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PAYING THEIR FAIR SHARE: HOW TAX HIKES CRUSH THE COMPETITIVENESS OF SMALL BUSINESSES

WEDNESDAY, APRIL 18, 2023

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 2:00 p.m., in Room 2360, Rayburn House Office Building, Hon. Roger Williams [chairman of the Committee] presiding.

Present: Representatives Williams, Luetkemeyer, Alford, Stauber, Meuser, Bean, Van Duyne, Ellzey, Mann, LaLota, Velázquez, Mfume, Landsman, Gluesenkamp Perez, Scholten, Thaddeus, Chu, Davids, and Pappas.

Chairman WILLIAMS. I want to welcome everybody here. And before we get started I want to ask everyone to stand for the Pledge of Allegiance and a quick prayer.

I pledge allegiance to the flag of the United States of America. And to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

Please bow your head.

Heavenly Father, God of all people, thank you for allowing us to be here today to have dialogue, to have debate about how to make this great country better. In your name we pray. Amen.

I now call the Committee on Small Business to order.

Without objection, the Chair is authorized to declare a recess of the Committee at any time.

I now recognize myself for an opening statement.

Good afternoon, and welcome to today’s hearing where we will be examining the tax landscape for small business. First, I want to thank our witnesses for joining us today. Your time here is greatly appreciated.

This hearing could not come at a more important time for Main Street America. Our nation’s small businesses are facing unprecedented levels of inflation, interest rates that are being raised at the fastest pace since the 1980s, a labor shortage that has windows plastered with Help Wanted signs across the country, and now an increasingly uncertain credit environment.

As a small business deal with these economic headwinds, it is imperative that our tax code works for our nation’s job creators, not against them. When businesses can keep more of their hard-earned money, they hire more people and invest more into their operations.
In 2017, Republicans passed the most significant changes to the tax code in decades. This legislation allowed small businesses to save on tax bills and benefitted families of all income brackets. Today, we will hear firsthand accounts of the many success stories from this major update to our nation’s tax code for small businesses in a variety of industries.

As this law ages, some of the provisions are beginning to expire or have their benefits reduced. It is imperative that we begin looking at this law and find the provisions that helped main street the most, such as lowering individual income tax rates that helped 70 percent of all small businesses that are organized as pass through entities. There are many more successful provisions such as the one that I hope we explore in greater depth here today.

This hearing will also highlight the stark tax policy differences between the two major parties here in Washington, D.C. My democratic colleagues repeatedly use the phrase “make them pay their fair share” while talking about the tax code. This simplified talking point dumbs down the intricacies of some of the most consequential policies that come out of Washington and ignores many of the unintended costs of any tax increase that Congress makes. This difference can be seen by anyone willing to dig through President Biden’s proposed budget. According to the Tax Foundation, if all the changes were made there would be trillions in new taxes. GDP would shrink by over 1 percent, and in the long term there would be fewer jobs for all Americans.

One of the most harmful proposals is an additional 5 percent sur-tax on small businesses that the White House claims is closing a tax loophole. This could not be further from the truth and could be devastating for small businesses. And I am going to submit this petition right here, led by the NFIB for the record, with the signatures of over 11,000 small businesses that put together in a short amount of time that calls the administration out for this disastrous policy proposal.

Additionally included in the democratic misnamed Inflation Reduction Act there was an additional $80 billion in new funding to the IRS. With these new funds, the agency is poised to be more aggressively toward auditing America’s small business. And today I hope we can dig deeper into what it means for small businesses when we have an IRS working overtime to target American job creators.

Here on the Committee of Small Business, I promise we will be working to create an environment where businesses can thrive and grow. We are eager to find solutions that will help pave a path towards success for both now and the future and it starts by enacting pro-growth policies.

In addition to the NFIB letter, I would like to submit the following letters and testimony for the record.

A letter from the National Association of Manufacturers that highlights how manufacturers hired more workers, increased wages, and invested in their businesses following TCGA;

A letter signed by 597 small software businesses from the 50 states regarding immediate R&D expensing;

And testimony from the National Taxpayers Union highlighting the TCGA Biden tax increases and the IRS.
I want to thank all of you again for being here with us today, and I am looking forward to today’s conversation.

And with that I will yield to our distinguished Ranking Member from New York, Ms. Velázquez, for her opening remarks.

Ms. VELAZQUEZ. Thank you, Mr. Chairman, for holding this hearing.

Main street businesses form the bedrock of our nation’s economy, driving innovation and job creation, even during periods of economic turmoil and uncertainty. Regrettably, despite the fundamental importance of small firms, recent tax reform has catered to the interests of wealthy individuals and large corporations instead of American entrepreneurs.

Small businesses require certainty and simplicity to compete. However, our convoluted and onerous tax code creates an overwhelming burden for these businesses. Small firms typically do not have tax professionals on staff and must spend substantial funds on outsourcing their tax preparation.

Unfortunately, the 2017 tax law did little to simplify the tax code. Instead, it contributed to greater complexity and diminishing returns for small firms. Even tax provisions aimed at helping small firms, such as the pass-through deduction, ended up disproportionately benefiting the wealthy.

While only 8 percent of those who took advantage of the 199A pass-through deduction last year had income over $500,000, that 8 percent accumulated two-thirds of the $36.5 billion tax benefit. This is particularly striking given the average income of a small business owner is roughly $70,000 per year. The 2017 tax law saddled entrepreneurs with more complexity and uncertainty by making the small business provisions in the bill temporary while making corporate tax cuts permanent.

The fact of the matter is that when it comes to cutting taxes, here small businesses are an afterthought.

Over the past several years, evidence has emerged confirming the warnings that the wealthy benefit disproportionately from this law. Corporate profits have surged to record heights, as has corporate tax avoidance, often at the expense of higher prices for American households.

This abuse has led to a growing concentration of economic power, fostering corporate monopolies that use their extensive market share to crush the competitiveness of small firms.

From offshore tax shelters to local economic development incentives, large corporations leverage these loopholes to undermine small businesses.

That is why I was encouraged to see that IRS and Treasury have pledged not to use additional enforcement funds, passed as part of the Inflation Reduction Act, to increase audit rates of people that make under $400,000 per year. Instead, they will focus their efforts on high-income noncompliance, leveling the playing field for our nation’s small employers.

