

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

December 18, 2024

Mark Speake
President
Commerce Terrace Consulting
2200 East Sunshine St, Ste 330
Springfield, MO 65804

Dear Mr. Speake,

We write seeking information about Commerce Terrace Consulting's ("Commerce Terrace") services related to the Employee Retention Tax Credit (ERTC), including the nature of Billy Long's involvement with ERTC claims submitted by Commerce Terrace clients. As part of the Senate's constitutional duty to provide advice and consent regarding Mr. Long's nomination to serve as the next Commissioner of the Internal Revenue Service ("IRS"), this information will help Senators better understand Mr. Long's fitness to oversee tax administration and the enforcement of federal tax laws.

As you are aware, Commerce Terrace claims it assists clients with tax planning and federal tax credits that have helped its clients allegedly save \$400 million in federal taxes.¹ Commerce Terrace also indicates that it is focused full time on tax credits such as the ERTC and is available to assist business owners and accounting firms in "leveraging these lucrative opportunities."²

Commerce Terrace regularly promotes the ERTC to clients, and in some cases appears to do so against the advice of professional accountants and attorneys. For example, in one social media post several years ago, you claimed that several of your clients claimed very large ERTC refunds even after being told they would not qualify by their accountants.³ These have included a \$200,000 ERTC refund for a restaurant, a \$700,000 ERTC refund for a healthcare facility, and a \$4.1 million ERTC refund for a trucking company.⁴ At the time you claimed these were just a

¹ <https://myctcgroup.com/>

² *Id.*

³ https://www.linkedin.com/posts/mark-speake-a3b13414_employee-retention-tax-refunds-part-of-the-activity-6868989801782222848-gHA9

⁴ *Id.*

few of the ERTC claims being prepared by Commerce Terrace, with “many more pending” and that Commerce Terrace was paid on a contingency basis where Commerce Terrace was only paid based on the amount of ERTC refunds received by clients.⁵

According to public reports, Commerce Terrace has been working with Billy Long since he retired from Congress to promote the ERTC to clients and lobby elected officials in the United States Congress on the ERTC.⁶ Even though Long has no professional background in tax preparation and does not appear to be a licensed accountant, attorney, or enrolled agent authorized to represent clients before the IRS, Long appears to have been actively profiting off of the ERTC through partnerships with Commerce Terrace and other tax consulting firms.⁷ While details regarding Long’s association with Commerce Terrace are scarce, public reports indicate that Long is compensated through an agreement where he is paid on a contingency basis for ERTC refunds received by clients he referred to Commerce Terrace.⁸

Long has bragged publicly that he has helped his clients receive large ERTC refunds well in excess of \$1 million and that his clients trust him on the ERTC because they have seen him “getting this money for their compadres.”⁹ Alarming, it appears that Mr. Long also would encourage clients to submit ERTC claims to the IRS even when certified professional accountants had advised that the clients were not eligible. During a podcast interview last year, Long stated that there were many situations where a CPA would not sign off on a client’s ERTC claims but allegedly told them to “Go back to Billy. Let Billy do it for you.”¹⁰ Long also described a situation where his clients would go back to their accountants and say “Hey, this auctioneer, real estate broker, former Congressman told me, I’m going to get \$1.2 million back. You’re my CPA, why didn’t you tell me that?”¹¹

Long is also on video at Commerce Terrace’s offices discussing how “everybody qualifies” for the ERTC, and boasting that he got a not for profit organization a \$3.6 million ERTC refund and even a large funeral home qualified for an ERTC refund even though they “just had the best two years of their life” during the pandemic.¹² In instances where an ERTC claim was revoked or disallowed by the IRS, Long has stated that any fees he and his associates received would be returned to clients.¹³ However, it is unclear to what extent any ERTC claims associated with Commerce Terrace have been revoked or deemed fraudulent, or whether the firm has repaid any clients in those situations.

Long’s work peddling ERTC claims is deeply concerning in light of the industrial level of fraud that has taken place across the scam-plagued ERTC industry. Over the past few years, ERTC mills led by abusive promoters and preparers have aggressively marketed the ERTC to

⁵ *Id.*

⁶ <https://www.nytimes.com/2024/12/06/us/politics/billy-long-trump-irs-tax-credit.html>

⁷ *Id.*

⁸ *Id.*

⁹ Brainsky unleashed podcast, “Secret Tax Credit That Could Put Thousands Back in Your Pocket with Billy Long”, Sep. 4, 2023.

