

Ronald Cluett Speaks to Tax Notes on IRS Focusing on Serious ERC Fraud

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Tax Notes

IRS training materials indicate that auditors are being trained to keep an eye out for scams related to employee retention credits, but only the most serious instances of fraud.

The 1,000 pages of documents, obtained by *Tax Notes* through a Freedom of Information Act request, indicate that, for now, the IRS is focusing on fake businesses set up just to claim the credits.

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Ronald G. Cluett of Caplin & Drysdale agreed. “The focus, at least in these materials, is on people — individuals — who started sham businesses during COVID simply for the purpose of the ERC, for which they were completely ineligible,” he said.

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Cluett added that “the materials shed some light on the taxpayer filings and other information the IRS is using in identifying potential fraud.”

But they don’t “serve as a legal treatise or guide to the underlying laws,” Cluett said, observing that the documents appear to summarize the laws in question rather than provide a legal analysis of them.

Cluett noted that the ERC was amended three times. “It’s a complex law; it requires complex determinations,” he said. “There is no one-size-fits-all here — there are a lot of moving parts.”

Cluett also observed that the IRS is “using information that is accessible through IRS information systems and matching it, seeing where there is a mismatch or seeing where the form was filed in one system but there’s no corresponding form reported and filed in another system.”

For the full article, please visit *Tax Notes*’ website (subscription required).

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