



# Frequently asked questions about the Employee Retention Credit Voluntary Disclosure Program

The Employee Retention Credit Voluntary Disclosure Program (ERC-VDP) lets employers who received ERCs but are ineligible for them pay back the credits at a discounted rate. The program runs through March 22, 2024.

These frequently asked questions (FAQs) provide general information about the program, who can apply and how to do so. For an overview of the program, see [Employee Retention Credit – Voluntary Disclosure Program](#).

For details about the Employee Retention Credit, including information about who is eligible, see [Employee Retention Credit](#).

If you already claimed the ERC but it hasn't yet been paid or you haven't yet deposited the check, see [Withdraw an Employee Retention Credit \(ERC\) claim](#).

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## General information about the Employee Retention Credit Voluntary Disclosure Program (ERC-VDP)

### Q1. What is the ERC Voluntary Disclosure Program (ERC-VDP)? (added Dec. 21, 2023)

A1. The ERC-VDP is a program developed by the IRS that allows [certain taxpayers](#) who received but were not entitled to any non-refundable or refundable Employee Retention Credit(s) (ERC) to self-identify and repay that ERC.

As a participant of ERC-VDP, you'll be required to:

- Apply to the ERC-VDP program using [Form 15434, Application for Employee Retention Credit \(ERC\) Voluntary Disclosure Program](#),
- Cooperate with the IRS, such as for any requests for more information,
- Voluntarily pay back the entire ERC received, minus 20%, and
- Sign a closing agreement, which provides finality to the matter.

You will not be subject to an employment tax audit for ERC resolved within the terms of this program.

Another benefit of ERC-VDP is that a reduction to your wage expense on your income tax return is not required, as the settlement eliminates a participant's entitlement to the claimed ERC.

Throughout these FAQs, reference to "ERC" means both non-refundable and refundable portions of ERC.

The nonrefundable portion of the ERC can reduce your tax liability to zero, but the refundable portion of the ERC can reduce your total tax liability **below** zero. If the amount of your credit exceeds the tax you owe on the employment tax return, the IRS pays it to you as a refund.

### Q2. Is there a deadline to apply to ERC-VDP? (added Dec. 21, 2023)

A2. Yes. Complete applications for ERC-VDP must be received by 11:59 p.m. local time on March 22, 2024. IRS processing will extend beyond March 22, but all submissions need to be received by that deadline.

### Q3. How do I know if I'm not entitled to any ERC? (added Dec. 21, 2023)

A3. The eligibility requirements for ERC depend on the time period for which you claim the credit. The IRS's [Employee Retention Credit Eligibility Checklist](#) tool can help you see if you're eligible for the ERC. You can also review eligibility rules, examples, legal guidance and resources in the [Eligibility](#) section of the ERC FAQs, or discuss eligibility with a [trusted tax advisor](#).

### Q4. How much will I have to pay in ERC-VDP? (added Dec. 21, 2023)

A4. You will need to repay the amount of ERC you received minus a 20% reduction of that amount afforded by your participation in ERC-VDP to resolve your employment tax obligation.

For example, if you received a total of \$100,000 in non-refundable and refundable ERC, under ERC-VDP terms, you would have to repay \$80,000 (\$100,000 - \$20,000 reduction). This example assumes full payment is received by the time you return the signed ERC-VDP closing agreement to the IRS, so no interest or penalties apply.

See the [Calculating & paying the balance due under ERC-VDP](#) section for more information.

## Q5. What happens if I don't participate in ERC-VDP? (added Dec. 21, 2023)

A5. The IRS continues to identify new methods of analyzing ERC claims to identify ineligible taxpayers. If you claimed and received ERC you're not entitled to, and you don't participate in ERC-VDP to correct it, you risk detection by the IRS, which could lead to substantial interest and penalties and increase your risk of criminal investigation and prosecution.

***Civil interest and penalties that could apply to your employment tax liability depending on your particular facts and circumstances.***

Type of interest or penalty	Code section that provides authority to assess	Interest or penalty rate
Interest	IRC 6205 IRC 6413	<a href="#">Varies quarterly</a> . 1st quarter 2024 rate is 8%-10%
Failure-to-pay penalties	IRC 6651(a)(2) IRC 6651(a)(3)	.5-25% Or 1/4% or 1%
Failure-to-file penalties	IRC 6651(a)(1)	5-25%
Failure-to-deposit penalties	IRC 6656(a)	2-15%
Accuracy-related penalties	IRC 6662(a) IRC 6662(d)	20%
Civil fraud penalties	IRC 6663	75%
Fraudulent failure-to-file penalties combined with the failure-to-file penalties	IRC 6651(f)	15-75%
Trust fund recovery penalties	IRC 6672	Equal to total amount of the tax evaded, or not collected, or not accounted for and paid over.

Criminal charges related to taxes can include, but are not limited to, tax evasion (IRC 7201), filing a false return (IRC 7206(1)), false claims (18 USC 287) and false statements (18 USC 1001). A person convicted of tax evasion is subject to a prison term of up to five years and a fine of up to \$250,000. Filing a false return subjects a person to a prison term of up to three years and a fine of up to \$250,000.

Please note that if you willfully filed an employment tax return that fraudulently claimed ERC, or if you assisted or conspired in such conduct, filing for ERC-VDP will not exempt you from potential criminal investigation and prosecution.