Additionally, I applaud their commitment to using these funds to help modernize their systems and to help businesses meet their obligations and access eligible tax incentives. This is a crucial step in creating a fair and level competitive landscape for small firms.
Lastly, we should not ignore the budgetary consequences of the 2017 law, which has significantly contributed to soaring fiscal deficits. We now find ourselves only weeks away from a potential default on the national debt, which threatens to plunge small businesses into uncertainty and potentially trigger a devastating economic recession.

If Congress truly wants to help small firms, we must start working with them to simplify the tax code to bring real reforms that make a meaningful impact to their ability to comply and operate. It is my hope that today's hearing will allow us to start a dialogue to start the process of building a better tax framework for our country's small firms.

I thank the witnesses for testifying and providing their valuable perspective.

Thank you, Mr. Chairman. I yield back.
Chairman WILLIAMS. Thank you, Ms. Velázquez.
And now we will introduce our witnesses.

And may I call you Lynn to begin with? Can you tell me how to say your last name?
Ms. MUCENSKI KECK. Mucenski Keck.
Chairman WILLIAMS. Mucenski Keck?
Ms. MUCENSKI KECK. You got it.
Chairman WILLIAMS. Okay. The pleasure this afternoon to introduce our first witness, Ms. Lynn Mucenski Keck. She has over 20 years of tax accounting experience and is currently the National Lead of the Federal Tax Policy at Withum, an advisory accounting firm. At Withum, she focuses on domestic tax planning for businesses, and in her previous job she worked on business implementation practices surrounding major pieces of congressional legislation, including the 2020 CARES Act and the 2017 Tax Cuts and Jobs Act. She has received her bachelor of science degree in accounting from St. John Fisher College and a master’s in taxation from the University of Denver. Lynn is a CPA, licensed in New York, and a Member of the American Institute of Certified Public Accountants. Previously, she was an associate accounting professor at St. John Fisher College. As a contributor for Forbes, Lynn writes extensively on the impact that potential congressional legislation would have on the business community.

I want to say thank you, Lynn, for joining the Committee today, and I am looking forward to today’s important conversation. So thank you very much.

I now want to recognize my colleague, Representative Ellzey to briefly introduce the next witness who is appearing before us today.

Mr. ELLZEY. Thank you, Mr. Chairman.
It is my honor to introduce the Committee's next witness, my good friend, Russell Boening.
Hi, Russell. I am down here on the end, the new guy.
Russell is a fourth-generation farmer and native of Texas. He is a full-time farmer and rancher from Wilson County, and he and his family grow feed grains, cotton, and wheat, have a beef cattle operation, and a dairy operation. That is no small task.
Russell is president of the Texas Farm Bureau, which probably represents 535,000 Texas Members. Having been elected as presi-
dent of Texas Farm Bureau in 2014, Russell was first elected to the Bureau's Board of Directors in 2008 and then as secretary/treasurer in 2011. Previously, Russell was chosen as the Bureau's Outstanding Young Farmer—that was many years ago—and Rancher in 1986. He has held every office in the Wilson County Farm Bureau Board spanning across 30 years, and of course, it goes without saying, but I will say it, he is an Aggie. I did not hear the whoop. All right. After graduating from Texas A&M in 1981, Russell jumped right into his family's farm business, Boening Brothers Dairy. His work centered on business management and marketing for the dairy and beef production side of his family's business. Russell's extensive experience in family farming and lifelong service to the Texas Farm Bureau makes him an expert witness in tax policy and examining its impact it has on everyday small farms in America. Not just in Texas, but everywhere. He understands firsthand the contribution farmers and ranchers make to this country in feeding the world, in fact, and he has dedicated his life to being one of those and to serving others.

Russell, thank you for joining the Committee this afternoon, and I am looking forward to our conversation.

Mr. Chairman and Members, welcome Mr. Russell Boening.

Chairman WILLIAMS. I now recognize my colleague, Representative Meuser, to briefly introduce the next witness who is appearing before us today.

Mr. MEUSER. Well, thank you very much, Mr. Chairman. It is my honor to introduce my friend, Mr. Warren Hudak to the Committee. Mr. Hudak is president of Hudak & Company, small business accounting firm based just outside of my district in Harrisburg, Pennsylvania, where he specializes in tax, accounting, and consulting advice. And he is also involved in a whole lot of leadership on community projects. In addition to being a small business owner himself, over 90 percent of Mr. Hudak's clients are small businesses as well. Mr. Hudak founded his business after serving in the U.S. Navy and gaining over 20 years of accounting and business consulting experience. He is also a Penn State graduate and holds a bachelor of science degree in accounting. As well as being president of his small business and having served in the Navy, Mr. Hudak has also served his local community as stated in various ways. He has held roles as Chairman of the board and president of the Harrisburg Junior Chamber of Commerce, the Penn State Urban Youth Development Committee, as a Member of the Pennsylvania Chamber of Commerce, and various roles within the NFIB and others. With his vast experience, Mr. Hudak understands firsthand and can speak to how small businesses are impacted by higher costs, whether it be through higher taxes or through an increase in regulatory compliance costs. I thank Mr. Hudak and all of our witnesses for joining us here this afternoon.

I yield back, Mr. Chairman.

Chairman WILLIAMS. I now recognize my colleague, Ranking Member Velázquez, to briefly introduce the next witness who is appearing before us today.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Our final witness is Ms. Anne Zimmerman, Founder and Owner of Zimmerman & Co. CPAs, a public accounting firm with offices
in Cleveland and Cincinnati. Since the mid-1980s, she has provided financial and tax services to small businesses and individuals and acts as the offsite CFO for many businesses. Since 2017, Ms. Zimmerman has served as Co-Chair for Small Businesses for America's Future, a nonprofit focused on ensuring that policymakers prioritize main street by advancing a just and equitable economic framework that works for small business owners, their employees, and their community.

Thank you, Ms. Zimmerman. We look forward to hearing your testimony.

Chairman WILLIAMS. And I would like to say for all of us, we appreciate again all of you being here today.

I now recognize Ms. Mucenski Keck, Lynn, for your 5 minute opening remarks.

STATEMENTS OF LYNN MUCENSKI KECK, PRINCIPAL AND NATIONAL LEAD, FEDERAL TAX POLICY, WITHUM; RUSSELL BOENING, PRESIDENT, TEXAS FARM BUREAU; WARREN HUDAK, PRESIDENT, HUDAK AND COMPANY; ANNE ZIMMERMAN, FOUNDER AND OWNER, CO-CHAIR OF SMALL BUSINESS FOR AMERICA'S FUTURE, ZIMMERMAN AND CO. CPAS, INC.

