



EMPLOYEE RETENTION CREDITS (“ERCs”) **CLIENT FREQUENTLY ASKED QUESTIONS**

01/17/2024 UPDATE

- 1. My company was a client of SouthEast Personnel Leasing, Inc. (“SPLI”) in 2020 and 2021. It may have been eligible for employee retention credits. How do I file for the credits?*

Please immediately send a request for ERC information to ERC941@spli.com. Shortly after receiving your e-mail request, SPLI will send an e-mail response that includes the information/documentation needed to file quarterly ERC claims on behalf of your company.

Once the requested information/documentation is received and reviewed, SPLI will file your ERCs using a Form 941-X for the applicable quarter in which you are eligible for ERCs.

After you have submitted your documentation, please be on the lookout for additional e-mails from ERC941@spli.com, as SPLI may reach out to request additional documentation to support your eligibility for ERCs. Failure to timely respond to these requests for additional information may result in SPLI not filing ERCs for your company.

- 2. Can I call SPLI to discuss ERCs?*

Unfortunately, all ERC questions are handled via e-mail so that proper written documentation can be created, stored, and, if necessary, provided to the IRS in the event of an audit. Ultimately, SPLI’s goal is to avoid oral miscommunication and/or misinterpretation that may adversely affect a client’s documentation and filing process.

- 3. Why does SPLI need my company’s ERC information/documentation?*

The client’s quarterly ERC claims are filed under SPLI’s FEIN. The IRS has repeatedly stated that a third-party payor (“TPP”), such as SPLI, and a client company may **both be liable** for employment tax liabilities, including amounts refunded due to incorrect or fraudulent ERC claims.

This means that SPLI may share joint liability with a client company for any ERCs filed under SPLI’s FEIN. As such, it is incredibly important that SPLI perform a cursory review of each client’s supportive documentation before filing quarterly ERC claims.

For more information regarding the IRS' position on possible joint liability, please visit the following:

<https://www.napeo.org/docs/default-source/ertc/cpeo-liability-memo-dec-2023.pdf>

4. Can I confirm that SPLI has received and reviewed my documentation?

Please send an e-mail to ERC941@spli.com to request confirmation that SPLI has received all submitted documentation. SPLI will review your documentation and may request additional documentation, if necessary. Once the review process has been completed, SPLI will mark your ERC claims as ready to be filed.

Please continue to reach out to SPLI periodically via e-mail to confirm that the submitted ERC claims have been reviewed and that all necessary documentation has been received.

5. When is my ERC documentation due?

All ERC information/documentation for eligible 2020 and 2021 quarters must be sent via e-mail to ERC941@spli.com no later than **Friday, 01/19/2024 at 5:00 PM EST**.

6. Why do you need my ERC information/documentation so soon?

The first potential quarter for eligibility was nearly four years ago, with the last quarter for eligibility ending over twenty-four months ago. The program is rapidly aging, and the business effects of the pandemic are quickly becoming a distant memory, especially for lawmakers and the IRS who are looking to hastily end the program as soon as possible.

Recently, Congress announced a bipartisan, bicameral tax framework agreement that seeks to move up the deadline to file new ERC claims. In particular, the Tax Relief for American Families and Workers Act of 2024 ("TRAFWA") proposes barring ERC claims made after **01/31/2024**.

Given the legislation as noted above, SPLI has no choice but to file Form 941-Xs for all remaining ERC claims no later than 01/31/2024.

However, before filing, SPLI must receive and review each client's information/documentation. Once the review process is completed, SPLI must then generate numerous, complex Form 941-Xs containing ERC calculations for several hundred eligible client companies. The process is time-consuming and tedious. As such, it is vital that SPLI receive this information from eligible clients as soon as possible.

Please visit the following for a more detailed explanation of recent legislation:

<https://www.pwc.com/us/en/services/tax/library/tax-committee-announce-business-and-family-tax-relief-agreement.html>

<https://www.finance.senate.gov/chairmans-news/wyden-smith-announce-agreement-on-tax-framework-to-help-families-and-main-street-businesses>

7. *When will SPLI file my new quarterly ERC claims?*

Once the review process is complete, SPLI will file ERC claims on separate quarterly Form 941-Xs. Clients can expect the filing to occur no later than 01/29/2024.

Once the filing process is finished, SPLI will e-mail each individual client company to confirm that all quarterly ERC claims have been filed.

Please be advised that the filing date noted above may change, especially if there is an influx of last-minute client submissions and/or lawmakers decide to unilaterally change the filing deadline again.

8. *How long will it take for the IRS to process my new ERC claims?*

On 09/14/2023, the IRS announced an immediate moratorium on the processing of new ERC claims. As of 12/09/2023, the unprocessed Form 941-X backlog is 1,057,000.

The moratorium is still active. As such, it is unknown how long it will take for the IRS to process our new batch of ERC claims once filed.

For more information on the moratorium, please visit the following:

<https://www.irs.gov/newsroom/to-protect-taxpayers-from-scams-irs-orders-immediate-stop-to-new-employee-retention-credit-processing-amid-surge-of-questionable-claims-concerns-from-tax-pros>

9. *How will I get my refund after the IRS processes my ERC claims?*

Typically, SPLI receives a lump sum ERC check for each applicable quarter. The check includes ERC claims for several SPLI clients. SPLI pulls each client's ERC claim from this lump sum amount.

After an ERC claim check is received from the IRS, SPLI reaches out to confirm correct contact and address information for each client receiving an ERC refund check. Once confirmed, SPLI issues an ERC claim refund check directly to the client.

To date, SPLI has distributed over \$46,000,000.00 in ERC claim refunds to its client companies using this procedure.

10. SPLI filed my ERC claims months ago. Why have I not received my ERC refund?

SPLI has filed over \$69,000,000.00 in ERC claims to date. Unfortunately, the IRS has only processed and completed approximately two-thirds of our filed claims to date.

SPLI has repeatedly reached out to the IRS to determine the reason for the delay. SPLI has been given numerous explanations including, but not limited to, some filings were misplaced internally, some filings were unseen or attached to another quarterly filing, and some filings were flagged as fraudulent after other client companies filed ERC claims without the knowledge or authorization of SPLI.

Unfortunately, resolving these issues is a complex, time-consuming process. Nevertheless, SPLI will continue to address these issues through telephonic contact with the IRS. In the end, we are doing our best to get the outstanding claims processed and completed as soon as possible.

11. I submitted my ERC documentation months ago. SPLI confirmed that the documentation was adequate and that my ERC claims were ready to be filed. Why has SPLI not filed my ERC claims?

During a telephone discussion about our unprocessed ERC claims, an Internal Revenue Service Policy Analyst at the SBSE Specialty Programs/Employment Tax Division recommended that SPLI refrain from filing additional ERC claims until after the IRS had an opportunity to address and resolve the multiple issues delaying the completion of SPLI's remaining ERC claims. This recommendation was made at roughly the same time that the IRS issued an indefinite moratorium on the processing of new ERC claims.

SPLI followed the analyst's recommendation and refrained from filing additional ERC claims. Unfortunately, despite no new ERC claims being filed since April 2023, the IRS has yet to address or resolve any of the multiple issues delaying the completion of SPLI's remaining ERC claims.

Given the impending deadline noted above, SPLI intends to file all remaining, well-documented ERC claims by the end of January 2024, including new ERC claims for quarters in which previously filed ERC claims have not yet been processed and/or completed.

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