



Current Federal Tax Developments

October 23, 2023

Kaplan Financial Education

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This Week We Look At:

PTIN renewals are now open for 2024

IRS announces program to allow for
withdraw of ERC claims

Actor's estate loses in attempt to claim
he had validly rolled over a
non-traditional investment held in his
IRA

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PTIN renewals are now open for 2024

IRS announces program to allow for withdraw of
ERC claims

Actor's estate loses in attempt to claim he had
validly rolled over a non-traditional investment
held in his IRA

PTIN Renewals Opened by the IRS for 2024



Photo by [Galina Nelvubova](#) on [Unsplash](#)

- IRS Tax Professional PTIN System, October 19, 2023
 - The IRS has opened the PTIN system for renewals
 - All tax preparers will need renew or obtain a PTIN before preparing returns for 2024
 - The price to renew for 2024 is \$19.75 (a decrease previously announced related to an IRS court loss)
 - Will need to again confirm you are aware of your requirements to maintain the security of taxpayer data

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<https://www.currentfederaltaxdevelopments.com>



<https://rpr.irs.gov/ptin>



Program for Employers to Voluntarily Withdraw ERC Refund Claims Announced by the IRS



Photo by [Tarik Haiga](#) on [Unsplash](#)

- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
- When the IRS announced the temporary suspension of processing new ERC claims in September 2023, they indicated two new programs would be announced in the fall:
 - A program to voluntarily withdraw claims not yet paid and
 - A program for those who have been paid to voluntarily return those funds with (maybe) certain relief

<https://www.currentfederaltaxdevelopments.com/blog/2023/10/19/irs-announces-program-for-employers-to-voluntarily-withdraw-certain-employee-retention-tax-credit-claims>

Program for Employers to Voluntarily Withdraw ERC Refund Claims Announced by the IRS



Photo by [Tarik Haiga](#) on [Unsplash](#)

- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
- The voluntary withdraw program has now been announced. Eligible employers must meet all of the following:
 - They made the claim on an **adjusted employment tax return** (Forms 941-X, 943-X, 944-X, CT-1X).
 - They filed the adjusted return only to claim the ERC, and they made **no other adjustments**.

<https://www.currentfederaltaxdevelopments.com/blog/2023/10/19/irs-announces-program-for-employers-to-voluntarily-withdraw-certain-employee-retention-tax-credit-claims>

Program for Employers to Voluntarily Withdraw ERC Refund Claims Announced by the IRS



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- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
- The voluntary withdraw program has now been announced. Eligible employers must meet all of the following:
 - They want to withdraw **the entire amount** of their ERC claim.
 - The IRS **has not paid** their claim, or the IRS has paid the claim, but they haven't cashed or deposited the refund check.

<https://www.currentfederaltaxdevelopments.com/blog/2023/10/19/irs-announces-program-for-employers-to-voluntarily-withdraw-certain-employee-retention-tax-credit-claims>

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- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
 - The program cannot be used if the employer needs to
 - Reduce the amount of their ERC claim
 - Make other changes to their adjusted return
 - The ERC FAQ page has information for those employers

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- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
 - Withdraw Request - Used a Payroll Service
 - Must contact the professional payroll service
 - They may file one large claim for all of their employers

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- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
- Withdraw Request - Not Yet Received a Refund and Not Notified of an Exam
 - Make a **copy** of the adjusted return with the claim they wish to withdraw.
 - In the left margin of the first page, write **“Withdrawn.”**

<https://www.currentfederaltaxdevelopments.com/blog/2023/10/19/irs-announces-program-for-employers-to-voluntarily-withdraw-certain-employee-retention-tax-credit-claims>



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- Withdraw Request - Not Yet Received a Refund and Not Notified of an Exam
 - In the right margin of the first page:
 - Have an authorized person **sign** and **date** it.
 - Write their **name** and **title** next to their signature.

