

# WAIT TO CASH YOUR ERC CHECK UNTIL THE CALCULATIONS HAVE BEEN RECONCILED

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ERC notices and checks are coming through for quarters where 941 amendments were used with a 7-9 month turnaround. In some cases, we are seeing some calculation or application errors by the IRS. In some of those cases, we believe cashing the check can potentially lead to other problems. Therefore, we recommend that you wait to cash the check until you have reconciled the IRS calculations with those made in preparation of the 941 amendments. The notices, which appear to be coming separately from the checks, provide a summary of the IRS calculations.

## Background

At the end of May 2021, the IRS provided an explanation for the slow turnaround time in processing the ERC amendments. The two primary reasons cited were (1) the changes in procedures at the IRS to address COVID-19 safety protocols, including working remotely, and (2) the sheer volume of refund requests. The processing relates to Form 941, the employer's quarterly tax return, and Form 941-X, the adjusted employer's federal tax return or claim for refund (an after-the-fact claim).

The IRS has indicated that, through 2021, there are currently approximately 2 million unprocessed 941/941-X amendment forms. Due to the fact that 941-X amendment for previous quarters is required to be processed in a paper form and mailed to an IRS office, the process is somewhat labor intensive. They have indicated that their open times are moving towards a more normal pace and they are rerouting forms between IRS offices in order to take advantage of those with more staff availability than others.

## Errors

There has been training underway for many IRS agents who previously had not been familiar with ERC processes. Here are some examples of some of the errors we've observed:

- 1) The IRS did not apply the credit to previously deferred SS taxes, even when these were reported on the 941 amendment. This leads to an overstated check. If this check is cashed, then the deferred SS taxes effectively have not been paid and the 50% required payment by 12/31/2021 could be viewed as delinquent;
- 2) The IRS appears to be catching some of the errors for 1) above and, in some cases, sending a second check with presumably corrected calculations;
- 3) The IRS applied some of the credit to a previously open and unrelated tax item which may or may not be accurate;
- 4) The IRS deducted either the refundable or the non-refundable credits erroneously from the credit (refundable and non-refundable are both part of the calculation but, as regards to ERC, both are treated the same in terms of what is owed to the employer for the ERC Credit);
- 5) In some instances, two IRS offices processed the same forms for the same quarters and both sent communication;
- 6) Unresolved issues from one IRS office – which may have been resolved in another office – could result in communication from both offices which may or may not match;
- 7) The IRS issues an overstated check with no clear basis for why this was done.

In cases where there were either multiple or duplicate checks and/or the check amount is overstated due to an IRS error, we recommend not cashing the checks until a plan of action for communication can be determined.

In cases where there may have been deductions for either a previously open, unrelated situation or for an erroneous item, it may be appropriate to cash the check and then develop a communication plan to address the deduction.

For BFG payroll clients, we are helping to reconcile the IRS calculations with those in our file. In some cases, we are receiving copies of the notices from the IRS, but in other cases, we are not. When you receive any IRS communication or checks, please let us know and we will help you with this process and provide feedback about our findings and a suggested plan of action.

## For More Information

For more information or assistance, please contact our Payroll team at **210-293-6620**, toll-free at **1-888-757-2104**, or [PayrollServices@BFGonline.com](mailto:PayrollServices@BFGonline.com).



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