STATEMENT OF LYNN MUCENSKI KECK

Ms. MUCENSKI KECK, Chairman Williams, Ranking Member Velázquez, and other Members of the Committee, thank you for the opportunity to testify today.

My name is Lynn Mucenski Keck, and I help lead the federal tax policy practice for Withum, a top 25 national accounting firm with over 2,200 team members. I have been a tax accountant for over 20 years.

Part of my responsibilities include monitoring and disseminating information to clients regarding current and pending federal tax legislation. I appreciate the opportunity to offer my insights as to how existing and proposed tax policies are impacting privately owned businesses.

Many business owners today are feeling overwhelmed. They are still recovering from the pandemic. They are now facing higher supply costs and growing labor shortage, as well as rising interest rates. Changes included in the Tax Cuts and Jobs Act that did not take effect until the 2022 and 2023 taxable year are making things worse. These changes, including the tightening of the interest expense limitation and the required capitalization of R&E costs have confused my clients. Their business operations are the same, yet their taxable income under these new policies are skyrocketing. Even when a business's debt structure undergoes no significant changes, its owners are surprised to learn that they are not allowed to deduct the full amount of their interest expense. That is because starting with the 2022 tax year, the 30 percent limitation now applies after deducting depreciation and amortization. This change forces businesses to disallow even more interest expense than ever. And with the rising interest rates the impact is even worse.
Meanwhile, businesses making R&E investments are baffled by new rules that allow for only 10 percent of R&E expenses incurred in the 2022 year to be deducted with the remaining costs being spread over 5 years if it is domestic research, or 15 years if it is research performed overseas.

This policy is in direct contradiction to the treatment of R&E expenses in other developed countries. For example, United Kingdom and China allow a 230 percent and 175 percent super deduction, respectively.

As reflected in my written testimony, these changes have drastically increased taxable income of businesses. The example shows the same operations of a pass-through business owner in 2021 versus 2023, reflected an increase in taxable income over 47 percent and increases federal tax due of 70 percent.

The common reaction from business owners facing these tax hikes is frustration accompanied by dread on how they will find the additional funding to pay their tax bills.

To fix this, I strongly encourage Congress to revert to the 2021 Interest Expense Tax Limitation calculation and Congress should also act to restore the immediate expensing of R&E expenditures and allow the U.S. to remain the world leader in innovation and technology.

My clients are confronting these tax increases right now but they are also fearful of proposed tax legislations being considered by Congress. One of the most prominent concerns regards the pass-through deduction. The critical deduction is scheduled to sunset at the end of the 2025 taxable year. Recent proposals would limit the business owners to making less than $400,000 to receive the deduction or just eliminate the deduction all together.

It is important to remember why the pass-through deduction exists. It was enacted as part of the TCJA to provide parity between pass-through entity owners, those who make up the majority of small businesses, and C corporations. With the C corporation tax rate dramatically decreasing from 25 to 21 percent, pass-through owners needed relief to remain a viable option for business owners.

This parity was accomplished through the 20 percent pass-through deduction. The deduction allows some taxpayers of pass-through businesses to decrease their tax rate from 37 percent to 30 percent. Not all pass-through owners receive the 20 percent deduction, and the application of a pass-through deduction is far more complicated than the simple tax rate deduction C corporations receive.

Absent the pass-through deduction, however, the effective tax rate on small business owners will increase as much as 7 percentage points. For small business owners who must immediately pay tax on their earnings even if they receive no cash distributions from the company, a 7 percentage point increase is severe. It is imperative that the pass-through deduction remains. Instead of threatening to eliminate pass-through deductions, Congress should make it permanent just like the C corporation rate.

With all these changes and looming proposals, I fear we are reaching a tipping point where the government is no longer incentivizing small businesses to assist in growing the U.S. economy, but is instead limiting the operations or forcing them to shut down all together.
Restoring R&E expensing, increasing the interest deduction cap, and making permanent pass-through deduction would reverse this trend and help these businesses invest and create jobs in the United States.

I appreciate the Chairman and the Committee for considering the impact of tax legislation on small business and I would be happy to take any questions.

Chairman WILLIAMS. Thank you very much.

And now I recognize Mr. Boening for his 5 minute opening remarks.

STATEMENT OF RUSSELL BOENING

Mr. BOENING. Chairman Williams, Ranking Member Velázquez, and Members of the Committee, as stated in my introduction, we do farm and ranch around southeast of San Antonio, and I really appreciate the opportunity to be here today on this important topic.

Farmers and ranchers across our state and across this country continue navigating challenges that we all face—high input prices, inflation, weather, volatile commodity prices, among other things.

When adjusted for inflation, 2023 net farm income is expected to decrease by $30.5 billion, or 18.2 percent, from 2022. The average age of the American farmer and rancher is 60 years old with more than a third being at retirement age. It is estimated that more than 370 million acres, or 40 percent of all farmland, will trade hands over the next 15 years. The men and women that work hard to provide the food and fiber of this country and want to pass their operations on to the next generation. Any additional tax burden on them would put our national food security at risk, increase consolidation in our industry, and quite frankly, make America more reliant on foreign countries.

President Biden’s budget puts farmers, ranchers, and small businesses squarely in the crosshairs. For instance, the president’s budget calls for the elimination of stepped-up basis and doubling the rate that capital gains are taxed. These changes combined with the proposed revisions to the death tax law would result in $280 billion in tax increases over the next decade.

I am a fourth-generation farmer who has been fortunate enough to hold on to our family property. We have navigated challenges over the years. My family, and those before us, have worked hard to continue operating. Taking away stepped-up basis would devastate my family and many other farmers and ranchers across the country. Stepped-up basis has helped us pass our land from one generation to the next because as we well know, it values the farm at the time of inheritance. If this tool is eliminated, and I pass away, my children would be forced to pay taxes on appreciation from the previous generation.

Taking our state for an example, population pressure has driven up land values very high, yet left farmers and ranchers no more liquid than they historically have been. To put a finer point on the pressure of that land out of production, since 2014, 4 million acres have left ag production in the state of Texas, a reduction of 3 percent. Nationally, in those 8 years, nearly 20 million acres have been taken out of production.
The tax increases in the president’s budget proposal would leave our children with a tax bill that will likely leave them no choice but to sell the property or at least part of it. To make matters worse, this additional tax burden would come on top of paying the death tax. Of course, this assumes there will still be an estate left to tax after paying capital gains on the assets of the estate. That means upon my death, after paying staggering capital gains taxes, the federal government would claim up to 40 percent of the taxable estate from my children. We feel this is a cruel way to generate tax revenue to pay for the president’s budget proposals.