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- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
- Withdraw Request - Not Yet Received a Refund and Not Notified of an Exam
 - **Fax the signed copy** of the return to the IRS’s ERC claim withdrawal fax line at 855-738-7609. This is the withdrawal request. Keep the copy with tax records.
 - Do have instructions for those who are unable to fax the return

<https://www.currentfederaltaxdevelopments.com/blog/2023/10/19/irs-announces-program-for-employers-to-voluntarily-withdraw-certain-employee-retention-tax-credit-claims>



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- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
- Withdraw Request - Have Not Received a Refund But Have Been Notified are Under Audit
 - Prepare the withdraw request as in the prior case but do not fax or send it in
 - If they've been assigned an examiner, they should communicate with the examiner about how to fax or mail the withdrawal request directly to them.

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- Withdraw Request - Have Not Received a Refund But Have Been Notified are Under Audit
 - If they haven't been assigned an examiner, they should respond to the audit notice with the withdrawal request, using the instructions in the notice for responding.

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Photo by [Tarik Haiga](#) on [Unsplash](#)

- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
 - Withdraw Request - Received a Refund Check But Have Not Cashed or Deposited It
 - Mail the voided check with their withdraw request
 - Prepare the **claim withdrawal request** as in the prior 2 cases, but don't fax the request.
 - Write “**Void**” in the endorsement section on the back of the refund check.

<https://www.currentfederaltaxdevelopments.com/blog/2023/10/19/irs-announces-program-for-employers-to-voluntarily-withdraw-certain-employee-retention-tax-credit-claims>



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- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
- Withdraw Request - Received a Refund Check But Have Not Cashed or Deposited It
 - Include a **note** that says, “ERC Withdrawal” and briefly explain the reason for returning the refund check.
 - Make **copies for tax records** of the front and back of the voided check, the explanation notes and the signed and dated withdrawal request page.

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- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
- Withdraw Request - Received a Refund Check But Have Not Cashed or Deposited It
 - Don’t staple, bend or paper clip the voided check; include it with your claim withdrawal request and **mail it** to the IRS at:

Cincinnati Refund Inquiry Unit

PO Box 145500

Mail Stop 536G

Cincinnati, OH 45250

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- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
- Withdraw Request - Received a Refund Check But Have Not Cashed or Deposited It
 - Track your package to confirm delivery.
 - May want to consider using registered mail for this purpose (not an IRS recommendation, but provides a very detailed record of handling of the package)

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- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
- The IRS will send taxpayers a notification indicating if their withdraw request has or has not been approved
 - If not approved, pay close attention to why the request was not approved
 - Be concerned if the IRS provides limited details - may suggest taxpayer should look to consult legal counsel

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- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
- Employers Who Have Received a Refund
 - IRS indicates they are working on guidance for these taxpayers, to be released this fall
 - Unfortunately, the IRS has not said they are pausing issuing exam notices in this case, so may need to consider pros and cons of not immediately filing if employer believes the claim was not at all justified

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- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
 - Employers with valid claims who have not yet filed
 - The statute of limitations continues to run on claims
 - 2020 claim statute runs for most taxpayers on April 15, 2024
 - But have more than the word of a consultant getting a contingent fee that the employer qualifies

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- “Help for businesses: Steps for withdrawing an Employee Retention Credit claim,” Fact Sheet FS-2023-24, October 19, 2023
- Practical problem - the fee the consultant wants
 - Not likely to agree the claim is invalid
 - Client will likely need to bring in legal counsel to attempt to get the fee waived

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Holding Non-Traditional, Non-Publicly Traded Assets in an IRA Was an Offer an Actor Perhaps Should Have Refused



Photo by [Felix Mooneeram](#) on [Unsplash](#)

- *Estate of James Caan v. Commissioner*, 161 TC No. 6, October 18, 2023
- Per the opinion *“This case is a quintessential example of the pitfalls of holding nontraditional, non-publicly traded assets in an IRA. Failure to follow the labyrinth of rules surrounding these assets can mean forfeiting their tax-advantaged status.”*
- The case is a reported case because the Tax Court held that it does have the authority to review an IRS decision not to grant an extension of a 60-day rollover

