qualify under the first exception, the taxpayer must (1) not have access to banking services or electronic payment systems and (2) be an individual. This exception is unlikely to apply to most ERC claimants, however, as a majority of employers have access to banking services and, although some sole proprietorships may arguably fall under the term “individual” as defined by the Internal Revenue Code, the language and structure of the executive order suggest a narrower, more conventional interpretation which likely excludes business entities. Thus, further IRS guidance will be essential to clarify how the term “individual” applies in the context of ERC refunds.

- **Emergency and Undue Hardship Exception**

To qualify under the second exception, the disbursement must (1) constitute an emergency payment and (2) be such that an electronic payment would cause undue hardship.

ERC refunds may be likely to meet the emergency payment requirement as the ERC was established in response to a formally-declared national emergency: COVID-19. To that end, whether a business may fall under the exception hinges on the second prong: undue hardship. Under 31 C.F.R. § 208.4(a)(7), non-EFT payments may be permitted if: (1) the agency does not anticipate making multiple payments to the same recipient within a one-year period on a regular, recurring basis, and (2) the payments are made to a “small business concern”.





According to the Small Business Administration (SBA), the term “small-business concern” refers generally to a business that is (1) independently owned and operated (2) not dominant in its field of operation, and (3) meets applicable size standards. This definition applies broadly across industries, so many ERC claimants may meet these standards. However, the CFR still grants the Treasury the authority to revoke a waiver granted. As a result, even qualifying businesses under the second exception face uncertainty until the IRS or Treasury issues further guidance.

Conclusion

There is no current guidance suggesting that ERC refunds are categorically exempt from the executive order. Further guidance is necessary to clarify the implementation of changes and the applicability of any exception to ERC refund payments. Other qualifying—or disqualifying—circumstances may emerge depending on how the Treasury and the IRS interpret and apply these exceptions.

Since the policy is expected to take effect in October of 2025, employers should closely monitor IRS communications regarding payment instructions and continue tracking their refund status. In the meantime, employers should ensure the business has an active bank account capable of receiving ACH payments in the event the IRS requests such information.

If you have questions about how this executive order may affect your ERC refund claims or any other tax matters, please don’t hesitate to contact us at (410) 497-5947 or schedule a confidential consultation with our team of experienced tax and business attorneys.

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