Many people think that the death tax only affects the wealthy. That is ill advised. We all know that farming and ranching is a land-rich, cash-poor business model. A farmer or rancher might be worth several million dollars, but a vast majority is in land and farming equipment, with only a fraction being money in the bank.

Thanks to the 2017 Tax Cuts and Jobs Act, the estate tax exemption was doubled from $11 million per couple to $22 million, which helped prevent most family farms from paying the tax. The president’s budget would cut that exemption rate back to $11 million per couple, saddling American farm and ranch families with a devastating tax burden, often forcing them to sell their property. The lower the exemption level, the more ag land you put at risk of being sold off to the highest bidder.

To put it simply, death should not be a taxable event. Texas Farm Bureau advocates for abolishing the estate tax, or at a minimum, ensuring the current exemption rate set forth by the Tax Cuts and Jobs Act does not expire.

There are other important provisions in the Tax Cuts and Jobs Act. This includes reduced pass-through tax rates, expanded brackets, and the Section 199A 20 percent business income deduction. We feel like those should be extended.

We call on Congress and the administration to work together across the aisle to make these provisions permanent and combat these tax increases. Family farms and ranches are the building block for a secure America. We must fight for a tax code that provides for their future, not one that puts them in jeopardy.

Thank you again for the opportunity to be here.

Chairman WILLIAMS. Thank you very much.

And now I recognize Mr. Hudak for his 5 minute opening remarks.

STATEMENT OF WARREN HUDAK

Mr. HUDAK. Good afternoon, Members of the House Small Business Committee. Thank you for inviting me to testify on Tax Day as an accountant.

My name is Warren Hudak. I am president of Hudak and Company, an accounting and payroll firm in Camp Hill, Pennsylvania. We have 11 employees and 90 percent of our customers are small business owners. We provide full resources small businesses would expect from a large accounting firm, while maintaining a personal touch.

Our job is to work with small business clients to translate the complicated Federal tax code and frequently changing tax provisions. This challenge comes on top of other economic problems that
small businesses are facing, which include high inflation and pervasive workforce shortages, the inability to get competent labor. We also face these challenges as our labor costs are up 40 percent, our software costs have tripled since the pandemic began.

Small businesses face an uncertain future that makes business planning extremely difficult. Beginning this year, certain business provisions of the Tax Cuts and Jobs Act of 2017 expire or wind down. In fewer than 3 years, the vast majority of the provisions that benefit individuals and small businesses will also expire. If Congress fails to act, there will be a detrimental tax increase on millions of small businesses.

Further, proposals to increase taxes on businesses cloud optimism and also complicate business planning. Finally, small business paperwork burden is increasing while the IRS disproportionately expands enforcement efforts over customer improvements.

Small businesses received significant tax savings upon enactment of the 2017 tax law. For the more than three-quarters of our businesses organized as pass-throughs, the 20 percent business deduction, also known as Section 199A, combined with the lower individual tax rates and broader income tax brackets, provided tax relief that was invested in businesses and employees. All these provisions expire at the end of 2025.

In 2017, the tax law also contained provisions that encouraged business investment by allowing for immediate deduction of equipment and R&D costs. Two of these provisions expire and wind down this year. R&D expensing is a big deal when cashflow is tight, which is currently happening due to inflation and rising interest rates.

The sooner that these beneficial deductions or rates are extended, the better small businesses will be able to plan. Further clouding business planning are the proposed tax increases. President Biden’s budget request would increase taxes on small businesses organized as corporations and pass-throughs. While small businesses may not be impacted by those proposed tax changes every year, they will impact when they have profitable years or when they sell their business to fund their retirement or when they pass along their business to the next generation.

The budget request describes certain tax increases misleading, like closing loopholes. One example of this mischaracterization is a proposal to expand the 3.8 percent “Net Investment Income Tax” (NIIT) to active business and increase the tax rate to 5 percent. It would deliberate policy choice to exempt active business income from the tax. As former President Obama’s economic advisor Jason Furman described, it was not applied to active business income, “because it could be demonized as a tax on small businesses and doctors.” Nothing has changed.

A deliberate policy choice is not a loophole. The proposed expansion of the tax would more than double the revenue collected, further demonstrating that the tax increase proposal is not closing a loophole. If it is enacted, this substantial tax increase would reduce the ability of pass-through businesses to invest in their businesses and employees and leave them further disadvantaged relative to larger corporations.
The Inflation Reduction Act provided nearly $80 billion in new funding for the IRS, primarily focused on enforcement. Unfortunately, only 4 percent of that funding was designated for customer service, which is in need of significant improvement.

Small business owners are concerned about increased enforcement efforts. The continued backlog of tax returns, the combination of increased paperwork and data privacy, there have been many improvements in reducing the IRS’s historic processing backlog but it remains considerable. Paperwork burdens are expanding as Form 100K and beneficial ownership reporting begin next year. Outreach and education efforts on these new requirements are lacking. Nobody knows about these.

I also remain concerned about the ability of the IRS to protect personal information, and I worry about prepopulating returns could exacerbate privacy risks. I encourage continued oversight of this IRS expansion and the potential impacts of small business.

Congress can help mitigate economic challenges by expanding beneficial small tax proposals, reducing red tape, rejecting tax increases on small businesses. Certainly will help businesses plan and increase small business optimism.

Thank you for the opportunity to be here today.

Chairman WILLIAMS. Thank you.

And now I recognize Ms. Zimmerman for her 5 minute opening remarks.

STATEMENT OF ANNE ZIMMERMAN

Ms. ZIMMERMAN. Good afternoon, Chairman Williams, Ranking Member Velázquez, and Members of the Committee. Thank you for the opportunity to speak to you today.

My name is Anne Zimmerman, and I am a CPA and president and founder of Zimmerman and Co. CPAs, with offices in Cincinnati and Cleveland, Ohio. I am also the Co-Chair of Small Business for America’s Future, a national coalition of small business owners and leaders working to give the small business community a voice at every level of the government.

As a small business owner myself, I take great pleasure in supporting other small businesses. Every Friday, my grandson AJ and I have a special tradition of treating ourselves to creamy whips on our way home from school. For those of you not from Ohio, creamy whips are soft serve ice cream.

