

Congress of the United States
House of Representatives
Washington, DC 20515-2201

August 9, 2021

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

Dear Commissioner Rettig,

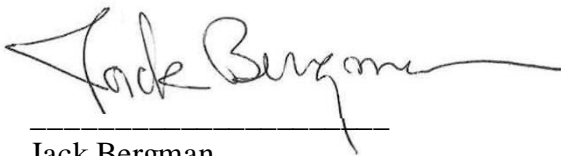
I write to express my concerns with the recent IRS Guidance on the Employee Retention Credit under Section 3134 of the Code and on Miscellaneous Issues Related to the Employee Retention Credit (Notice 2021-49). Specifically, I object to language that prevents wages paid to a majority owner of a corporation from qualifying under the Employee Retention Credit (ERC) solely if the owner has a direct family member.

Section IV, Subsection D of Notice 2021-49 addresses whether wages paid to an employee who is a majority owner of a corporation, or to their spouse, may be treated as qualifying wages under the ERC. As written, this guidance excludes wages to majority owners or spouses only if "the majority owner has a brother or sister (whether by whole or half-blood), ancestor, or lineal descendant." As a result, the only business owners that can take advantage of this credit are those who are orphaned and have no children or siblings. Meanwhile, those with families are cut off from this support, despite having an equal or greater need for financial relief through the ERC.

The distinction made in your guidance is entirely illogical, goes against the intent of Congress, and arbitrarily punishes Americans with families. I therefore request further explanation as to the statutory rationale for this decision and urge you to take action as needed to correct this absurd bureaucratic move.

Thank you for your prompt attention to this critical request. I stand ready to provide any additional information needed.

Sincerely,



Jack Bergman
Member of Congress