<https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/actor-received-taxable-distribution-from-ira-tax-court-says/7hgtg>
<https://www.currentfederaltaxdevelopments.com/blog/2023/10/21/actor-failed-to-properly-roll-over-non-traditional-investment-held-in-ira-account>



Holding Non-Traditional, Non-Publicly Traded Assets in an IRA Was an Offer an Actor Perhaps Should Have Refused



Photo by [Felix Mooneeram](#) on [Unsplash](#)

- *Estate of James Caan v. Commissioner*, 161 TC No. 6, October 18, 2023
 - Actor had a financial team that took care of his rather substantial investments, including his IRA
 - His IRA held a partnership interest in a non-publicly traded hedge fund
 - Agreement with custodian (UBS) was that Mr. Caan (really his advisers) must provide a valuation annually
 - Such value is required to be reported under the law

<https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/actor-received-taxable-distribution-from-ira-tax-court-says/7hgtg>
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- *Estate of James Caan v. Commissioner*, 161 TC No. 6, October 18, 2023
- Financial adviser moved over to Merrill Lynch in 2015 and looked to move IRAs there
 - All assets except the partnership interest transferred automatically
 - Failed to notice that the partnership did not transfer until late 2016
 - Eventually had to sell the partnership interest and deposit that into the new Merrill Lynch IRA

<https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/actor-received-taxable-distribution-from-ira-tax-court-says/7hgtg>
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- *Estate of James Caan v. Commissioner*, 161 TC No. 6, October 18, 2023
 - In the interim UBS never received a value for the interest at the end of 2014
 - In August of 2015 wrote pointing out they required a value for the interest
 - With no answer, wrote again demanding a value and indicating that if they didn't receive it the interest would be distributed in November 2015

<https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/actor-received-taxable-distribution-from-ira-tax-court-says/7hgtg>
<https://www.currentfederaltaxdevelopments.com/blog/2023/10/21/actor-failed-to-properly-roll-over-non-traditional-investment-held-in-ira-account>



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- *Estate of James Caan v. Commissioner*, 161 TC No. 6, October 18, 2023
- In the interim UBS never received a value for the interest at the end of 2014
- Sent letter in November of 2015 noting that they had resigned, Mr. Caan was now the owner of the partnership and had 60 days to roll it over or be taxed
- Again no one reacted to this letter

<https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/actor-received-taxable-distribution-from-ira-tax-court-says/7hgtg>
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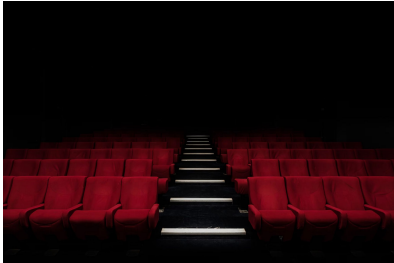


Photo by [Felix Mooneeram](#) on [Unsplash](#)

- *Estate of James Caan v. Commissioner*, 161 TC No. 6, October 18, 2023
- First reaction took place when a Form 1099R came out in early 2016 for 2015
 - UBS refused to revise the Form 1099R
 - So reported it as rolled over
 - IRS issued CP2000
 - Eventually sought a PLR for a late rollover

<https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/actor-received-taxable-distribution-from-ira-tax-court-says/7hgtg>
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- *Estate of James Caan v. Commissioner*, 161 TC No. 6, October 18, 2023
 - IRA rollover of non-cash assets subject to “same asset” rule - so could not put cash into the Merrill Lynch account if partnership interest had been received as the distribution
 - Court found that there had been a distribution of the partnership interest
 - IRS did not abuse discretion in denying 60-day rollover relief, as the problem was not that the rollover was late. It wouldn’t qualify anyway

<https://www.taxnotes.com/research/federal/court-documents/court-opinions-and-orders/actor-received-taxable-distribution-from-ira-tax-court-says/7hgtg>
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