## **Q6. Will my participation in ERC-VDP affect future tax years? (added Dec. 21, 2023)**

A6. No. ERC was available only for wages paid March 13, 2020, through Dec. 31, 2021. For quarterly filers, the credit for wages paid from March 13 to March 31, 2020, could only be claimed on the 2020 second quarter employment tax return. Therefore, the only employment tax returns that can be resolved in ERC-VDP are for tax periods ending:

- June 30, 2020
- Sept. 30, 2020
- Dec. 31, 2020
- March 31, 2021
- June 30, 2021
- Sept. 30, 2021
- Dec. 31, 2021

## **Q7. Is ERC-VDP part of IRS [Criminal Investigation's Voluntary Disclosure Practice](#)? Do I need to be pre-cleared by IRS Criminal Investigation before applying for ERC-VDP? (added Dec. 21, 2023)**

A7. No. The ERC Voluntary Disclosure Program is a civil settlement program offered by the IRS specifically for ERC non-compliance. It's not part of Criminal Investigation's Voluntary Disclosure Practice. Information and procedures for CI's Voluntary Disclosure Practice, including pre-clearance, do not apply to ERC-VDP. Don't request pre-clearance for participation in ERC-VDP, and don't submit your ERC-VDP application to CI.

## **Q8. If I already amended my employment tax return to eliminate my entire ERC or if IRS already disallowed it all, can I still get the 20% reduction? (added Dec. 21, 2023)**

A8. Generally, you aren't eligible for ERC-VDP. However, if you filed amended employment tax returns before Dec. 21, 2023, to eliminate **all** of your ERC, the IRS will review your application on a case-by-case basis for eligibility into ERC-VDP. See [Who is eligible for the ERC-VDP?](#) in the ERC-VDP eligibility questions section for additional information about eligibility.

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## ERC-VDP eligibility questions

### Q1. Who is eligible for the ERC-VDP? (added Dec. 21, 2023)

A1. Businesses, tax-exempt organizations and government entities that are not under criminal investigation or notified that IRS intends to commence such an investigation are eligible to apply for ERC-VDP for each tax period that meets the requirements below:

1. Your ERC claimed on a Form 941, 941-X, 941-PR, 941-PR-X, 941-SS-X, 943, 943-X, 944, 944-X, CT-1, or CT-1-X has been processed and paid as a refund, which you have cashed or deposited, or paid in the form of a credit applied to the tax period or another tax period;
2. You're entitled to \$0 ERC;
3. You're not under employment tax examination (audit) by the IRS;
4. The IRS has not reversed or notified you of intent to reverse your ERC to \$0;
  - For instance, if you received a notice or letter from the IRS disallowing your ERC, you are not eligible for ERC-VDP for the period(s) on that notice or letter. Disallowance Notices or Letters from IRS, **if** they indicate ERC disallowance, include but are not limited to:
    - Letter 950-D, Employment Tax 30 Day Letter
    - Letter 5376, Full/Partial Claim Disallowance
    - Letter 6362, COVID-19 Employer Credit Disallowance Letter for PPP Loan Recipient or Government Entity
    - Letter 6362-A, COVID-19 Employer Credit Disallowance for Third Party Payor reporting a Government Entity
    - Letter 905, Final Partial Claim Disallowance Letter
    - Letter 906, Final Full Claim Disallowance Letter
5. You have not reversed your ERC to \$0:
  - For instance, if you previously filed an amended employment tax return to eliminate all of your ERC, you generally aren't eligible for ERC-VDP for the period(s) you amended. However, if you filed this amended employment tax return before Dec. 21, 2023, IRS will review your ERC-VDP application on a case-by-case basis for eligibility into ERC-VDP.
6. IRS doesn't have information from a third party alerting us to your ERC noncompliance.
7. IRS doesn't have information directly related to your ERC noncompliance from an enforcement action.

Please note that if you willfully filed an employment tax return that fraudulently claimed ERC, or if you assisted or conspired in such conduct, filing for ERC-VDP will not exempt you from potential criminal investigation and prosecution.

If you're not eligible to participate in ERC-VDP:

- Because your ERC has not been paid, you can still consider the [ERC withdrawal process](#).

- Because you can't repay your [ERC-VDP liability](#), you're not approved for an installment agreement, or for any other reason, you [can amend your incorrect returns](#) and review other [IRS payment options](#) to pay back your full ERC.

## **Q2. If my employment tax Forms 941, 943, 944, or CT-1 were filed late, am I still eligible for the ERC-VDP? (added Dec. 21, 2023)**

A2. Yes, if you meet all the other [eligibility requirements](#) you can use the ERC-VDP.

## **Q3. If I can't pay the full amount of the ERC-VDP liability, can I still participate in the ERC-VDP? (added Dec. 21, 2023)**

A3. The terms of this program require you to fully pay your [ERC-VDP liability](#) unless IRS approves you for an installment agreement by the time you return the signed ERC-VDP closing agreement to the IRS. To be considered for an installment agreement, include a signed and completed [Form 433-B, Collection Information Statement for Businesses](#) [PDF](#), and all required supporting documentation with your ERC-VDP application by 11:59 p.m. local time March 22, 2024. See the [Installment agreements in ERC-VDP](#) section for submission instructions and other important information about this option.

If you can't full pay your ERC-VDP liability and if you're not approved for an installment agreement, then no other IRS payment plans are an option if you're participating in ERC-VDP. You may want to consider financing the amount due from other sources so you can get the benefits of the ERC-VDP.

