



November 29, 2022

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

The Honorable Chuck Schumer
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Kevin McCarthy
Republican Leader
United States House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Republican Leader
United States Senate
Washington, D.C. 20510

Dear Speaker Pelosi and Leaders Schumer, McCarthy, and McConnell:

As both houses of Congress work through the priorities pending before year's end, we appreciate the continued consideration of the issues affecting the restaurant industry. U.S. restaurant operators continue to struggle to recruit needed workforce and balance skyrocketing costs amid an impaired supply chain. In addition, higher interest rates and consumer economic insecurity make planning the future unpredictable.

While owners have been able to keep menu price increases below grocery store inflation (8.5% compared to 12.4%), [according to our analysis](#), significant cost increases are wiping out small business restaurant margins. In good times, these restaurants run on 3-5% pre-tax margins. As a result of broad-based cost increases across all parts of the operation, the average restaurant's sales would need to be 12% above pre-pandemic levels just to break even. Unfortunately, sales remain below 2019 levels for one-half of all restaurants in the U.S.

As Congress considers their year-end priorities, we urge lawmakers to:

- **Prioritize taking action to prevent a national rail strike.** Like you, we are closely watching the possibility of a railway strike that could impact the nation as soon as Dec. 9. Because of ongoing supply chain issues, restaurant operators are already hunting for menu ingredients and products needed to sustain both their on-premises and off-premises service. If railways shut down and everything must go by truck, the delays would be disastrous for restaurant operators and their menus at one of their busiest times of the year.
- **Approve "The Credit Card Competition Act of 2022" (S. 4674/H.R. 8874) to help forestall skyrocketing swipe fees and create more competition in the credit card processing network sector.** Credit card swipe fees are often the third largest operations cost of a restaurant behind food and payroll. In the current economic environment, restaurants are juggling a 12.5% increase on food costs and more than 13% increase in payroll expenses on top of these extremely costly interchange fees. This bill would open credit card processing up to market competition, which would not only alleviate merchant cost concerns, but also give operators the ability to choose a processor that works best for their business and spurs more innovation.

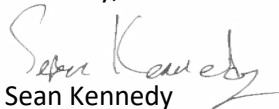
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- **Permanently restore depreciation and amortization to help businesses grow in the short- and long-term by passing the “Permanently Preserving America’s Investment in Manufacturing Act” (S. 1077/H.R. 5371).** Restaurant operators desperately need the interest deduction calculation to again include depreciation and amortization in the earnings before income, taxes, depreciation, and amortization standard. Depreciation encourages investment in equipment, outside dining improvements, and expansion for new employee hiring. As the economy undergoes recessionary trends, Congress can improve the tax code to ensure U.S. companies are not at a disadvantage since all other 35 countries in the Organization for Economic Cooperation and Development (OECD) protect depreciation and amortization.
- **Ensure the IRS promptly processes all pending Employee Retention Tax Credit (ERTC) refunds and encourage investment from *Inflation Reduction Act* funding so costly delays don’t happen again.** ERTC was essential COVID aid for many small business restaurants that suffered prolonged revenue declines or capacity restrictions. But many of these operators have waited more than a year for their ERTC refunds, due to major delays at the IRS. Even more frustrating, this delay increases a restaurant’s tax burden due to a loss of payroll deductions during ERTC eligible time periods. Congress can help by encouraging the IRS to promptly process all pending ERTC refunds and invest new funding from the *Inflation Reduction Act* into customer service, systems modernization, and Form 941-X upgrades to combat these delays in the future.

This is the third holiday season that restaurant operators and workers are under pressure from declining consumer confidence and inconsistent financial conditions. Restaurants are committed to their communities, but many are still operating in the red for reasons outside of their control. Your actions can have a real and immediate impact for restaurant owners across the country.

Thank you for your consideration, and we appreciate your attention to the restaurant industry.

Sincerely,



Sean Kennedy
Executive Vice President, Public Affairs