

Tax Controversy: Employee Retention Credit (ERC) Voluntary Disclosure Program, IRS Processing Moratorium, and IRS Audit and Appeals Update

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2024 TXCPA Tax Expo
January 10, 2024

Overview

- **Main Topics:**
 - Introduction to Employee Retention Credit (ERC)
 - Recent IRS Crackdown on ERC Claims
 - IRS Processing Delays and Expected Audit Activity
 - ERC Claim Eligibility and Requirements
 - Introduction of the Voluntary Disclosure Program (VDP) for ERC
 - IRS Enforcement Strategies and Penalties for Non-compliance
 - Guidance for Tax Practitioners on Handling ERC Claims
- **Key Takeaways:**
 - Understanding of the ERC's evolution and its implications for businesses
 - Insight into the IRS's enhanced scrutiny of ERC claims
 - Importance of adhering to eligibility criteria for ERC claims
 - Overview of the Voluntary Disclosure Program and its benefits
 - Strategies for tax practitioners to assist clients with ERC-related issues

Employee Retention Credit (ERC)

- The Employee Retention Credit (ERC) was first introduced by the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), later updated and expanded by the Taxpayer Certainty and Disaster Tax Relief Act of 2020, and expanded, extended, and codified by the American Rescue Plan Act of 2021.
- Encouraged businesses to keep employees on their payroll in the face of governmental restrictions and/or reductions in gross receipts due to the COVID-19 pandemic.
- Based on employment taxes for each calendar quarter, and is equal to 50% (for calendar quarters beginning in 2020) or 70% (for calendar quarters beginning in 2021) of up to \$10,000 in qualified wages with respect to each employee of an eligible employer in the respective quarter. *IRC Sec. 3134(a)*
- On November 5, 2021, Congress passed the Infrastructure Investment and Jobs Act, which eliminated the 4Q 2021 ERC for most employers.

IRS Guidance

IRS GUIDANCE	Date
Employee Retention Credit available for many businesses financially impacted by COVID-19, IR-2020-62	3/20/20
COVID-19-Related Employee Retention Credits: General Information FAQs	Archived as of 4/13/23
IRS Notice 2021-20	03/01/2021
IRS Notice 2021-23	08/04/2021
IRS Notice 2021-49	08/04/2021
Revenue Procedure 2021-33	08/10/2021
Preliminary Statement Regarding Treatment of FAQs, IR-2021-202	10/15/2021
IRS Notice 2021-65	12/06/2021
Employee Retention Credit - 2020 vs 2021 Comparison Chart	Updated as of 02/28/2023
IRS 2023 “Dirty Dozen” Spotlights Improper ERC Claims – IR-2023-54	03/20/2023
Warning Signs for Misleading Employee Retention Credit Scams, IR-2023-105	5/25/2023
Eligibility of Federal Credit Unions, CCA 202322001	7/18/2023
Supply Chain Disruptions, AM 2023-005	7/21/2023
New Phase of Employment Retention Credit Work, IR-2023-135	7/26/2023
Moratorium on Processing New Claims, IR-2023-169	9/14/2023
Withdrawal Process for ERC Claims, IR-2023-193	10/19/2023
IR-2023-247	12/21/2023
ERC Voluntary Disclosure Program, Announcement 2024-3	12/22/2023

The Next Frontier of IRS Audits and Tax Controversies?

“The IRS has announced that it has made substantial progress in working through its inventory of employee retention tax credit (ERTC) claims and is moving to the next phase of enforcement and compliance activity.” *ABA Tax Section, Virtual 2023 Fall Tax Meeting, October 16 - 20, 2023, Program Agenda.*

Most Recent IRS Actions and Initiatives on Mistaken ERC Claims

- **IRS Initiatives:**
 - Sending 20,000 letters for tax adjustments to recapture mistaken ERC claims.
 - Focus initially on tax year 2020, with ongoing work for 2021.
- **Previous Efforts:**
 - 20,000 denial letters already sent out earlier in December.
- **Recapture Process:**
 - Employers with excessive or erroneous ERC will face normal tax assessment and collection procedures.
- **Encouragement for Disclosure:**
 - IRS Commissioner Werfel urges businesses to participate in the disclosure program.
 - Program offers 80% repayment, more favorable than later IRS actions.
- **Risks of Non-Compliance:**
 - Steeper costs and greater risks involved in later IRS actions.
- **IRS Call to Action:**
 - "These letters are another incentive for businesses that believe they received an erroneous Employee Retention Credit payment to come forward and participate in the disclosure program," Werfel said. "Our compliance activities involving these payments continue to accelerate, and the disclosure program's 80% repayment figure is much more generous than later IRS action, which includes steeper costs and greater risk. We hope these taxpayers take advantage of this window now."

