

October 28, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

The Honorable Richard Neal
Chairman, Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Pelosi and Chairman Neal:

The last 18 months have challenged America's Main Street businesses. The development of the Paycheck Protection Program (PPP) and the Employment Retention Tax Credit (ERTC) helped to stabilize businesses throughout the country. Thank you for supporting these crucial programs.

While the ERTC is scheduled to expire at the end of the year, many businesses are continuing to claim this credit to help keep their businesses afloat. Understanding the bipartisan *Infrastructure Investment and Jobs Act* would curtail the ERTC at the end of the third quarter, September 30, 2021, many business owners are uncertain how to move forward. Some are already taking advantage of the credit for the fourth quarter, following current law.

However, if the *Infrastructure Investment and Jobs Act* becomes law and this credit is disallowed for the fourth quarter, these already-distressed businesses will face a retroactive tax increase and likely a complex, frustrating process in reconciling the credit that they would have to forfeit. To be eligible for the ERTC, the business owner must demonstrate at least a 20% decline in gross receipts in either a given quarter compared to the same quarter in 2019 or the immediately preceding quarter. Alternatively, the business owner may be eligible if the business is subject to a full or partial suspension of business operations due to a government order. Specifically for this year's third and fourth quarters, business owners can qualify for the ERTC as a "recovery startup business" or qualify as a "severely financially distressed employer." To claim the ERTC as a "severely financially distressed employer," the business suffered at least a 90% decline in gross receipts in a specific quarter compared to the same quarter in 2019. For these ERTC-qualifying businesses, the impacts of the pandemic continue to be present and very difficult.

Familiarity of the tax credit has increased over the last 10 months as more small business owners are exhausting their PPP funds and are still struggling to fully operate in the pandemic. The ERTC is one of the last remaining small business programs available to help those who qualify.

When Congress passes the *Infrastructure Investment and Jobs Act*, please ensure the ERTC remains available to business owners through the end of the calendar year.

Sincerely,

American Council of Engineering Companies
Associated Builders and Contractors
Associated General Contractors of America
International Franchise Association
National Association of Manufacturers
National Association of Wholesaler-Distributors
National Federation of Independent Business