We will not be able to enjoy that fun ritual this week because that small business we have grown fond of closed on Sunday.

While unfortunate, this is not uncommon. This experience highlights the vulnerability of small businesses during their early years. With a record 10.2 million new small businesses since 2021, establishing a fair tax code is crucial for their success and for the country to capitalize on the potential economic activity that this boom in entrepreneurship could deliver.

The Tax Cuts and Jobs Act (TCJA) has primarily benefitted large corporations, offering them a permanent 40 percent cut in their rate, while small businesses received a temporary 20 percent deduction instead. Extending the current small business deduction beyond 2025 would permanently enshrine these tax inequities, maintaining an unfair advantage for large corporations.
A public opinion poll conducted for Small Business for America’s Future by Morning Consult in 2019 found that changes in the tax code from the TCJA did not significantly help small businesses grow or invest. Almost half of small businesses said the new tax law had no impact on their growth or profitability, while 24 percent said it had a negative impact. Only 19 percent of owners said the law had a positive impact on their business.

I have a few ideas about how the tax code can foster small business success.

First, create a tax credit for hiring the first employee which would surely foster job growth.

Second, make the first $25,000 in business profits tax free to strengthen truly small businesses.

Next, let’s rebalance the TCJA cuts, reversing a small portion of big businesses’ 40 percent cuts to pay for improved permanent cuts for small business.

Next, let’s simplify tax compliance and improve IRS customer service, including bringing back support for tax code technical help for small business owners.

Implement a minimum tax on corporate book income which would not impact most small businesses but would certainly level the playing field.

Moreover, it is crucial to avoid destabilizing political fights, such as using the debt ceiling as leverage. Such tactics disproportionately affect small businesses and impede their ability to thrive, create jobs, and drive innovation.

In conclusion, I urge Congress to create a more equitable tax system that genuinely supports small businesses and fosters a stable economic environment, rather than merely extending the TCJA. Ensuring the well-being of small businesses is essential to this endeavor, and essential to making sure creamy whip stores, like the one AJ and I loved, can keep serving up smiles in communities across the country.

Thank you so much for your time and consideration.

Chairman WILLIAMS. Thank you.

We will now move to the Member questions, and I recognize myself for 5 minutes.

I want to talk about the death tax because it is something that directly affected me when my father passed away in 1990. He left me with a bunch of assets but no cash. Shortly after his passing, the IRS was reaching out to collect the estate tax which was 55 percent at the time. The tax bill was so high I considered selling our successful family business in order to cover the expense. Instead, I hired an accountant to see what my options were and we made an agreement with the IRS to cover the tax liability over time. And after over a decade, right before the start of 2001, I made the last tax payment from his passing. Imagine what we could have done if we were able to invest that money back into our business for 10 years. We could have hired more people. We could have updated facilities. We could have donated more to schools and churches, but instead it went to the federal government for a deficit.

So my story is not unique. This tax affects so many Americans across the country. We have heard that already today. And success
should be rewarded so people can build wealth for their families to pass along to future generations rather than be hit with this duplicative tax bill that sends a significant portion back to the federal government.

So Mr. Boening, my question, can you discuss the implications that the death has for the many farmers and ranchers who are Members of the Texas Farm Bureau?

Mr. BOENING. Thank you, Chairman Williams, for that question.

Yes, I think I can. While the testimony was going on and the death taxes was one that was mentioned several times, you know, I mentioned the way things have grown in Texas and we have seen it, you have seen it in your area, and there are farms and ranches that are operating in areas that are of high growth. And it does not take long for—and I am just using examples that I am familiar with—it does not take long for land to get to $10,000 an acre, $12,000, $15,000 an acre. We are talking about ag land and farmers and ranchers that are farming it. So, you know, it is pretty easy math. A 2,000 acre farm all of a sudden is worth $20 million. And that sounds like a lot of money, and it is a lot of money if you want to sell it, but farmers and ranchers do not necessarily want to sell it.

Chairman WILLIAMS. A lot of people do not understand if you have an asset it is frozen. It is not liquid. That is the problem.

Mr. BOENING. And so the death tax is just, you know, and the way I look at it as well, those are assets that you have already paid tax on. So, it would be devastating to farmers and ranchers.

Chairman WILLIAMS. Thank you. Thank you.

One component of the Tax Cuts and Jobs Act that I want to highlight was the full and immediate expensing provision. For those that do not know, this allowed businesses to write off the full cost of equipment at the time it is purchased rather than throughout the life cycle of the asset. This helps the small business owner in a variety of ways. It helps suppliers because it makes businesses more likely to invest in heavy equipment which in turn helps provide customers the best products and services from the best equipment. It also helps workers do their jobs effectively and efficiently.

So briefly, Ms. Mucenski Keck, can you talk about what the private sector’s reaction has been to this provision? And can you discuss what you expect to happen if this provision continues to decrease every year until it eventually is down to zero?

Ms. MUCENSKI KECK. Thank you for the question.

I think it is a very important part of how small businesses learn to operate. And the fact that oftentimes they may not be able to afford that piece of equipment for their property or for their business, but because of the 100 percent expensing they can indeed use that offset for cash purposes to help them get to the cash needed to purchase the actual equipment, which as pointed out would help them operate their business more successfully and employ more people.

With the increasing reduction of the bonus depreciation of how we refer to it in the tax world, you are going to essentially cause a lot more businesses to second guess buying additional equipment and expanding their businesses because they just do not have the
cash payment to go out and buy the piece of machinery that they need.

Chairman WILLIAMS. Thank you for that.

Quickly, one of the most well-known components of the tax bill was the cutting of individual income tax rates. We have talked about that already today. This helps small businesses that were organized as pass-through entities and allowed customers to keep more of their hard-earned money. Consumer spending drives growth and this provision delivered.

So quickly, Mr. Hudak, can you discuss how your business benefitted from the tax cuts and what you saw some of your customers do with their increase in savings? You have got about 34 seconds.

Mr. HUDAK. All of our customers and us invest in property and equipment. It was a game changer for us. The lower rates enabled us the cashflow necessary to grow and increase our business.

I would like to make one comment on your previous question. We had a shop provider say I can afford the $400,000 piece of equipment but I cannot afford the $80,000 tax bill.

Chairman WILLIAMS. Thank you very much.

And with that now I recognize the Ranking Member for 5 minutes of questions.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman.

