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United States Senate

COMMITTEE ON SMALL BUSINESS
WASHINGTON, DC 20510-6350

May 7, 2001

INDEPENDENT CONTRACTOR DETERMINATION ACT OF 2001: CLARITY AND CERTAINTY FOR AMERICA'S ENTREPRENEURS

Dear Colleague:

At the National Women's Small Business Summit, which I hosted in Kansas City last June, clarification of the status of independent contractors was a top priority named by the participating women business owners. In recognition of this recommendation and the calls for help that I continue to receive from independent entrepreneurs across the nation, I am renewing my efforts to give business owners clear rules for determining who is and who is not an independent contractor.

The Internal Revenue Service (IRS) has long used an extremely complicated and subjective 20-factor test to determine worker status. In too many cases, the IRS determines that a worker must be treated as an employee at the expense of *bona fide* independent-contractor arrangements. The fear and confusion created by this bias often prevent small-business owners from contracting with independent contractors, even though doing so may be the best business decision. In addition, the cost of making an honest mistake can destroy a business through liability for back taxes, interest, and penalties.

The Independent Contractor Determination Act of 2001, which I introduced today, will establish clear rules that a business or a worker can use to determine independent-contractor status. The bill will also include provisions to ease small-business owners' fear of retroactive reclassifications by the IRS. In addition, it will repeal section 1706 of the Tax Reform Act of 1986, which prevents businesses who contract with certain technical-service providers, such as computer programmers, from having the same protections against reclassification as have been available to businesses that engage other independent contractors for more than 20 years.

Entrepreneurs who choose to work as independent contractors and the businesses that engage them have waited too long for clarity and certainty under the tax code. I urge you to join me in supporting this legislation to level the playing field for these important contributors to our economy. If you would like to be a co-sponsor, or if you have any questions, please call me or have your staff contact Mark Warren, Tax Counsel for the Committee on Small Business, at 4-5175.

Sincerely,



Christopher S. Bond
Chairman