ERC - Voluntary Disclosure Program

Announcement 2024-3

- Purpose
 - IRS introduces a Voluntary Disclosure Program (VDP) for employers (participants) to resolve erroneous Employee Retention Credit (ERC) claims.
 - **IMPORTANT: VDP IS OPEN THROUGH MARCH 22, 2024. Complete applications for 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.**

Voluntary Disclosure Program (cont.)

- Concerns and Motivation
 - IRS is concerned about scams and fraud related to ERC claims, prompted by misleading advertisements and taxpayer exploitation.
 - Wrongful ERC claimants may face IRS enforcement actions, assessments, and collections.
 - IRS is confident in its ability to recover erroneous ERC claims through litigation, with penalties and interest.
- Program Benefits
 - VDP offers employers an opportunity to resolve civil tax liabilities.
 - Avoid potential civil litigation, penalties, and interest by participating.
 - Participants can retain 20% of claimed ERC amount.
- Additional Resolution
 - VDP also addresses income tax expense reduction for qualified wages, similar to section 280C of the Internal Revenue Code.
 - Common law employers who used third-party payers to claim the ERC can benefit from VDP.

Voluntary Disclosure Program (cont.)

Eligibility

- Who Can Participate
 - Any participant who has claimed the Employee Retention Credit and received a credit or refund is eligible for VDP.
- Eligibility Criteria
 - Participant must meet certain conditions:
 - Not under criminal investigation, and no IRS notification of an impending criminal investigation.
 - No third-party reports of noncompliance, nor information obtained directly through enforcement actions.
 - Not currently undergoing an employment tax examination by the IRS for the tax period(s) applied for in the program.
 - No prior receipt of notice and demand for repayment of ERC.

Voluntary Disclosure Program (cont.)

Special Consideration for Third-Party Payers

- Third-Party Payers
 - Participants who claimed ERC through a third-party payer (e.g., agent under section 3504 of the Code, professional employer organization, or certified professional employer organization) using the payer's EIN instead of their own EIN are also eligible.
- Application Process
 - In such cases, the third-party payer must submit the application on behalf of the participant, following the process outlined in Announcement 2024-3.

Voluntary Disclosure Program (cont.)

Program Terms

- Key Program Terms
 - Employment Tax Adjustments
 - Participants are ineligible for any ERC, both refundable and non-refundable, for the relevant tax period(s).
 - Repayment
 - Participants must return 80% of the claimed ERC, including both refundable and non-refundable portions.
 - Interest
 - Overpayment interest received need not be repaid.
 - If 80% payment is made before the closing agreement, no underpayment interest applies.
 - Interest may apply if an IRS-approved installment agreement is in place.
 - Income Tax Effects
 - Eligibility elimination means no need to reduce wage expense or file amended returns or Administrative Adjustment Requests (AARs).
 - No income is recognized from the resolution of employment tax obligation through 80% payment.

Voluntary Disclosure Program (cont.)

Additional Program Terms

- Preparer/Advisor Information
 - If a preparer or advisor assisted with the ERC claim, participants must provide their name, address, phone number, and description of services.
- Penalties
 - The IRS won't impose civil penalties related to underpayment of employment tax attributable to claimed ERC if 80% payment is made before executing the closing agreement.
- Closing Agreement
 - Participants will execute a closing agreement, detailed in Announcement 2024-3, to formalize program participation.

Voluntary Disclosure Program (cont.)

