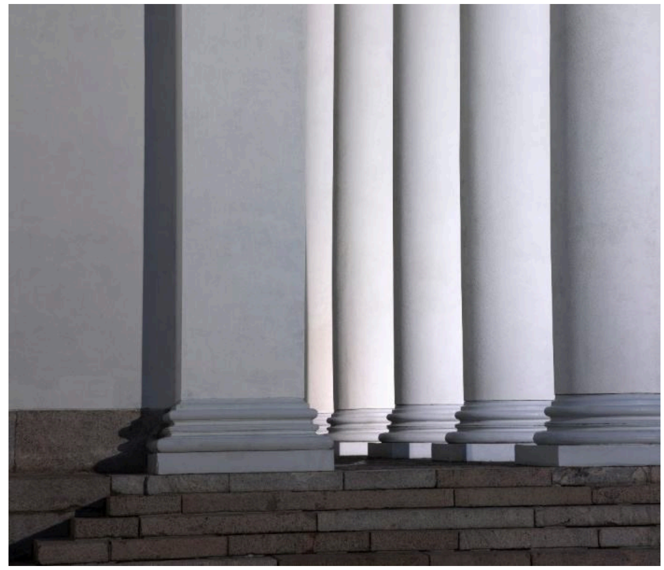
Your Denied ERC Claim May Still Be Alive: Two Courts Just Split on Who Qualifies



Two federal courts ruled on ERC eligibility the same day and came out opposite ways. Where your claim stands may depend on where you fight.

What if the IRS denied your ERC claim, and the IRS was wrong? On May 28, 2026, a federal court in Washington said exactly that to the government, refusing to throw out a hospital's $11.5 million refund suit and rejecting several of the IRS's favorite arguments along the way. That same day, a different court handed the government an outright win in a nearly identical dispute.

The IRS has closed its books on unprocessed ERC claims, so for many businesses the courtroom is now the only path to payment. These two rulings are the clearest signal yet of how those fights will go: the legal standards are still up for grabs, and the details of your claim matter more than ever.

One Day, Two Opposite Rulings

Both plaintiffs were healthcare providers. The outcomes could not have been more different.

- The hospital that lived to fight on. Tri-State Memorial Hospital sued for roughly $11.5 million in unpaid ERC refunds, and the government asked the court to dismiss the case. The court refused. It held that a "partial suspension" means a temporary delay, interruption, or termination of a more than nominal portion of a business, and that the IRS's familiar 10% disruption benchmark is guidance, not law. It also read "due to" generously: if the disruption would not have happened without a government order, that is enough, even if other factors contributed. Canceled non-urgent procedures, reduced bed capacity, and diverted staff kept the hospital's case alive. One caution: the hospital has not won its refund yet. The case now moves to discovery.

- The provider that lost on the merits. The same day, the Court of Federal Claims entered final judgment against a Massachusetts mental health provider. That court required the government order to be the direct cause of the disruption; a contributing factor was not enough. And because the state's shutdown order classified the provider as essential and exempt, the court treated its operational changes as voluntary. Voluntary precautions did not count, no matter how severe the disruption.

Why This Matters Now

The IRS closed all non-examined ERC claims as of December 31, 2025, and a disallowance letter starts a two-year clock to file a refund suit under I.R.C. §6532. ERC refund suits can be filed in either federal district court or the Court of Federal Claims, and after May 28 that choice of forum could shape the legal standard your claim is judged under.

Both courts did agree on one point: general pandemic hardship alone is not enough. A successful claim ties a specific government order to a real, documented operational impact, and it separates what the orders required from what the business chose to do voluntarily. That distinction decided one of these cases.

One more deadline note: if your window to sue is running short, the IRS now offers a streamlined extension. Watch for Notice CP320B, which invites you to sign a Form 907 agreement adding up to two years without filing suit.

A denial is not the last word. But the clock is running.

Is Your Claim Worth Fighting For?

Whether your ERC claim was denied, is still pending, or is sitting in appeals, these rulings change the calculus. The right next step depends on your facts, your orders, and your deadline, and getting that analysis right matters. If you have any questions about your ERC refund, then please reach out to our team at **(202) 455-6010** or **schedule a confidential consultation**.