



February 23, 2022

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, D.C. 20220

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Ave., NW
Washington, D.C. 20224

Dear Secretary Yellen and Commissioner Rettig:

Restaurants across the country appreciate your efforts to provide relief for vulnerable small businesses. Since we raised the alarm in November about the industry's slow pandemic recovery, the omicron variant swept across the country, weakening consumer confidence at one of our busiest times of the year. When added to significant disruptions in the food supply chain, a compressed labor market shortening restaurant operating hours, and soaring food costs eating into already-slim profit margins, this latest blow once again reversed industry momentum.

The COVID-19-related Employee Retention Tax Credit (ERTC) offered considerable aid for restaurants, but for too many, expected assistance from this program has not yet arrived. In a recent poll, 83% of operators who applied for ERTC more than six months ago say they have not received any funds. The issue is compounded by a loss of their normal tax deduction for payroll in their 2021 tax filing. This creates a cash flow crisis as the restaurant will owe more in taxes due to a refund it has not received.

A third-generation family-owned restaurant company in Texas is already facing this scenario. Based on their eligibility, the business applied for ERTC in the first and second calendar quarters of 2021. Because of the backlog processing Form 941, to date, the restaurant has not received their ERTC refunds – but the loss of the payroll tax deductions threaten to trigger a \$1.14 million tax liability due by April 18, 2022.

We respectfully urge the IRS to provide more certainty for restaurants this filing season by:

- Halting automated collections, including lien/levy issuance, until the IRS can certify the Form 941 backlog has been resolved.
- Delaying the collection process for filers until any mail that may include an abatement request is processed.
- Streamlining the reasonable cause penalty abatement process for taxpayers impacted by the COVID-19 pandemic without the need for written correspondence.
- Communicating the status of amended returns and ERTC refunds, including expected dates for when tax documents will be processed.

Restaurants appreciate the extraordinary efforts of agency professionals and the Commissioner's commitment to return to normal inventory levels before next year, but too many vulnerable restaurants are concerned whether they can sustain operations that long.

On behalf of restaurants and our 52 state restaurant association partners, thank you for your attention to this urgent matter and the dedication of the IRS and Treasury personnel to improving the filing process.

Sincerely,

National Restaurant Association

Alabama Restaurant & Hospitality Association
Alaska Cabaret, Hotel, Restaurant & Retailers Association
Arizona Restaurant Association
Arkansas Hospitality Association
California Restaurant Association
Colorado Restaurant Association
Connecticut Restaurant Association
Restaurant Association of Metropolitan Washington
Delaware Restaurant Association
Florida Restaurant & Lodging Association
Georgia Restaurant Association
Hawaii Restaurant Association
Idaho Lodging & Restaurant Association
Illinois Restaurant Association
Indiana Restaurant & Lodging Association
Iowa Restaurant Association
Kansas Restaurant & Hospitality Association
Kentucky Restaurant Association
Louisiana Restaurant Association
Hospitality Maine
Restaurant Association of Maryland
Massachusetts Restaurant Association
Michigan Restaurant & Lodging Association
Hospitality Minnesota
Mississippi Hospitality & Restaurant Association
Missouri Restaurant Association

Montana Retail Association
Nebraska Hospitality Association
Nevada Restaurant Association
New Hampshire Lodging & Restaurant Association
New Jersey Restaurant & Hospitality Association
New Mexico Restaurant Association
New York State Restaurant Association
North Carolina Restaurant & Lodging Association
North Dakota Hospitality Association
Ohio Restaurant Association
Oklahoma Restaurant Association
Oregon Restaurant & Lodging Association
Pennsylvania Restaurant & Lodging Association
Puerto Rico Restaurant Association
Rhode Island Hospitality Association
South Carolina Restaurant & Lodging Association
South Dakota Retailers Association
Hospitality Tennessee
Texas Restaurant Association
Utah Restaurant Association
Vermont Chamber of Commerce
Virginia Restaurant, Lodging & Travel Association
Washington Hospitality Association
West Virginia Hospitality & Travel Association
Wisconsin Restaurant Association
Wyoming Lodging & Restaurant Association