Program Procedures

- Application Submission
 - Participants must complete and submit Form 15434, "Application for Employee Retention Credit Voluntary Disclosure Program," by March 22, 2024, 11:59 pm local time.
 - Electronic submission through the Document Upload Tool at irs.gov/DUT is mandatory.
- Form 15434 Requirements
 - Form 15434 must be filled out under penalties of perjury and include: (a) Taxpayer's name, taxpayer identification number, current address, and contact information. (b) Tax periods for ERC claims, forms used, and total ERC claimed (refundable and non-refundable). (c) For tax periods ending in 2020, Form SS-10, "Consent to Extend the Time to Assess Employment Taxes," is required (available at <https://www.irs.gov/pub/irs-utl/form-ss10-2020-ercvd.pdf>). (d) Third-party payers must attach Schedule R (Form 941) related to ERC claims. (e) If a preparer or advisor assisted with the claim, their information and services description should be included.

Voluntary Disclosure Program (cont.)

- Payment
 - Form 15434 helps calculate the amount participants must pay under the program.
 - Payments are submitted through the Electronic Federal Tax Payment System (EFTPS) separately for each tax period, with "Advanced Payment" selected.
 - Full payment should be made by the closing agreement execution date. Installment agreement may be considered for those unable to remit full payment.
- Closing Agreement
 - The IRS prepares a closing agreement under section 7121 of the Code based on settlement terms.
 - The agreement is sent to the participant for signature, with a 10-day return deadline. Extension requests within this period may be granted.
 - Full payment should accompany the executed closing agreement. Installment agreements may be considered for those unable to pay in full

Voluntary Disclosure Program (cont.)

Amending Employment Tax Returns

- With VDP Eligibility
 - If you participate in the VDP to eliminate your ERC, there is no need to amend your employment tax returns.
 - The IRS will adjust your account according to the program terms, so additional amendments are unnecessary.

Voluntary Disclosure Program (cont.)

- Without VDP Eligibility
 - If you are ineligible for VDP but want to correct your ERC claims, follow these steps:
 - Prepare a new adjusted return (Form 941-X, Form 943-X, Form 944-X, or Form CT-1X) with the accurate ERC amount and any other necessary corrections for the specific tax period.
 - Mail the corrected return to the IRS using the address provided in the form's instructions.
 - Do not use the Document Upload Tool or ERC claim withdrawal fax line for this purpose.
 - Review IRS payment options to pay back your full ERC.

Voluntary Disclosure Program (cont.)

- Partial ERC Eligibility and VDP
 - VDP is only available for tax periods in which no ERC is allowed. If you are entitled to some but not all of the ERC claimed for a tax period, you cannot apply for VDP.
 - Instead, prepare a new adjusted return (Form 941-X, Form 943-X, Form 944-X, or Form CT-1X) for that tax period with the correct ERC amount and any other necessary corrections.
 - Mail the corrected return to the IRS using the provided address; do not use the Document Upload Tool or ERC claim withdrawal fax line.
- Combining Corrections with ERC Elimination
 - VDP cannot be used for tax periods that require both ERC elimination and other corrections in your employment tax return.
 - In such cases, prepare a new adjusted return (Form 941-X, Form 943-X, Form 944-X, or Form CT-1X) for that specific tax period, indicating the accurate ERC amount and other necessary corrections.
 - Mail the corrected return to the IRS using the address in the form's instructions; do not use the Document Upload Tool or ERC claim withdrawal fax line.

Voluntary Disclosure Program (cont.)

Other Program Matters

- Denial and Judicial Review
 - The IRS says that denial of participation is not subject to judicial review or administrative appeal.
- Criminal Conduct and Prosecution
 - Executing a closing agreement doesn't prevent the IRS from investigating criminal conduct or recommending prosecution.
 - No immunity from prosecution is provided by the program.

Voluntary Disclosure Program (cont.)

What Happens If You Don't Participate in VDP?

- **If you don't participate in VDP and you claimed ERC you're not entitled to, you risk detection by the IRS, which could lead to:**
 - Substantial interest and penalties.
 - Increased risk of criminal investigation and prosecution.
- **List of Civil Interest and Penalties with Code Sections and Rates:**
 - Interest: IRC 6205, IRC 6413 (Varies quarterly, 1st quarter 2024 rate is 8%-10%)
 - Failure-to-pay penalties: IRC 6651(a)(2), IRC 6651(a)(3) (0.5-25% 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: Tax evasion (IRC 7201), filing a false return (IRC 7206(1)), false claims (18 USC 287), false statements (18 USC 1001)
- **Additional Considerations:**
 - VDP is a civil settlement program specifically for ERC non-compliance. It's not part of Criminal Investigation's Voluntary Disclosure Practice. Pre-clearance and procedures for CI's Voluntary Disclosure Practice do not apply to VDP. Don't request pre-clearance for VDP, and don't submit your VDP application to CI.
 - Willful fraudulent claims can lead to prison terms and fines.
- **Open Issues:**
 - There are unresolved questions about the IRS's procedures for denying claims, such as the statutory authority to directly assess penalties (assuming it has the authority to directly assess the tax). If the IRS lacks this authority, it remains to be seen how taxpayers will contest penalties—possibly through a refund route or litigation in Tax Court. This uncertainty merits a cautious approach and suggests that open issues still exist in the application of these procedures.

