



February 10, 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:

We ask you today to quickly pass the bipartisan “ERTC Reinstatement Act” to support struggling restaurants and prevent a surprise tax claw back. The COVID-19-related employee retention tax credit (ERTC) has provided restaurants with targeted relief that supports payroll and group health benefits and preserves eligibility for small businesses who continue to suffer significant losses. Restoring ERTC for Oct.-Dec. 2021 would be a vital relief for the industry.

Restaurants still haven’t regained around 1 million jobs lost early in the pandemic, and wages have risen considerably. About half of restaurants are cutting hours of operation on days they are open for business. Three in 4 restaurants are less profitable than pre-pandemic, and now they are faced with debt service payments as we enter the third year of the pandemic. ERTC was a lifeline for many restaurants during early 2021, but as business stagnated because of the omicron variant, that lifeline was terminated early.

Restaurants appreciate the investments made in the bipartisan infrastructure bill. When the bill was originally drafted in mid-2021 restaurants were focused on rebuilding rather than reapplying for federal tax credits. However, circumstances have changed.

According to our most recent operator survey, 60% of restaurants estimate their sales in Oct.-Dec. 2021 were 20% or more below their Oct.-Dec. 2019 sales. This criteria would trigger eligibility for a small business to access ERTC.

Additional survey data illustrate the urgent need to reinstate the ERTC.

- 88% of restaurants experienced a decline in customer demand for indoor on-premises dining because of the omicron variant.
- Nearly 20% consumers said they completely stopped going out to restaurants in periods of December-January because of the omicron variant.

Enhancing the quality of life for all we serve

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Restaurants are working diligently just to keep their doors open amid higher payroll, escalating food prices, and fluctuating public health measures. They did not anticipate that a quarterly pandemic tax credit – in place since 2020 – would be pulled away while need was still so high. Restaurants that withheld payments or budgeted for a credit payment now face an unexpected federal tax liability. A tax claw back that could serve as the final blow to a vulnerable small business on the verge of permanent closure.

Right now, lawmakers have the opportunity to rework ERTC eligibility for the fourth quarter of 2021. Restoring ERTC maintains the promise this Congress made to hurting small businesses.

Thank you for your consideration and we appreciate the support you have shown for restaurants.

Sincerely,



Sean Kennedy
Executive Vice President, Public Affairs