

United States Senate  
WASHINGTON, DC 20510

April 11, 2021

The Honorable Janet Yellen  
U.S. Department of the Treasury  
1500 Pennsylvania Ave NW  
Washington, DC 20220

The Honorable Charles Rettig  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

Dear Secretary Yellen and Commissioner Rettig:

We write to urge the Treasury Department (Treasury) and Internal Revenue Service (IRS) to provide relief ahead of the upcoming tax filing deadline for small businesses that are still waiting for their Employee Retention Tax Credit (ERTC) payments. Without quick action from your agencies, these small businesses will face higher up-front tax liabilities because of IRS's delayed payments of the ERTC.

Congress created the ERTC on a bipartisan basis to help employers struggling during the COVID-19 crisis. In 2020 and 2021, this refundable payroll tax credit covered a share of eligible wages and other compensation provided to employees by the hardest-hit small businesses. However, the IRS still has not sent out ERTC payments for many businesses, due to the current backlog of unprocessed tax returns at the IRS. Small businesses need this relief, and the IRS should take all possible steps to provide ERTC payments as rapidly as possible.

A further consequence of the tax return backlog is that small businesses waiting for their 2021 ERTC payments will face higher up-front tax liabilities when filing their tax returns on April 18, 2022. In 2020 and 2021, the hardest-hit small businesses could choose either to claim the ERTC for eligible wages paid to employees, or to deduct these wages, but not both. As a result, certain small businesses that claimed the ERTC will report reduced wage deductions when filing their taxes this year, resulting in a higher tax liability – even if they are still waiting for the ERTC refunds that will more than make up for these reduced deductions.

We urge the Treasury and IRS to use available authority to provide relief to these small businesses, such as by waiving relevant penalties so that small businesses can time their federal tax payments around the receipt of the ERTC.

Sincerely,



Margaret Wood Hassan  
United States Senator



Ron Wyden  
United States Senator