



October 26, 2021

The Honorable Ron Wyden
Chairman
U.S. Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard Neal
Chairman
U.S. House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Mike Crapo
Ranking Member
U.S. Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Kevin Brady
Ranking Member
U.S. House Committee on Ways and Means
1139 Longworth House Office Building
Washington, DC 20515

Re: Title VI, Sec. 80604 of H.R.3684, the *Infrastructure Investment and Jobs Act*

Dear Chairmen Wyden and Neal, and Ranking Members Crapo and Brady:

As trusted advisors to business, nonprofit, and governmental clients, CPAs are keenly aware of the unprecedented pandemic-related challenges the American economy and its workforce has faced for almost two years. To help Americans weather the pandemic's financial impact, the accounting profession and the American Institute of CPAs (AICPA) have been working hard to improve public understanding of how key provisions in coronavirus relief legislation could be utilized to support small businesses and bolster our economic recovery. While the federal government's efforts to date have blunted economic decline, the colder winter weather and the resulting costs highlight the importance of those relief and recovery provisions – particularly those that assist small employers and their employees.

The AICPA notes that Title VI, Sec. 80604 of H.R.3684, the *Infrastructure Investment and Jobs Act*, would terminate the employee retention credit (ERC) for employers subject to closure due to COVID-19 by sunseting its benefits three months early effective October 1, 2021. Pending legislation of this nature is very confusing to taxpayers and their advisers. Many do not understand that the credit continues to be available, and others are reluctant to take advantage of the credit by reducing current payroll tax deposits, fearing that it may be retroactively repealed and penalties for failure to deposit taxes may apply. If the pending legislation moves to enactment, we recommend that there be a committee report directive to the IRS and Treasury to waive any penalties and provide a reasonable, practical method for payment of unpaid employment taxes.

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prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

We welcome the opportunity to discuss these comments on the ERC sunset or to answer any questions that you may have. If you have any questions, please contact; Edward Karl, AICPA VP Taxation, at (202) 355-4892, or edward.karl@aicpa-cima.com; Lauren Pfingstag, Director – AICPA Congressional or Political Affairs, at (407) 257-0607, or lauren.pfingstag@aicpa-cima.com; or me at (601) 326-7119 or JanLewis@HaddoxReid.com.

Sincerely,



Jan Lewis, CPA
Chair, AICPA Tax Executive Committee

cc: Members of the Senate Committee on Finance
Members of the House Committee on Ways and Means
Mr. Thomas Barthold, Chief of Staff, Joint Committee on Taxation
The Honorable Janet Yellen, Secretary of the Treasury
The Honorable Lily Batchelder, Assistant Secretary (Tax Policy), Department of the Treasury
The Honorable Charles P. Rettig, Commissioner, Internal Revenue Service
The Honorable William M. Paul, Chief Counsel, Internal Revenue Service