Ms. Mucenski Keck, thank you for your testimony and pointing out the upcoming tax hikes built into the 2017 tax law. Just to clarify, I was wondering which political party drafted the tax codes and Jobs Act? When Republicans wrote this act, they did it without hearings and they built in a lot of these tax hikes that you are discussing today, like the expiration of the individual rate cuts, the deduction for pass-through entities, and the phase out of bonus depreciation and 179 expensing.

Can you tell me, Ms. Mucenski Keck, why they have to build in these cliffs and sunsets?

Ms. MUCENSKI KECK. Sure. I believe that both parties have used the Budget Reconciliation Act to pass tax law, and unfortunately, it is the people like us on the other side of the aisle that are faced to deal with the expiring provisions. So within the budget reconciliation, we know that they cannot pass the law with the majority needed within Congress so they have to go through a budget reconciliation process. That process requires that no additional deficit be added after a 10-year period, and so we have these sunset provisions. And we have seen both parties, both Democrat and Republican parties use the budget reconciliation process to pass tax law.

Ms. VELÁZQUEZ. The fact of the matter is that people are talking about how these provisions that are going to expire are impacting small businesses where those provisions were included in the bill by the Republicans. They were the ones who passed this bill.

To pass this law on a party line vote they have to build tax hikes, which primarily impact small businesses while the provisions that benefitted the big corporations and the wealthiest, they were made permanent. That was a choice that was made by the Republicans. As a result, the original tax law gave massive tax cuts to the largest corporations.
Can you tell me how this impacts the ability of small businesses to compete?

Ms. MUCENSKI KECK. I think, I just want to make sure I am understanding the question. I think the Tax Cuts and Jobs Act was a good bill for small business. I think 199A, I think the reduction in the tax cuts I think was absolutely well received and still wanted for business. I cannot comment on how legislation can be bipartisan to make those complete I think is the question.

Ms. VELAZQUEZ. Well, the issue here is that a choice was made to make provisions that benefited the large corporations and the wealthiest permanent while they sunsetted provisions impacting small businesses. The benefits for small businesses are coming to an end in 2025.

Ms. MUCENSKI KECK. But I do think there are provisions in there that do affect large businesses, so the interest expense limitation is a huge limitation that is also going to impact large C corporations, and we also had a fair amount of international tax legislation that was changed, as you know. That is also impacting large C corporations.

Ms. VELAZQUEZ. Small businesses that by the way, when it comes to doing business overseas, when it comes to trade, they only have one client. So those types of changes did not impact the 70,000 small businesses in our communities.

Ms. Zimmerman, small businesses need certainty to compete in the marketplace. While corporate rates were made permanent by the 2017 law, the individual rates and pass-through cuts expire in 2025. Does this uncertainty affect the behavior of small businesses?

Ms. ZIMMERMAN. Thank you for the question. Absolutely. The uncertainty of not knowing what things will look like causes problems when you are hiring, planning, innovating. The uncertainty, when you talk about uncertainty, also you have to look at the issue now with the debt ceiling. There is nothing that is causing us, me, more uncertainty with my business than wondering whether we are going to default on our debt. And we need to resolve that as soon as possible just to let the economic climate settle down.

Ms. VELAZQUEZ. How does underfunding the IRS hurt small firms?

Ms. ZIMMERMAN. Well, small business owners try to be compliant. And they need that support. It is a disproportionate amount of audits and all for the small taxpayer because it is too expensive and not enough personnel and training for the large taxpayers. The funding for the IRS will increase customer service and educate small business. Even maybe set up a small business hotline.

Ms. VELAZQUEZ. My time has expired. Thank you so much.

Ms. ZIMMERMAN. Thank you.

Chairman WILLIAMS. Thank you, Ms. Velázquez.

And now I recognize Congressman Luetkemeyer from the Great State of Missouri for 5 minutes.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

Ms. Mucenski Keck, you know, you are an accountant and you followed a lot of folks, I am sure, when the Tax Cuts and Jobs Act was passed. What did the people do with those dollars? Did they take them and go to the bar and blow them? Did they go on vaca-
tion? Did they go buy some fancy clothes? What did they do with those dollars, the small businesses?

Ms. MUCENSKI KECK. So the first thing I would say is a 10-year window, believe it or not, is significant for taxes. So knowing that small businesses—not we, but small businesses would have the availability to have that for a 10-year period was significant. And there was planning. There was planning in how they were going to potentially transition to family Members because often times they are family-owned businesses. There was planning though more importantly of how to expand, how to build, how to reinvest. And those dollars allowed them to do that. And I think that that is the parity we are talking about when we talk about the difference between pass-through small businesses and C corporations.

Mr. LUETKEMEYER. Mr. Hudak, how about your customers, your clients? What did they do with those dollars that they got to save that they did not remember the tax dollars are actually their dollars. It is not the government’s dollars. It is their dollars they got to keep. The small businesses got to keep them. The individuals got to keep them. What did your clients do with those dollars?

Mr. HUDAK. No small business owner wakes up in the morning wanting to be a tiny guy; right? They all have dreams, big dreams, and they want to get to the next rung on the ladder. And that is what they used the money for, dream bigger than ever before.

Mr. LUETKEMEYER. Did they use it to hire more people, expand their business, go out and buy another piece of property?

Mr. HUDAK. Absolutely. Plant, property and equipment.

Mr. LUETKEMEYER. Buy new equipment, whatever?

Mr. HUDAK. Absolutely. Plant, property, and equipment, 100 percent.

Mr. LUETKEMEYER. They reinvested it. They did not go blow it on stuff?

Mr. HUDAK. Not a single one.

Mr. LUETKEMEYER. Thank you.

Mr. Boening, when you got your tax cut, what did you do with your dollars? I will guarantee you as a farmer you did not go out and buy you a brand new pickup truck and put a whole bunch of stuff on the outside of it.

Mr. BOENING. Well, to be honest, we might have bought a new tractor.

Mr. LUETKEMEYER. New tractor, yes.

Mr. BOENING. If you needed a new tractor.

Mr. LUETKEMEYER. That is a piece of equipment you need.

Mr. BOENING. But the second thing, it has been alluded to, you know, we invested in equipment. You know, and if you can possibly add some land or something, if you can hire another person or two, labor is always a tough situation so that is not always possible. But yeah, we invested back in the business.

