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January 26, 2022

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Commissioner Rettig,

I write today to urge the Internal Revenue Service to take immediate action towards clearing the backlog of unprocessed Employee Retention Credit (ERC) payments. I have recently heard from constituents that have yet to receive credit refunds for claims filed in March of 2021 for wages paid in 2020. ERC was created as a payroll credit to ensure that the benefit could be delivered quickly and it is important that ERC refunds are sent out with similar urgency.

I understand that the processing delay is caused in part because the 941-X form, which some taxpayers must file in order to claim this refund after overpaying estimated payroll taxes, must be submitted manually rather than electronically. This requirement to file paper forms to receive an ERC refund is particularly disappointing given the fact that paper returns are generally subject to longer processing times than electronic returns.¹

I realize the challenge the COVID-19 pandemic has presented to your agency, both with staffing shortages and additional work brought on by new provisions like the ERC. I am aware that there is also a significant backlog of individual income tax returns that need to be processed, and it is important that clearing that backlog remains a priority so that individuals and families can receive their Child Tax Credit, UI related refunds, Earned Income Tax Credit, and other payments in a timely manner. I hope the IRS can also take steps to support employers by taking action to clear the ERC refund backlog and getting checks into the hands of business owners in New York and across the country.

Thank you for your attention to this matter and I look forward to your immediate action.

Sincerely,



Kirsten Gillibrand
United States Senator

¹ *Effects of the COVID-19 Pandemic on Business Tax Return Processing Operations*, September 2, 2021. Treasury Inspector General for Tax Administration. Report Number: 2021-46-064. Available at, <https://www.treasury.gov/tigta/auditreports/2021reports/202146064fr.pdf>