

United States Senate

WASHINGTON, DC 20510

July 19, 2016

The Honorable John Koskinen
Commissioner of the IRS
1111 Constitution Ave., NW
Washington, D.C., 20224

The Honorable Mark J. Mazur
Assistant Secretary for Tax Policy
Department of Treasury
1500 Pennsylvania Ave., NW
Washington, D.C. 20220

RE: Guidance on the Startup and Small Business Provisions of the R&D Tax Credit

Dear Commissioner Koskinen and Assistant Secretary Mazur:

We write to encourage the Internal Revenue Service (IRS) to carefully issue guidance to ensure smooth and effective implementation of the R&D credits for startup companies and small businesses that were included in the Protecting Americans from Tax Hikes Act (PATH Act). We were the key sponsors of these provisions in the PATH Act, which were drawn from our Innovators Job Creation Act (S. 455). This newly expanded credit has the potential to greatly assist new innovative businesses.

While the legislation sets the framework for ensuring that startups and small businesses can benefit from the R&D tax credit, getting the administrative details right is essential to ensuring that the policy goals of Congress are realized. In particular, we view it as vital that Treasury and the IRS use common sense in administering the startup provisions of the R&D tax credit, reflecting the real world of entrepreneurs and new businesses.

Specifically, we encourage the IRS to carefully evaluate the definition of gross receipts, so that deserving startups and small businesses are able to access the benefits of the R&D credit. It is particularly important that startups are not excluded from the credit due to their receipt of government or nonprofit grants, a common source of support for many innovative companies. Also, we want to ensure that record keeping requirements remain consistent with the intent of the bill. The statute specifically provides statutory guidance that Treasury should issue “regulations to minimize compliance and recordkeeping burdens” for the startup. As you work through implementation, we hope you will keep that goal in mind and make every reasonable effort to minimize the paperwork burden.

Separate from guidance, we believe that a critical part of making these new provisions a success is to ensure that companies are educated about their potential eligibility for the newly expanded R&D tax credit in the PATH Act. With that goal in mind, we strongly encourage Treasury and the IRS to conduct meaningful outreach to educate small and medium businesses as well as startups about the expansion of the R&D tax credit included in the PATH Act. The Small Business Administration will be an important partner in this effort.

We appreciate your attention to this important matter. We look forward to receiving your comments, guidance, and any plans you may have to educate small business owners about the new provisions of the R&D credit. If you have any questions, please contact Brian Winseck with Senator Coons at Brian_Winseck@coons.senate.gov, Chris Allen with Senator Roberts at Chris_Allen@roberts.senate.gov, and Anna Taylor with Senator Schumer at Anna_Taylor@schumer.senate.gov.

Sincerely,



Christopher A. Coons
United States Senator



Pat Roberts
United States Senator



Chuck Schumer
United States Senator