Withdrawal of Improper ERC Claims

Eligibility for ERC Claim Withdrawal

- Who Can Request Withdrawal:
 - You must meet specific criteria to use the ERC claim withdrawal process.
 - Criteria for Eligibility:
 - You made the claim on an adjusted employment tax return (Forms 941-X, 943-X, 944-X, CT-1X).
 - Your adjusted return was solely for claiming the ERC; no other adjustments were made.
 - You want to withdraw the entire amount of your ERC claim.
 - The IRS has not paid your claim, or if paid, you haven't cashed or deposited the refund check.
 - Important Note:
 - Willfully filing a fraudulent ERC claim or assisting in such conduct won't exempt you from potential criminal investigation and prosecution.

Withdrawal of Improper ERC Claims (cont.)

How to Request an ERC Claim Withdrawal

- Different Steps Depending on Your Situation
 1. You haven't received a refund and haven't been notified your claim is under audit.
 2. You haven't received a refund and you've been notified your claim is under audit.
 3. You received a refund check but haven't cashed or deposited it.

Withdrawal of Improper ERC Claims (cont.)

1. You Haven't Received a Refund and Haven't Been Notified Your Claim is Under Audit

- Steps:
 - Make a copy of the adjusted return with the claim you wish to withdraw.
 - Write "Withdrawn" in the left margin of the first page.
 - Sign and date the first page.
 - Fax the signed copy to the IRS's ERC claim withdrawal fax line at 855-738-7609.
 - Keep a copy for your tax records.

Withdrawal of Improper ERC Claims (cont.)

2. You Haven't Received a Refund and You've Been Notified Your Claim is Under Audit

- Steps:
 - Communicate with your examiner about how to submit your withdrawal request directly to them.
 - If you haven't been assigned an examiner, respond to your audit notice with your withdrawal request, following the instructions in the notice.

Withdrawal of Improper ERC Claims (cont.)

3. You Received a Refund Check but Haven't Cashed or Deposited It

- Steps:
 - Prepare the claim withdrawal request using the steps in Section A.
 - Write "Void" in the endorsement section on the back of the refund check.
 - Include a note saying "ERC Withdrawal" and briefly explaining the reason for returning the refund check.
 - Make copies for your tax records.
 - Mail the voided check and withdrawal request to the IRS at the provided address:
 - Cincinnati Refund Inquiry Unit, PO Box 145500, Mail Stop 536G, Cincinnati, OH 45250

IRS ALERT: IRS Announces Moratorium on New ERC Claims

Immediate Moratorium Announced: Due to concerns over a surge in questionable or potentially fraudulent Employee Retention Credit (ERC) claims, on September 14 the IRS implemented an immediate moratorium on processing new claims. According to the announcement, the pause will continue until at least the end of 2023.