## **Q4. If I used a third party payer to file my employment tax returns or claim my ERC, am I eligible to participate in ERC-VDP? (added Dec. 21, 2023)**

A4. If a third party payer filed an employment tax return that reported the wages and credits related to your ERC, you're eligible to participate in ERC-VDP, but only through your third party payer. If you apply for ERC-VDP under your own employer identification number (EIN), it will be rejected. Consult with the third party payer to apply for ERC-VDP. See the [Third party payers](#) section for more information.

## **Q5. I am currently under audit, or my parent, subsidiary or another member of my consolidated group is. Am I eligible for the ERC-VDP? (added Dec. 21, 2023)**

A5. If you, your parent, subsidiary or another member of your consolidated group are under employment tax audit for a tax period where the ERC was claimed, you **do not qualify** for the ERC-VDP for that tax period. This examination, however, does not disqualify you from ERC-VDP for tax periods that are not under audit. Consult with your examiner.

If you, your parent, subsidiary or another member of your consolidated group are under any *other* type of audit, such as for income tax or excise tax, that audit **does not disqualify** you from ERC-VDP eligibility for the audited period(s). Check [Who is eligible for the ERC-VDP?](#) in the ERC-VDP eligibility questions section to see if you meet

the other eligibility requirements.

**Q6. If I'm currently contesting the results of an employment tax examination (audit), such as in IRS Appeals or in Tax Court, am I considered to be under employment tax audit for purposes of the ERC-VDP? (added Dec. 21, 2023)**

A6. Yes. For purposes of the ERC-VDP, you're considered under an employment tax audit for any tax period you're appealing or challenging in Tax Court. You can't apply for ERC-VDP for any employment tax return period that is currently in Appeals or in Tax Court. This appeal or Tax Court litigation, however, does not disqualify you from ERC-VDP for tax periods that are not in Appeals or Tax Court.

**Q7. I received a letter saying I'm not eligible for ERC, adjusting ERC to \$0 and requiring repayment. Can I participate in ERC-VDP? (added Dec. 21, 2023)**

A7. You can't participate in ERC-VDP for the tax period(s) covered by the denial letter. This letter, however, does not disqualify you from ERC-VDP for any tax period(s) not covered in the letter.

**Q8. I received ERC in multiple tax periods. I determined I'm entitled to ERC in some, but not all, of these tax periods. Am I still eligible for the ERC-VDP? (added Jan. 5, 2024)**

A8. Yes, for the tax periods in which you're entitled to \$0 ERC, if you meet all the other [ERC-VDP eligibility requirements](#). Being entitled to ERC in some periods **does not disqualify** you from ERC-VDP for other period(s) in which you're not entitled to any ERC. Do not include on your ERC-VDP application any tax period(s) in which you're entitled to ERC.

You can't include in ERC-VDP any tax period in which you're entitled to some, but not all, of the ERC you claimed in that period. Instead, you may file an [amended employment tax return](#) to correct your ERC for this period.

For example, if you received ERC in 7 tax periods and determined you're entitled to ERC in 2 of those periods, but not in the other 5, you're eligible for ERC-VDP for those 5 tax periods, assuming you meet all other eligibility requirements. Include only these 5 tax periods on your ERC-VDP application, not the 2 for which you're entitled to ERC. If you need to eliminate some, but not all, of the ERC in these 2 periods, you may file an [amended employment tax return](#) to correct this ERC.

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## ERC-VDP process

### Q1. How do I enter the ERC-VDP? (added Dec. 21, 2023)

A1. If you meet the [eligibility rules for the ERC-VDP](#), submit a complete application package by 11:59 p.m. local time on March 22, 2024, by following the instructions on Form 15434. See [What do I include in my application package, and how do I prepare it?](#), and [How do I submit my ERC-VDP application package?](#) in the ERC-VDP Process section for more information about the application process.

### Q2. What do I include in my application package, and how do I prepare it? (added Dec. 21, 2023)

A2. All applicants must complete, sign and date:

- Form 15434, Application for Employee Retention Credit Voluntary Disclosure Program. Be sure an [authorized person signs](#) and dates the application.

Some applicants may need additional forms:

- ERC-VDP Form SS-10, Consent to Extend the Time to Assess Employment Taxes, if *Part IV, General Information*, includes tax period(s) ending in 2020. See [Will I be required to complete and sign a consent to Extend the Time to Assess Employment Taxes to participate in ERC-VDP?](#) in the ERC-VDP Process section for more information.
- [Form 8822-B, Change of Address or Responsible Party – Business](#) [PDF](#), if applicable. See [What do I do if my address changed?](#) in the ERC-VDP process section for more information.
- [Form 2848, Power of Attorney and Declaration of Representative](#) [PDF](#), if applicable. See [Taxpayer representatives in ERC-VDP](#) section for more information.
- Third party payers: Attach a copy of the relevant page(s) of the Schedule R that was filed with each Form 941 or Form 941-X on which you claimed the ERC for your client(s). See [Third party payers](#) section for more information.
- [Form 433-B, Collection Information Statement for Businesses](#) [PDF](#), with all required supporting documentation, if you are unable to pay the full ERC-VDP liability and want to be considered for an installment agreement. To be considered for an installment agreement, submit your signed and completed Form 433-B and all required supporting documentation with your ERC-VDP application by 11:59 p.m. local time March 22, 2024. See the [Installment agreements in ERC-VDP](#) section for more information.