¹⁰ *Id.*

¹¹ *Id.*

¹² <https://www.youtube.com/watch?v=5KK57glCd88>

¹³ <https://www.nytimes.com/2024/12/06/us/politics/billy-long-trump-irs-tax-credit.html>

millions of American businesses, leading to fraudulent claims that have cost taxpayers billions of dollars. Abuse of the ERTC became so widespread that the IRS decided to put in place a moratorium on processing ERTC claims and initiated hundreds of criminal investigations for tax fraud, resulting in dozens of convictions with lengthy prison sentences.¹⁴

The staggering levels of fraud involving the ERTC has also resulted in the introduction of bipartisan legislation to end the program entirely. For example, Chairman Wyden's bipartisan legislation with House Ways and Means Chairman Jason Smith that would end the ERTC program and save over \$70 billion by accelerating the deadline for filing backdated claims to January 31, 2024, which overwhelmingly passed the House.¹⁵ Additionally, a bipartisan group led by Senators Thom Tillis, Mitt Romney and Joe Manchin introduced separate legislation that would similarly disallow the processing of ERTC claims.¹⁶

As the Senate weighs Mr. Long's qualifications to serve as the next IRS Commissioner, it is imperative that it understand the full extent of his involvement with the ERTC and any concomitant waste, fraud or abuse. Accordingly, please provide answers to the following questions no later than January 2, 2025:

1. How many ERTC claims have Commerce Terrace clients submitted since the creation of the ERTC program in 2020? Please provide the number of claims submitted broken down by calendar year. Please also provide the total dollar value of all ERTC refunds claimed (whether or not received) and received by Commerce Terrace clients.
2. How many ERTC claims have Commerce Terrace clients submitted to the IRS since President Biden formally ended the federal public health emergency for COVID-19 on May 11, 2023? How many since the IRS placed a moratorium on ERTC claims submitted after September 14, 2023?
3. How many ERTC refunds involving Commerce Terrace clients have exceeded \$1 million?
4. How much has Commerce Terrace been paid by clients in relation to services related to ERTC claims? Please provide this compensation broken down by calendar year.
5. Please describe how Commerce Terrace is compensated for ERTC services by clients. Does Commerce Terrace get paid a percentage of the ERTC refund received by clients? If so, what is the percentage of the ERTC refund Commerce Terrace charges its clients?
6. Please describe the services performed by Billy Long in relation to ERTC claims submitted by Commerce Terrace clients. Does Billy Long assist with the preparation and submission of ERTC claims for clients?
7. How many ERTC refunds received by Commerce Terrace clients originated with a referral from Billy Long?
8. Does Billy Long have any professional certifications authorizing him to represent taxpayers before the IRS, including licensed attorney, CPA or enrolled agent? If so, please identify them.

¹⁴ <https://www.irs.gov/newsroom/irs-enters-next-stage-of-employee-retention-credit-work-review-indicates-vast-majority-show-risk-of-being-improper>; <https://www.irs.gov/newsroom/to-protect-taxpayers-from-scams-irs-orders-immediate-stop-to-new-employee-retention-credit-processing-amid-surge-of-questionable-claims-concerns-from-tax-pros>

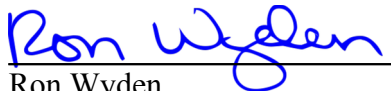
¹⁵ <https://waysandmeans.house.gov/2024/01/16/smith-wyden-announce-agreement-on-tax-framework-to-help-families-and-main-street-businesses/>

¹⁶ <https://www.tillis.senate.gov/2024/9/tillis-colleagues-introduce-bipartisan-legislation-to-repeal-covid-era-employee-retention-tax-credit>

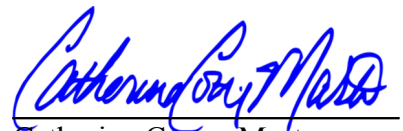
9. Please provide all compensation agreements between Billy Long and Commerce Terrace, including any agreements where Billy Long is paid a percentage of ERTC refunds received by Commerce Terrace clients.
10. Have any ERTC refunds received by Commerce Terrace clients ever been disallowed and deemed improper/fraudulent? If so, please describe how many refunds were disallowed and the dollar value of each refund.
11. How many ERTC claims submitted by Commerce Terrace clients are currently under audit by the IRS?
12. In a 2023 podcast interview, Mr. Long stated that if any ERTC claim is revoked or disallowed by the IRS, he and his associates would return any fees collected to the clients. If any ERTC refund received by a Commerce Terrace client has been disallowed, has Commerce Terrace repaid all of such clients for any fees it received for ERTC refunds that were later disallowed or deemed improper/fraudulent by the IRS? If so, what is the total amount of fees repaid? If not, why not?
13. Has Commerce Terrace ever been contacted by the DOJ, the IRS or the Treasury Inspector General for Tax Administration (TIGTA) in relation to any criminal investigations into any tax credits or incentives claimed by its clients? If so, please describe the end result of each individual criminal investigation.
14. Has Commerce Terrace ever been contacted by the DOJ, the IRS or TIGTA in relation to any criminal investigations related to ERTC refunds received by any Commerce Terrace clients? If so, please describe the end result of each individual criminal investigation into ERTC refunds received by Commerce Terrace clients.
15. Has Commerce Terrace ever been contacted by the DOJ, the IRS or TIGTA in relation to any investigations by the IRS Office of Promoter Investigations related to ERTC refunds received by Commerce Terrace clients? If so, please provide all records related to those investigations.

Thank you for your attention to this important matter. Should you have any questions or wish to discuss this request, please do not hesitate to contact us.

Sincerely,



Ron Wyden
United States Senator
Chairman, Committee on
Finance



Catherine Cortez Masto
United States Senator