- **Background:** IRS Commissioner Danny Werfel expressed rising concerns over aggressive marketing leading businesses into potential inappropriately filed ERC claims, particularly by parties promoting the ERC without regard for eligibility. According to the IRS, a significant portion of new ERC filed claims may be ineligible, thereby potentially jeopardizing businesses financially and exposing them to penalties and other issues.
- **Existing Claims:** The IRS will continue to process claims filed before the moratorium. However, due to increased vigilance against potential fraud, claim processing times are expected to extend from 90 to possibly 180 days or more. The IRS may also require additional documentation from claimants to ensure legitimacy.
- **Legal Consequences:** The IRS, in partnership with the Justice Department, is actively investigating and pursuing potential inappropriate or fraud cases related to the ERC. Hundreds of criminal cases are underway, and thousands of ERC claims have been earmarked for audit.
- **Guidance for Taxpayers:** The IRS has released tools and guidance, including a new Q&A guide, to help businesses determine their ERC eligibility. For those considering new claims, the IRS suggests consulting with trusted tax professionals regarding potential eligibility for the ERC.
- **Support for Victims:** The IRS is working on programs to support businesses that may have been misled into filing inappropriate claims or have become victims of aggressive and inappropriate marketing efforts. A settlement program is in the works with the IRS, and details will be released this fall. Additionally, a withdrawal option will soon be available for businesses that wish to retract non-fraudulent claims that have not yet been processed, even if the claims are already under IRS audit.
- **Warning:** If the ERC is claimed improperly, if selected for IRS civil audit then businesses would be obliged to pay back any inappropriate ERC amounts received, potentially with added penalties and interest. With that said, legitimate and supported ERC claims can still be eligible and pursued after the moratorium is lifted for processing of new ERC claims.
- **Red Flags:** The IRS urges businesses to be wary of aggressive marketing strategies pushing the ERC. Detailed eligibility criteria exist for claiming the credit, and many recently filed ERC claims may not actually qualify according to the IRS.

ERC Claims Processing Moratorium

Introduction: Concerns Raised

- Surge of questionable ERC claims
- Reports of aggressive marketing to ineligible applicants
- Risks posed to businesses and the tax system

ERC Moratorium (cont.)

Moratorium Announcement

- Effective immediately (September 14) and lasting until year's end
- Will allow IRS to enhance safeguards against abuse
- IRS working with Justice Department to counter fraud

ERC Moratorium (cont.)

Why the Need for a Moratorium?

- Growing evidence of ineligible claims
- Aggressive marketing tactics putting businesses at risk
- Delay in payment of genuine claims affecting tax system

ERC Moratorium (cont.)

What Does the Moratorium Mean?

- Continued processing of previously filed ERC claims
- Slower pace due to detailed compliance reviews
- Processing goal extended from 90 to 180 days, or longer if audited

ERC Moratorium (cont.)

Action Against Fraudulent Claims

- Enhanced compliance review for claims submitted pre-moratorium
- Hundreds of criminal cases being worked on
- Thousands of ERC claims referred for audit

ERC Moratorium (cont.)

Message from Commissioner Danny Werfel

- Growing evidence of questionable claims
- Harm to well-meaning businesses
- Need for businesses to consult trusted tax professionals

ERC Moratorium (cont.)

IRS Guidance for Businesses

- Review of IRS guidance and tools for ERC eligibility
- New question and answer guide released
- Initiatives to help victims of unscrupulous advisers:
 - Withdrawal
 - Settlement

ERC Moratorium (cont.)

Efforts to Combat Fraud

- Collaboration with the Justice Department
- Investigations into advisers promoting ineligible claims
- IRS-CI uncovering over \$8 billion in suspected pandemic fraud

ERC Moratorium (cont.)

Adviser Warnings and Risks

- Advisers advertising "risk-free" submissions
- Risk of audits and criminal investigations
- Obligation to repay improperly claimed credits with penalties and interest

ERC Moratorium (cont.)

Recommendations for Businesses

- Review and possibly wait before filing a claim
- Option to withdraw existing claims
- Upcoming IRS ERC settlement program

ERC Moratorium (cont.)

Spotting Questionable ERC Claims

- List of red flags from IRS
- Specific eligibility requirements highlighted
- Three key criteria for eligibility

ERC Moratorium (cont.)

Key Takeaways

- Immediate moratorium on new ERC claims
- IRS taking action against fraud and aggressive promotion
- Importance of verifying eligibility before applying

Statutory ERC Public Awareness Campaign

- (i) Public Awareness Campaign.**— Section 2301 of the CARES Act is amended by adding at the end the following new subsection: **“(n) Public Awareness Campaign.**—
- **“(1) In general.**— The Secretary shall conduct a public awareness campaign, in coordination with the Administrator of the Small Business Administration, to provide information regarding the availability of the credit allowed under this section.
 - **“(2) Outreach.**— Under the campaign conducted under paragraph (1), the Secretary shall—
 - **“(A)** provide to all employers which reported not more than 500 employees on the most recently filed return of applicable employment taxes a notice about the credit allowed under this section and the requirements for eligibility to claim the credit, and
 - **“(B)** not later than 30 days after the date of the enactment of this subsection, provide to all employers educational materials relating to the credit allowed under this section, including specific materials for businesses with not more than 500 employees.”.