We encourage you to use the fillable version of Form 15434 and your other forms, rather than printing the form and writing the information. The forms make calculations for you to ensure accuracy and the fillable forms help the IRS process the documents faster. However, forms filled out by hand are acceptable as long as we can read them.

See [Signatures on ERC-VDP documents](#) for important guidance.



### **Q3. How do I submit my ERC-VDP application package? (added Dec. 21, 2023)**

A3. Use the Document Upload Tool to submit your completed and signed [ERC-VDP application package](#), inclusive of **all** tax periods you wish to apply for ERC-VDP (no need for each tax period to be submitted separately). To do so:

1. Go to [IRS.gov/dut](https://irs.gov/dut) and click the blue "Use the Document Upload Tool" box.
2. Acknowledge the authorized use statement and the privacy statement.
3. On the welcome page, select "No" access code.
4. Type "15434" to pull up the Form 15434 submission portal.
5. Enter your Tax Year, Business Name, and Business Employer Identification Number (EIN). For "Tax Year," select the year that correlates to the oldest tax period on your Form 15434, Part IV – "2020" or "2021."
6. Click "Next."
7. Upload the required documents (see list above).
8. Click the "Submit" button to transmit the documents. Your documents won't be submitted to IRS if you don't click "Submit" after your upload.
9. After you hit "Submit" you should receive the message, "Your documents have been successfully uploaded. You may be contacted at a future date regarding your response. You should allow at least 30 days for a reply from the IRS." Make sure you see this message to confirm submission was successful.
10. For your own records, keep copies of all documents submitted via DUT.

Regardless of whether you complete the forms electronically or manually, you must use the Document Upload Tool to submit the ERC-VDP package. There are no mail, fax, or drop-off options for applying to ERC-VDP.


See [What happens after I submit my ERC-VDP application? Will I get a letter of acceptance or rejection?](#) in the ERC-VDP process section for what happens next.

### **Q4. Will I be required to complete and sign a Consent to Extend the Time to Assess Employment Taxes to participate in ERC-VDP? (added Dec. 21, 2023)**

A4. Yes. If your ERC-VDP includes a tax period ending in 2020, you are required to include with your application a properly completed and signed ERC-VDP SS-10, Consent to Extend the Time to Assess Employment Taxes. This ERC-VDP SS-10 is a restricted consent, available only online, and is the only Form SS-10 approved for ERC-VDP purposes because it contains special language required for this program. Do not submit any other Form SS-10 for ERC-VDP purposes.

You can get the ERC-VDP Form SS-10 from [IRS.gov/erc](https://irs.gov/erc), and then clicking on the ERC Voluntary Disclosure Program link. The ERC-VDP Form SS-10 is partially pre-filled to meet ERC-VDP requirements and reduce burden. You'll need to complete the Taxpayer Identification Number (EIN), Name, Address and Signature fields. Do not change any other fields in the ERC-VDP Form SS-10.

## Q5. What do I do if my address changed? (added Dec. 21, 2023)


A5. Include [Form 8822-B, Change of Address or Responsible Party – Business](#)  with your ERC-VDP application package. If the address on your Form 15434, Lines 3 through 7, doesn't match IRS records, we can't process your application. Even if you've already submitted Form 8822-B to the IRS, include a copy of it with your Form 15434 to ensure we can process your ERC-VDP application.

## Q6. What resources can help me with my ERC-VDP application? (added Dec. 21, 2023)

A6. Review the application instructions included with Form 15434.

- **Tax forms and publications.** Go to [IRS.gov/forms](https://www.irs.gov/forms) to view, download or print all the forms, instructions and publications you may need.
- **Answers to your ERC questions.** You can get up-to-date information on the law, eligibility, recordkeeping, scams, events and other ERC resources at [IRS.gov/erc](https://www.irs.gov/erc).
- **More information about ERC-VDP.** You can click on the ERC Voluntary Disclosure Program link at [IRS.gov/erc](https://www.irs.gov/erc) for more information about the ERC-VDP.
- **ERC-VDP hotline.** If you need help completing Form 15434, have questions on the status of your ERC-VDP application, or have other ERC-VDP related questions, contact the ERC-VDP hotline at [414-231-2222](tel:414-231-2222) and leave a voicemail for a return call. Calls will generally be returned within 3 business days. The ERC-VDP hotline is available **only** for help with Form 15434, questions about ERC-VDP application status and other questions related to ERC-VDP. Calls regarding any other matter, including other ERC-related inquiries, will not be returned. Staff at this hotline can't provide status updates for ERC claims or claim withdrawals, only ERC-VDP applications.
- **Trusted tax preparers.** Using a certified public accountant, [enrolled agent](#) or other knowledgeable and trusted tax professional can help avoid errors that could result in a processing delay.

## Q7. What happens after I submit my ERC-VDP application? Will I get a letter of acceptance or rejection? (added Dec. 21, 2023)

A7. The IRS will review the application package and verify your eligibility for the ERC-VDP. The IRS will mail you (or your authorized representative if a valid [Form 2848, Power of Attorney and Declaration of Representative](#) , is included with the application) a letter letting you know we received your application and whether we can proceed with your application or if it was rejected.