Mr. LUETKEMEYER. So the point being that these tax dollars that were left in the people’s pockets, they were left in the small business pockets, were reinvested. And allowed our economy to grow at a record pace. If everybody can recall, just 2 or 3 years ago, the government has record revenues coming in, and still today has record revenues coming in I would argue as a result of the Tax
Cuts and Jobs Act. We had record across the board wage growth for every single demographic in this country. Across the board everybody got a nice wage bump. A real growth as a result of minimum inflation and increased actual real growth in your wages.

It is nice to see that we had some folks that actually used those dollars wisely. The American people, I think you can trust them with their own money. Remember, it is their money by the way.

Ms. Mucenski Keck, you had a comment a while ago with regards to an R&D deduction. I would like to go a little bit farther on that if you would not mind talking about that just a little bit more because that is really important. Small businesses are where a lot of innovation is, and the Chairman has worked hard on this issue to make sure the dollars are there for the SBA to help support small businesses get started. Can you help us with that? Explain how important it is to small business with this R&D deduction.

Ms. MUCENSKI KECK. So for those who might be unfamiliar, the R&E originally, if you invested in research technology or expenditures you were immediately take them as a deduction when calculating taxable income. Under the new law, or the revised law, if you are conducting that research in the U.S., it has to be spread over 5 years. If you are conducting that research in foreign lands, over 15. Personally, we have had companies say they think they are going to have to go out of business because they cannot afford their tax bill. It is immensely difficult and challenging. I cannot tell you on average how many calls I take a day where this has become an issue where they are frustrated, cannot believe that it is happening, that we would put ourselves, the United States, behind other economically developed countries in placing R&E solo. But also, and the fact that they are not positive they are going to have enough taxes to pay their tax bill and they might literally have to shut down the doors.

Mr. LUETKEMEYER. Okay. Thank you.
I just have a couple seconds left. Let me just make a final comment here.

What you are saying is that when you raise taxes, to the extent that the individual or small business cannot even pay it, it will force them out of business. And then what happens? You have consolidation. It makes the big guys bigger and all the little guys go home. And this is exactly what we do not want to have in this country.

With that, Mr. Chairman, I yield back.

Chairman WILLIAMS. Thank you.
I now recognize Ms. Gluesenkamp Perez for 5 minutes, from Washington. From Washington State.

Ms. GLUESENKAMP PÉREZ. Thank you, Mr. Chairman.

Ms. Zimmerman, I am very pro corporation. I have owned two of them, an auto repair and a machine shop. And like many small business owners with eight employees, I worked hard every year to figure out how much taxes I paid and how to do it the right way. I think we can all agree that our tax policies should be based in fairness. Small businesses and working people have something to contribute. They work hard to pay their fair share. Corporations and the wealthy should also pay their fair share. But what we see
is a system that rewards certain kinds of work over other kinds of work. Small business owners are out here busting our knuckles making things, getting things from A to B, and making payroll. Yet, the wealthy earn their income in ways that are taxed differently and often more favorably than the backbreaking work done by small businesses. This is unfair and it is demoralizing frankly to small business owners who are playing by the rules and doing everything right.

What reforms should Congress consider to level the playing field for small businesses and ensure the wealthy pay their fair share?

Ms. ZIMMERMAN. In my oral testimony I did suggest a few and I can tell you part of this is because of the different size of small business. The SBA recognizes a small business as less than 500 employees. We represent and work with small businesses who have, like you have, eight. I have 10. Maybe up to 50. A few of them are 100 if they are manufacturing. And they are not getting rich off these tax codes. They are not, we are not able to save enough to even reinvest. Why did I, a small business owner, get half the tax cut of the large corporations in 2017? And if you just renew that as is, you are just making prominent that inequity. It makes absolutely no sense to me why I got half. So that is why things like a credit for the first employee hired or the first $25,000 tax free. A minimum tax on book income. Make it low but make it fair so small business can survive. True small business.

Ms. GLUESENKAMP PEREZ. Are there any other key provisions you think should be prioritized in tax reform to better support small businesses and help them grow? Particularly the many millions of new businesses that started during the pandemic?

Ms. ZIMMERMAN. Well, when you look at the 10 million that have started since the beginning of the pandemic, they did not start with 500 employees relying on R&D credits to survive. They are mom and pop shops starting up and that sort of thing. I think funding the IRS. It is so unfunded. Their technology is behind the private sector continually. Not to date myself, but we used to be able to call the IRS and talk about tax law and discuss how we are handling something. You cannot do that anymore. All you can do is say did I pay my tax? Did my client pay my tax? What about a small business hotline? Small business owners want to be compliant. Help them.

Ms. GLUESENKAMP PEREZ. Thank you so much.

Mr. Chairman, I yield back.

Chairman WILLIAMS. I now recognize Mr. Meuser from the Great State of Pennsylvania for 5 minutes.

Mr. MEUSER. Well, I thank you very much, Mr. Chairman. Again, thank you to our witnesses. Very important hearing we are having here today.

I spent a fair amount of time, over 20 years, helping grow a small business into a larger business, and all of my customers were businesses, much like my friend Warren, just dealing with and working with small businesses for most of my adult life.

Small businesses, and all of you deal with a lot; right? Not just taxes. I mean, you deal with workforce shortages. You deal with the creditworthiness of your customers. You deal with training and skill development, hiring, insurance, cost of goods, purchasing,
payables, inventory needs, cash flow, dealing with the banks, access to capital, new higher interest rates. The list goes on. Today, we are here talking the effect of small businesses. And it seems that the TCGA, the Tax Cuts and Jobs Act is coming up quite a bit.

So I work with a lot of chambers all the time and certainly being on this Committee and within my district. And I have not had one small business tell me that, boy, that Tax Cuts and Jobs Act was somehow burdening me in some way. You know, lowering my taxes. So I want to get into this, and also, I have not had anyone tell me that the IRS increase was adding, doubling the size of the IRS was something in their interest. I am also the former revenue secretary for the Commonwealth of Pennsylvania and that was not the answer to increase, not at all to increase revenues. The answer is driving tax compliance, and definitely processing and systems which we did. Not 87,000 new IRS agents.

Mr. Hudak, do you think all these new IRS agents is going to be something that is somehow help your business?

Mr. HUDAK. Well, to be clear, just a few years ago I testified in this very Committee on increasing funding for the IRS. They destroyed 13 million information tax returns. When the inspector general said where did they go? They said we were shorthanded. We knew we would never get to them. When my client put in an installment agreement directly with the IRS and they put it together improperly, poor training. There are a lot of great people at the IRS. Congress has asked them to do too much. The tax code is for collecting taxes. The more we dilute their ability to do that function the more problems we are going to have. It is compliance. We need simplicity of certainty. Not more rules. Not more laws. And to be clear, I testified on the House Ways and Means Committee right after the 2008 crisis and we were trying to repatriate trillions of dollars. That did not happen until we reduced corporate rates.