Consolidated Appropriations Act, 2021, 2020 Enacted H.R. 133, 116 Enacted H.R. 133, 134 Stat. 1182

IRS's Restrictive Stance on ERC
vs.
CARES Act Public Awareness Campaign

Recent IRS Positions on ERC

- Moratorium on new ERC claims
- Narrow eligibility parameters
- Increased scrutiny on existing claims
- Pursuit of legal actions against fraudulent claims

Public Awareness Campaign Mandate (Section 2301, CARES Act)

- **In General:** Coordinate with SBA to inform employers about the ERC.
- **Outreach:**
 - Notice to all employers with ≤500 employees.
 - Educational materials for all employers, specifically small businesses, within 30 days of enactment.

IRS Audit Activity Expected

- We expect increased IRS audit rates and targeted IRS audit teams to be assigned to specifically review the ERC and challenge incorrect and egregious claims.
- We also expect adviser exams targeting those who inappropriately push ERC claims without performing the requisite level of due diligence.
- On May 25, 2023, the IRS issued a news release warning businesses to watch out for forceful advisers and emphasizing that it has stepped up audit and criminal investigation work involving ERC claims.

IRS Audit Activity Expected (cont.)

- IRS 2023 “Dirty Dozen” includes warning about increased scrutiny of ERC claims and false or misleading claims about the credit; unethical or illegal practices to maximize refund amounts (*See IR-2023-54*)
- The IRS Small Business/Self-Employed division has trained auditors examining these types of claims, and the IRS Criminal Investigation Division is on the lookout for promoters of fraudulent claims for credits (*See IRS Notice 2021-49*)
- Taxpayers considering filing ERC claims should be aware they are ultimately responsible for the accuracy of the information on their tax return.

IRS Audit Activity Expected (cont.)

- The Office of Professional Responsibility (OPR), responsible for overseeing the conduct of attorneys, certified public accountants, and enrolled agents who practice before the IRS, has issued guidance related to the ERC.
- The guidance emphasizes the importance of practitioners ensuring that they have a sufficient understanding of the ERC and its requirements before advising clients on claiming the credit.
- OPR notes that practitioners who engage in negligent or intentional misconduct related to ERC advice may be subject to disciplinary action, including suspension or disbarment from practice before the IRS.

IRS Audit Activity Expected (cont.)

- IRS Appeals and subsequent litigation activity in the ERC arena is likely to continue for many years.
- With all of that said, legitimate, supported, and substantiated ERC claims can and should be filed and will be upheld.

IRS Enforcement and Penalties for Employment Taxes

- **Forms Required:** File Forms 941 and 941-X for employment taxes.
- **Accuracy-Related Penalty:** Imposed for understatements due to negligence or substantial tax understatement.
- **Failure-to-Deposit Penalty:** Based on the number of days the employment tax deposit is late.
- **Failure-to-File Penalty:** Up to 25% of unpaid tax for late filing.

Recovery of Erroneous Refunds and Audits

- **Recovery Authority:** IRC § 7405, with interest under § 6602.
- **Audit Penalties:** Errors or omissions in Forms 941 or 941-X discovered during audits may incur penalties. Pre-audit ERC refunds could trigger additional scrutiny.

Penalties for Erroneous Claims

- **Underpayment Penalty:** Section 6662(a) imposes a 20% accuracy-related penalty on underpayment of tax attributable situations described in 6662(b).
- **Exceptions:** Penalties under this section don't apply to a tax underpayment already penalized under section 6663 or to a tax underpayment linked to a misstatement penalized under section 6662A (except for specific exceptions in section 6662A(e)).
- **Preparer Penalties:** Section 6694 penalties for tax return preparers for understatements.

Other Relevant Penalties and Criminal Statutes

- **Aiding and Abetting:** Section 6701 penalties for understatement facilitation.
- **Frivolous Submissions:** Section 6702 imposes penalties for frivolous tax arguments.
- **Tax Evasion and Fraud:** Sections 7201 and 7206 cover attempts to evade tax and fraudulent statements.
- **Other Penalties:** Sections 7207 and 6695(b) for fraudulent documents and failure to sign returns.