



October 6, 2021

The Honorable Bill Cassidy
520 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Cassidy:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, I write to thank you for introducing S. 2936. This important legislation would clarify that American business owners accessing the Employee Retention Tax Credit (ERTC) will not be locked out of the benefits of the credit for merely *having* relatives.

Your bill is a necessary solution to a problem the IRS recently created, with a notice to would-be ERTC recipients that NTU Foundation's Joe Bishop-Henchman explains was informed by "convoluted logic":

"The convoluted logic here is that since [the] CARES [Act] says to use WOTC [Work Opportunity Tax Credit] rules, and WOTC rules say to use Section 267 [of the Internal Revenue Code], and Section 267 says a taxpayer's relatives are the same as the taxpayer, then any majority owner of a business isn't really a majority owner if they have relatives. That's because, the IRS says, the relative is also a majority owner and the taxpayer a relative of them, and the wages of relatives are ineligible to be counted for the credit. Therefore, the IRS concludes that the wages of a majority owner are ineligible for the ERTC if they have any immediate family."¹

Locking small business owners' wages out of ERTC merely because the owner *has* relatives is clearly contrary to Congressional intent for ERTC. Your legislation would provide much-needed clarity and end this "convoluted logic" from the IRS, enabling small businesses to fully access the credit so long as it lasts. NTU looks forward to working with you to advance this legislation through Congress and to President Biden's desk.

Sincerely,

Andrew Lautz
Director of Federal Policy

¹ Bishop-Henchman, Joe. "New IRS Rule on Small Businesses Sends Them to Bizarro World." National Taxpayers Union Foundation, September 3, 2021. Retrieved from: <https://www.ntu.org/foundation/detail/new-irs-rule-on-small-businesses-sends-them-to-bizarro-world>