If we can proceed, we'll complete our review and mail you another letter with next steps. If your application is accepted, the IRS will adjust your employment tax account to reflect the reduced or eliminated ERC amount. You also **don't need to adjust your income tax return** for the 20% of your ERC you're not required to repay under this program. Do **not** submit amended employment tax returns correcting your ERC with your [ERC-VDP application package](#).

If it was rejected, the letter will explain why and offer potential solutions. You may be able to correct the error and [resubmit your application](#), or you may wish to file an [amended employment tax return](#).

## **Q8. How long does the ERC-VDP process take before it is completed? (added Dec. 21, 2023)**

A8. Because every case is different, there is no way to estimate how long the process will take for you. However, the IRS has taken steps to improve our efficiency in processing cases. Steps you can take to speed up processing:

- Make sure your [ERC-VDP application package](#) is complete, accurate and legible.
- Submit your ERC-VDP application package using the IRS Document Upload Tool following the instructions in [How do I submit my ERC-VDP application package?](#) in the ERC-VDP process section.
- Promptly respond to requests from the IRS after submitting your application.
- [Make advanced payment](#) via [EFTPS](#) for each tax period on your application.
- Promptly return your signed ERC-VDP closing agreement following instructions from the examiner who mails it to you.

Once we assign your completed ERC-VDP application to an employee, most cases should be resolved quickly. The ERC-VDP generally operates on a first-come, first-served basis.

## **Q9. When do I have to pay the amount due under the ERC-VDP? (added Dec. 21, 2023)**

A9. Unless IRS approves you for an [installment agreement](#), you must make full payment of any [amount due under ERC-VDP](#) by the time you return the signed ERC-VDP closing agreement to the IRS. Once we mail you the ERC-VDP closing agreement package, we'll request you review it and return it to us signed with any ERC-VDP balance due within 10 business days.

See the [Calculating & paying the balance due under ERC-VDP](#) section for more information.

## **Q10. If my ERC-VDP application is rejected, can I apply again later? (added Dec. 21, 2023)**

A10. It depends on the reason your application was rejected. Review the rejection letter you received for the reason(s) and possible resolution. If the reason can be corrected, please [resubmit a complete application package](#), taking care to address any errors or omissions in the rejected application package.

## **Q11. How can I check the status of my ERC-VDP application? (added Dec. 21, 2023)**

A11. You may contact the ERC-VDP hotline at [414-231-2222](tel:414-231-2222) and leave a voicemail for a return call. Calls will generally be returned within 3 business days.

Note that the ERC-VDP hotline is available **only** for help with Form 15434, questions about ERC-VDP application status, and other questions related to ERC-VDP. Calls regarding any other matter, including other ERC-related inquiries, will not be returned. Staff at this hotline can't provide status updates for ERC claims or claim withdrawals, only ERC-VDP applications.

## Q12. What happens if I don't cooperate after I submit my application? (added Dec. 21, 2023)

A12. You won't get the benefits of ERC-VDP. You may be required to pay the full amount of ERC, with no 20% reduction allowed through the ERC-VDP. You may also be subject to [civil and criminal interest and penalties](#). Cooperation includes, but is not limited to, responding timely and accurately to any requests.

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## Signatures on ERC-VDP documents

### Q1. Who is authorized to sign Form 15434 and the ERC-VDP closing agreement? (added Dec. 21, 2023)

A1. Your ERC-VDP application and closing agreement must be signed by an authorized person.

People authorized to sign Form 15434 and the ERC-VDP closing agreement:

Type of employer	Who can sign
Sole proprietorship	The individual who owns the business
Corporation, including a limited liability company (LLC) treated as a corporation	The president, vice president, or other principal officer duly authorized to sign
Partnership (including an LLC treated as a partnership) or unincorporated organization	A responsible and duly authorized member, partner, or officer having knowledge of its affairs
Single-member LLC treated as a disregarded entity for federal income tax purposes	The owner of the LLC or a principal officer duly authorized to sign
Trust or estate	The fiduciary

Your ERC-VDP application can also be signed by a duly authorized agent (for example, an individual with valid power of attorney via [Form 2848, Power of Attorney and Declaration of Representative](#) [PDF](#)), or a reporting agent with [Form 8655, Reporting Agent Authorization](#) [PDF](#)).

Remember, if you used a [third party payer](#) to file your employment tax returns or claim your ERC, you can't sign or submit these documents. You must [contact the third party payer to apply](#) to ERC-VDP.

## **Q2. Can I sign the ERC-VDP application or closing agreement electronically or digitally? (added Dec. 21, 2023)**

A2. Yes, following IRS requirements in [IRM 10.10.1, IRS Electronic Signature \(e-Signature\) Program](#), and other related guidance.

Acceptable electronic signatures on Form 15434 and the ERC-VDP closing agreement are as follows:

- Form 15434: Images of documents with original signatures (scanned or photographed) in any common file type such as JPEG, TIFF, PDF, etc.
- Form 15434 and ERC-VDP Closing Agreement: Digital signatures that use encryption techniques that provide proof of original and unmodified documentation when transmitted by an approved secure messaging or file transfer system.

A digital signature is a type of electronic signature that uses advanced features and encryption to validate the authenticity and validity of an electronic record. The employee assigned to your ERC-VDP case can provide additional guidance if you wish to sign your ERC-VDP closing agreement digitally.

