

of the special funding, though a chunk of that went to fill funding gaps attributable to inflation and Congress holding the agency's base annual budget flat. During that time, the agency's employment ballooned to more than 100,000, but it fell back to about where it started as 25 percent of its workforce left or was terminated in 2025.

While enforcement was to get most of the Inflation Reduction Act money, hiring to recover from the exodus from that division during the funding drought lagged. Many of the enforcement hires were still in their probationary period when Trump took office, so they were among those terminated by the Trump administration, Mazur said.

"One of the reasons for the IRA money was to address exactly that," Mazur said of rebuilding the IRS's enforcement muscle. "The idea was you needed to build up the capacity to do these hard cases."

The reductions at the IRS could lead to another cycle of abusive tax shelters, Megan L. Brackney of Kostelanetz LLP said at a Practising Law Institute conference in April.

"We've seen this in cycles over the years, right? Where there's a perception that the IRS isn't working, it leads to greater activity — and in partnerships particularly, because this has always been the vehicle for abusive tax transactions and tax shelters," Brackney said.

Brackney's partner at Kostelanetz, Bryan C. Skarlatos, doesn't see the growth or recession of abusive tax shelters as a conspiracy so much as something that occurs through a process.

"When the IRS doesn't have sufficient resources, taxpayers may take more aggressive positions, and if they're not challenged, that may continue," Skarlatos said in an August 28 interview. Then those positions can "proliferate around the tax system," he added.

The opposite message came from the IRS after Everson put his team together.

"Basically, they dug into it and they allocated resources, and they also made it clear to taxpayers that they were going to find these transactions," Skarlatos said. ■

## Rise in Audits of Employee Retention Credit Claims Sparks Worry

by Trevor Sikes

A recent surge in audits of employee retention credit claims is a major concern for employers and tax professionals who fear that the IRS lacks the capacity to follow through on the process.

ERCs, offered as COVID-19 pandemic relief to businesses, have long been subject to scrutiny for potential fraud and abuse. However, a recent spike in audits of ERC claims has worried tax professionals who believe that claimants who are rightfully entitled to a refund and have experienced lengthy delays getting it may now have even more trouble.

Rebecca Sheppard of Frost Law told *Tax Notes* that "there's been a huge increase" of correspondence audits related to ERC claims, known as a Letter 6612, starting in June 2025.

Kenny Dettman of TaxNow, a tax management platform, has kept track of his clients' audits — ERC and others — for 2020 and 2021, the eligible years for an ERC claim. He saw a record-breaking 342 audits his clients received in July 2025, which dwarfed the previous highest number of audits he had seen — 54 in June 2024. Although it's impossible to discern which of those audits are related to an ERC claim, it is likely that the explosion in numbers is a new wave of ERC audits, Dettman told *Tax Notes*.

Darren Guillot of Alliantgroup LP has also seen an influx of Letters 6612 being issued.

Guillot, a former commissioner of the IRS Small Business/Self-Employed Division, said the increase shows the IRS is refining its advanced analytics that it has been developing for over a year to try to effectively target ERC claims in accordance with its risk modeling. The accuracy of the IRS's analytics system is yet to be seen, he said.

Guinevere M. Moore of Moore Tax Law Group LLC had a different take. The IRS seems to be sending out a mass, generalized information document request to ERC claimants, she told *Tax Notes*. "Essentially what this IDR is saying to the taxpayer: 'If you think you qualify for this credit, this is your opportunity to prove it,'" she said.

### Staffing Shortage

Attorneys and tax advisers are worried about the IRS's ability to follow through on the ERC audits.

The IRS has lost 25 percent of its workforce and has begun efforts to rehire employees to fill "critical vacancies" in staffing, along with having seven different commissioners since January.

An ERC audit asks for a significant amount of information, and "we're not sure who, if anybody, is actually evaluating the information that the taxpayers are providing," Moore said.

"I just can't imagine that [the IRS is] staffed to adequately review the information that's going out in relation to the correspondence audit," said Dettman. The inadequate staffing means that claimants will have to wait a very long time or that the IRS will adopt a bright-line approach to how it approves or denies responses, he said.

The worry about vacancies applies also to leadership, Dettman said. "We're not really sure at the moment who's there to listen," he said, adding that the industry has been unable to express its concerns regarding ERC auditing actions.

### Timing Pressure

The 30-day turnaround to provide documentation in response to a Letter 6612 puts even more pressure on a taxpayer, especially with the IRS being understaffed, Sheppard said.

Calls to the IRS to seek an extension of time to respond have been unsuccessful, said Sheppard. "There's no one you can speak with to get additional time or [explain] what you need," she said. When messages are left, a response can be expected in five business days, which eats into the 30-day response time, she said.

It's time-consuming to gather the large number of documents that an employer must provide in response to a Letter 6612, Moore said. And now some taxpayers are being told over the phone that their extension request has been denied, "which is insane," she said, adding, "For the IRS to deny a request for an extension on a 30-day request time, to me, is completely outrageous."

Because of the 30-day response time, employers with a pending ERC claim should be

vigilant, said Dettman. "Businesses with pending claims that do receive the Letter 6612s often receive them with fewer than 30 days to respond, as the IRS isn't sufficiently post-dating the letters," he warned.

### Litigation on the Horizon?

Some tax professionals fear that the increase in ERC audits is setting the stage for a flood of claim denials, adding to the approximately 10,000 protest claims already in progress, said Dettman. "I think you're going to see a massive wave of those files move to litigation," he said.

Lawsuits regarding ERC claims and worries about more of them in the future have been growing.

"What does it mean that you qualify for [the ERC]? It meant that COVID had a significant impact on your business, and you found some way to continue paying your employees," Guillot said. An employer may have had to take out a loan to pay its workforce, and any delay in getting that money back as a refund from the IRS can put the business at risk, he said.

"The concern is that the agency isn't going to be able to respond in a timely manner to help these taxpayers that have been waiting for quite a while, and there's no real remedy for them other than to file lawsuits," said Sheppard.

The IRS didn't provide comment by press time. ■