## **Q3. Can I sign other ERC-VDP documents electronically or digitally? (added Jan. 5, 2024)**

A3. Yes, following IRS requirements in [IRM 10.10.1, IRS Electronic Signature \(e-Signature\) Program](#), and other related guidance, you can sign other ERC-VDP documents electronically or digitally including, but not limited to: Form 2848, Form SS-10, 433-B, 433-D, and 8822-B.

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## **Calculating & paying the balance due under ERC-VDP**

### **Q1. Do I need to return the full amount of my ERC? (added Dec. 21, 2023)**

A1. No. Even though you're not entitled to any ERC, the ERC-VDP requires you to return only 80% of it. ERC-VDP provides participants a 20% reduction in the amount of ERC to be repaid. This 20% is not taxable income to you under the program terms.

### **Q2. How do I calculate how much employment tax, interest and penalties I owe under the terms of ERC-VDP? (added Dec. 21, 2023)**

A2. ERC-VDP requires payment of the entire ERC received minus 20%. You must make separate payments for each tax period. The fillable Form 15434 will help you calculate an estimate of your ERC re-payment amount for each tax period.

ERC-VDP terms don't require you to repay any interest that was paid to you with the ERC refund.

Interest and penalties will not apply to your ERC-VDP liability (what you have to pay back) if full payment is received by the time you return the signed ERC-VDP closing agreement to the IRS. If IRS approves you for an installment agreement to pay your ERC-VDP liability, interest and penalties will apply from the agreement date.

### **Q3. Should I submit my payment with the ERC-VDP application? (added Dec. 21, 2023)**

A3. Yes, using [Electronic Federal Tax Payment System \(EFTPS\)](#). Paying at the time you apply to ERC-VDP can help speed up processing and resolve your case more quickly.

Full payment of any amount due under ERC-VDP is [required](#) by the time you return the signed ERC-VDP closing agreement to the IRS, unless IRS approves you for an [installment agreement](#).

### **Q4. How do I submit payment for my ERC-VDP liability? (updated Jan. 8, 2024)**

A4. Use [Electronic Federal Tax Payment System \(EFTPS\)](#). Form 15434, Part IV, Line 15 calculates an estimate due for each tax period you wish to resolve in ERC-VDP. You should make separate payments for each tax period via EFTPS when you submit Form 15434. For each EFTPS payment, select the category "Advanced Payment."

Example: In EFTPS, you would select Tax Form 941, Tax Type would be Audit Adjustment, and Advance Payment of Tax Deficiency.

Note: Do not use the amount on Form 15434, Line 15, "Total All Periods" column to make a single, lump-sum payment.

If you're not enrolled in EFTPS, be aware that new enrollments can take up to five business days to process. Go to [IRS.gov/eftps](https://irs.gov/eftps) for more information.

For additional information on EFTPS, see [Publication 4990, Tax Payment Instruction Booklet](#) [PDF](#).

### **Q5. If my third party payer applied to ERC-VDP to correct my ERC, do I pay the IRS for the ERC-VDP liability or does my third party payer? (added Dec. 21, 2023)**

A5. The third party payer. You should make payment to the third party payer applying to the ERC-VDP for you. Do not attempt to pay the ERC-VDP liability to the IRS through other means. See [Third party payers](#) section for more information.

### **Q6. Does ERC-VDP have payment options if I can't pay in full? (added Dec. 21, 2023)**

A6. Full payment is required in ERC-VDP unless IRS approves you for an installment agreement before you return your signed closing agreement. There are no other payment options in ERC-VDP.

If IRS doesn't approve you for an installment agreement and you can't fully pay, you are not eligible for ERC-VDP. However, you may file an [amended employment tax return](#) to correct your ERC instead and explore other IRS payment options.

See the [Installment agreements in ERC-VDP](#) section for more information.

## **Q7. If I can't pay in full, can I submit an offer in compromise for my amount due in ERC-VDP? (added on Dec. 22, 2023)**

A7. No. With this program, you cannot submit an offer in compromise for your amount due in ERC-VDP. If you can't pay in full, then IRS may consider you for an installment agreement on a case-by-case basis, pending approval. See FAQ section titled, [Installment agreements in ERC-VDP](#) for more information.

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## **Installment agreements in ERC-VDP**

### **Q1. How do I request an installment agreement for my ERC-VDP liability? (added Dec. 21, 2023)**

A1: If you are unable to pay the full amount of ERC, minus 20%, then you may be considered for an installment agreement, pending approval.

To be considered for an installment agreement for your ERC-VDP liability, you must use the [IRS Document Upload Tool](#) to submit the following documents with your [ERC-VDP application package](#):

1. A signed and completed [Form 433-B, Collection Information Statement for Businesses](#) [PDF](#), and
2. All documentation required to support Form 433-B. Supporting documentation should include, at minimum:
  1. Verification of assets, encumbrances, income, and expenses reported,
  2. Profit and loss statements from the past three to twelve months, and
  3. Bank and investment statements, loan statements, financing statements, bills or statements for recurring expenses from the past three to twelve months.

The IRS must receive this information by 11:59 p.m. local time on March 22, 2024, to consider you for an installment agreement on your ERC-VDP liability. Only timely requests will be considered. All requests for an installment agreement are subject to approval and will be considered on a case-by-case basis.

### **Q2. If I request to be considered for an installment agreement for my ERC-VDP liability, how will I know if I'm approved? (added Dec. 21, 2023)**

A2. All requests for an installment agreement are subject to approval and will be considered on a case-by-case basis. If we approve you for an installment agreement, we will issue [Form 433-D, Installment Agreement](#) [PDF](#), with your ERC-VDP closing agreement. Your closing agreement will include special language for the approved installment agreement. You'll be required to sign and return the Form 433-D with your signed closing agreement.



### **Q3. If I'm approved for an installment agreement for my ERC-VDP liability, how much will I have to pay? (added Dec. 21, 2023)**

A3. If IRS approves you for an installment agreement to pay your ERC-VDP liability, you're required to make recurring monthly payments to full pay:

- your entire ERC received minus 20%;
- interest and penalties, which will apply from the agreement date;
- any other outstanding balance due amounts for any tax periods; and
- any applicable installment agreement fees (see [Form 433-D, Installment Agreement](#) [PDF](#)), for current fees and amounts)

At a minimum, the proposed monthly installment agreement payment must satisfy all amounts due before the collection statute expiration date, but you may be asked to pay more depending on the total amount you owe, the financial information you provide, and your ability to pay. See [Tax Topic No. 202, Tax Payment Options](#), for more information about installment agreement options. With this program, you're not eligible for a partial pay installment agreement or an offer in compromise.

### **Q4. What are my options if I'm not approved for an installment agreement for my ERC-VDP liability? (added Dec. 21, 2023)**

A4. If IRS does not approve you for an ERC-VDP installment agreement, and if you can't fully pay, then you are not eligible for ERC-VDP. However, you may file an [amended employment tax return](#) to correct your ERC instead and explore other IRS payment options.

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## **Amending an employment tax return to eliminate or reduce ERC I've received**

### **Q1. If I participate in ERC-VDP to eliminate my ERC, do I need to also amend my employment tax returns? (added Dec. 21, 2023)**

A1. No. If your ERC non-compliance is resolved within the ERC-VDP, IRS will adjust your account according to the program terms. Do not submit amended employment tax returns correcting your ERC with your [ERC-VDP application package](#).



## **Q2. I'm not eligible for ERC-VDP because I can't full pay, I wasn't approved for an installment agreement, or for some other reason, but I want to correct my ERC. How do I do that? (added Dec. 21, 2023)**

A2. Prepare a new adjusted return (Form 941-X, Form 943-X, Form 944-X or Form CT-1X) with the correct amount of ERC and any other corrections for that tax period. Mail the new adjusted return to the IRS using the address in the instructions for the form that applies to your business or organization. Do not send the new adjusted return to through the Document Upload Tool or to the ERC claim withdrawal fax line. IRS will not process new adjusted returns submitted in this manner.

Review [IRS payment options](#) to pay back your full ERC.

## **Q3. Can I apply to ERC-VDP for a tax period in which I'm entitled to some, but not all, of the ERC I claimed? (added Dec. 21, 2023)**

A3. No. You are not [eligible for ERC-VDP](#) for any tax period in which you're entitled to **some** ERC because the program is only for tax periods in which **no** ERC is allowed. Instead, prepare a new adjusted return (Form 941-X, Form 943-X, Form 944-X or Form CT-1X) with the correct amount of ERC and any other corrections for that tax period. Mail the new adjusted return to the IRS using the address in the instructions for the form that applies to your business or organization. Do not send the new adjusted return through the Document Upload Tool or to the ERC claim withdrawal fax line. IRS will not process new adjusted returns submitted in this manner.

## **Q4. Can I apply to ERC-VDP for a tax period to eliminate and repay my ERC if I need to make other corrections to my employment tax return? (added Dec. 21, 2023)**

A4. No. You are not [eligible for ERC-VDP](#) for any tax period in which you need to eliminate your ERC **and** make other corrections to your employment tax return. Instead, for this tax period, prepare a new adjusted return (Form 941-X, Form 943-X, Form 944-X or Form CT-1X) with the correct amount of ERC and any other corrections for that tax period. Mail the new adjusted return to the IRS using the address in the instructions for the form that applies to your business or organization. Do not send the new adjusted return through the Document Upload Tool or to the ERC claim withdrawal fax line. IRS will not process new adjusted returns submitted in this manner.

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## Taxpayer representatives in ERC-VDP

### Q1. Can someone else represent me for ERC-VDP participation? If I want an authorized representative, what do I need to do? (added Dec. 21, 2023)

A1. Yes. If you want to authorize someone to represent you in ERC-VDP, check the box on Line 12 of Form 15434, Part III, **and** make sure we have a [Form 2848, Power of Attorney and Declaration of Representative](#) [PDF](#), for the employment tax return(s) and tax period(s) listed in Part IV of your Form 15434:

- If you already have a Form 2848 on file with the IRS for the employment tax return(s) and tax period(s) listed in Part IV of your Form 15434, then you **don't** need to include a copy or submit a new Form 2848 with your ERC-VDP package.
- If you don't have a Form 2848 on file with the IRS for the employment tax return(s) and tax period(s) listed in Part IV of your Form, then you **do** need to submit a completed Form 2848 with your ERC-VDP package. To complete Form 2848, Line 3, for ERC-VDP:
  - In Description of Matter, enter "Employment Taxes." **Do not enter "ERC-VDP."**
  - In Tax Form Number, enter the employment tax form(s) listed in Part IV of your ERC-VDP application, such as Form 941 or Form 944. **Do not enter "Form 15434."**
  - In Year(s) or Period(s), enter the tax period(s) listed in Part IV of your ERC VDP application.

[Form 2848](#) [PDF](#), its [instructions](#) [PDF](#) and [Publication 4245, Power of Attorney Preparation Guide](#) [PDF](#), are available on [IRS.gov/forms](https://www.irs.gov/forms).

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## Case resolution in ERC-VDP

### Q1. If I don't agree to the terms of the ERC-VDP closing agreement, will mediation with Appeals be an option? (added Dec. 21, 2023)

A1. No. Participation in ERC-VDP requires you to sign a closing agreement. The terms of the ERC-VDP closing agreement can't be appealed.

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## Preparer/advisors

### **Q1. Am I required to include information with my ERC-VDP application about my preparer or someone who advised, encouraged, or helped me to claim ERC? (added Dec. 21, 2023)**

A1. Yes. Form 15434, Part V requires information about any advisors or tax preparers who advised or assisted you with claiming ERC. In this section of the ERC-VDP application, provide the name, address and telephone number of any of these advisors or preparers, and details about the services provided. If you need to add more than one preparer/advisor, click the "Add Additional Preparer/Advisor" button at the bottom of Part V; the form will expand to add another set of fields for this information.

### **Q2. How can I report a promoter who scammed me? (added Dec. 21, 2023)**

A2. The IRS encourages people to report:

- Tax-related illegal activities relating to ERC claims,
- Individuals who promote improper and abusive tax schemes, and
- Tax return preparers who deliberately prepare improper returns.

To report tax-related illegal activities relating to ERC claims, take these steps:

1. Complete [Form 14242, Report Suspected Abusive Tax Promotions or Preparers](#) [PDF](#)
2. Include with your form any supporting materials.
3. Provide your contact information: This is optional but will be helpful if we have questions and will let us acknowledge receipt of your referral.
4. Send your form and materials by fax or U.S. mail to the IRS Lead Development Center in the Office of Promoter Investigations. Its contact information is:

**Fax:** 877-477-9135

**Mail:**

Internal Revenue Service Lead Development Center  
Stop MS5040  
24000 Avila Road  
Laguna Niguel, CA 92677-3405

For more information, see [ERC scam FAQs](#).

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## Third party payers

### Q1. What does "third party payer" mean? (added Dec. 21, 2023)

A1. For purposes of ERC-VDP, reference to a third party payer who filed an employment tax return that reported the wages and credits related to your ERC means a third party payer, such as a section 3504 agent, professional employer organization (PEO), or a Certified Professional Employer Organization (CPEO), claimed the ERC for you on an employment tax return filed under the third party payer's own Employer Identification Number (EIN) rather than your EIN.

### Q2. I'm a third party payer. Can I apply to the ERC-VDP for only some of my clients, and if so, how? (added Dec. 21, 2023)

A2. Yes. Prepare your ERC-VDP application as follows:

- One Form 15434 by filling out Parts I and III about yourself, and Parts II, IV and V about the client(s) for whom you're applying to ERC-VDP. See below for further guidance.
- Attach a copy of the relevant page(s) of the Schedule R that was filed with each Form 941 or Form 941-X on which you claimed the ERC for your client(s). See below for further guidance.

Fill out Parts II, IV, and V with client(s) information as follows:

- Part II – On Lines 11b-11d, enter the information of *all* client(s) for whom you're applying to ERC-VDP. In any field where there isn't enough space to enter *all* clients' information, don't enter any; instead, enter "See attached Schedule R".
- Part IV - Sum the information for *all* client(s) for whom you're applying to ERC-VDP and include the aggregate totals here.
- Part V - If your clients had different preparer/advisors, use the "Add Additional Preparer/Advisor" button at the bottom of Form 15434, Part V, to add more.

Prepare the Schedule R attachment as follows:

- Attach a copy of the relevant page(s) of the Schedule R that was filed with each Form 941 or Form 941-X on which you claimed the ERC for your client.
- Page(s) are relevant if they contain the information for the client(s) you're including in your ERC-VDP application.
- On these relevant page(s), black-out (redact) the information for any client you're *not* including in the application.
- Do not include other pages of Schedule R.

### **Q3. How do I, a third party payer, make the ERC-VDP payment? (added Dec. 21, 2023)**

A3. Use [Electronic Federal Tax Payment System \(EFTPS\)](#) to pay for all clients you're entering into ERC-VDP. There is no need to make a separate EFTPS payment for each client. Paying at the time you apply to ERC-VDP can help speed up processing and resolve your case more quickly.

Full payment of any amount due under ERC-VDP [is required](#) by the time you return the signed ERC-VDP closing agreement to the IRS, unless IRS approves you for an [installment agreement](#).

[Clients of third party payers](#): You should make payment to the third party payer applying to the ERC-VDP for you. Do not attempt to pay the ERC-VDP liability to the IRS through other means.

### **Q4. I'm a third party payer and already applied to ERC-VDP for one or more clients, but I need to apply for other client(s) now. Can I? (added Dec. 21, 2023)**

A4. Yes. Prepare a new [ERC-VDP application package](#) for the new client(s) and [submit it using the IRS Document Upload Tool](#) by 11:59 p.m. local time, March 22, 2024. On this new application, only reflect the new client(s) information you wish to disclose, prepared as described above in [I'm a third party payer. Can I apply to the ERC-VDP for only some of my clients, and if so, how?](#) Don't reflect client information from any prior ERC-VDP applications on this new application.

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