Mr. MEUSER. Exactly.

Mr. HUDAK. And it deployed trillions of dollars into our economy with the efficiency of the private sector. We need more of that kind of policy.

Mr. MEUSER. Well said. And also more management. Fifty-two percent of the IRS agents have yet to show up for work. They continue to work remotely, which certainly does not help all the backlogs that exist.

And also, just onto the C corps that we are referring to here, how they got a better share of the taxes, you obviously, small businesses very often sell to larger corporations and the fact that they have been repatriated and they are domesticated more so than before, a 21 percent rate only allowed us to be competitive on a worldwide scale where Ireland, where the president just got back from and touted how wonderful their economy is doing, has a 12 percent corporate tax rate.

But anyway, because there is reality and then there is the fictional side of things. So let's just get back to what is important to you all. That is what we are here for. We have depreciation that is currently being sunsettled and being phased out. We have the small business tax cut. We have the R&D tax credit that has now
been phased out for this year. That has been extended, by the way, for 2023 is my understanding. What portion of taxes do you need us to pass in a bipartisan way, because that is the only way you get things done. Okay, so the Tax Cuts and Jobs Act does not increase taxes it has been alluded to, so we must keep those small business taxes. Which ones, Ms. Keck, would you like us to see?

Ms. MUCENSKI KECK. I would like to see the pass-through deduction for small business owners be kept. It is imperative for them to receive that 7 percentage points as it exists now. It would be even greater if the individual income tax rate goes up to 39.6. It is imperative for them to utilize that savings to keep their businesses afloat.

Mr. MEUSER. Thank you. And certainly within your testimony as we saw—my time has expired and I yield back, Mr. Chairman.

Chairman WILLIAMS. Thank you.

I now recognize Ms. Chu, from the Great State of California, for 5 minutes.

Ms. CHU. Well, I know how the Tax Cuts and Jobs Act came about because in addition to serving on the Small Business Committee, I am also a Member of the Ways and Means Committee, which is responsible for writing our nation’s tax laws. And I was there in 2017 when Republicans pushed through their rushed partisan Tax Cuts and Jobs Act with no hearings, just a markup, and the text revealed only at the last minute. And it was when we saw that text that we saw firsthand that their goal was to lower taxes for the wealthiest individuals and the largest corporations. And that is why TCGA made the corporate tax cut permanent while provisions for small businesses and individuals were only temporary.

And even the Republicans said that some provisions were targeted at main street and small businesses because of the burdensome requirements this 20 percent qualified business income deduction for pass-throughs benefitted mainly the top 1 percent of the businesses. In fact, the Joint Committee on Taxation estimates that in 2024, 61 percent of the benefits will go towards the top 1 percent which is about like those businesses with incomes above $500,000. And businesses in the bottom two-thirds of income will only get 4 percent of the benefit. That is because TCGA made it harder for small businesses to navigate the tax code and take advantage of these deductions.

So it is time for us to move past TCGA and create a fairer tax code that works for small businesses, workers, and families, instead of the wealthy and large corporations.

And Ms. Zimmerman, I truly appreciate you talking about some provisions that could actually help small businesses. And I especially thank you for mentioning the Progress Act because I am actually the sponsor of it and I will introduce it, reintroduce it in the coming months. It would support the smallest businesses, those without any employees by both helping them expand and incentivize third-party investment. Specifically, it would create a refundable payroll tax credit for nonemployer firms that hire their first full-time employee. Nonemployer firms are more likely to be owned by women and female entrepreneurs on average start out with roughly half the capital as male entrepreneurs.
So Ms. Zimmerman, can you talk about how using the tax code could help nonemployer firms hire their first employee and how that could improve the outcome for workers in small businesses?

Ms. ZIMMERMAN. Certainly. It is a big leap of faith to hire your first employee and to move forward. I remember when I first moved out of the house and added a person. It is scary. Getting a credit for that makes it possible to perhaps do it a little sooner.

And the TCJA, we were added as an afterthought for the 20 percent deduction. And they did not even consider that the smallest C corporations got a tax rate increase when that law was passed.

We have one client that I can tell you about that earns about $45,000. They are a C corp. That is their profit. The owner makes about $85,000. The TCJA increased their federal tax bill $2,700 because it eliminated the graduated rates. They used to be at a 15 percent rate. Now they are at a 21 percent rate. So the flat tax, all the money went to the upper side and the wealthy. And small businesses were left out.

The credit for hiring your first employee, the standard deduction for a business, the IRS education to help small businesses be compliant without having to hire accountants and lawyers is what is going to take it to the next level so that small businesses can thrive and innovate for this country. And we brought us out of the last recession. We, small businesses. We created 75 percent of the new jobs. And the Wall Street Journal just recently said that small business is actually responsible for 100 percent of the new employment in this country since the pandemic. We cannot be an afterthought next time. We need to do the work and change the law before you reenact.

Ms. CHU. Thank you for those eloquent words.

And I yield back.

Chairman WILLIAMS. Thank you.

I now recognize Mr. Hunt from the Great State of Texas for 5 minutes.

Mr. HUNT. Thank you, Mr. Chairman. And I want to thank the witnesses for being here. Thank you so much for your time.

It is my opinion that the federal government needs to get out of your way as much as possible to allow you to do your jobs, to allow you to provide for America, to allow you to provide for the world. And at this point we are living in a world to where we are trying to punish our hardworking Americans every single day with more onerous government taxes. It is my opinion that the federal government should be taxing you as little as possible because we are, We the People, this is our money and we are investing it back into the government and we should allow you to keep it so you can invest back into your businesses.

That is just an overall principle that I believe in, and I feel like it differs from many of my friends on the left. Also, if you are a rancher and a farmer in this country, God bless you. Thank you. Thank you for providing for this country. I cannot thank you enough.

And so my first question is actually for my fellow Texan, Mr. Boening. If Congress fails to act and lets the provision of the 2017 Tax Cuts and Jobs Act expire, what will be at stake for Texas farmers and ranchers, sir?
Mr. BOENING. Thank you for that question, Congressman Hunt.
I guess quite simply, more and more of them will be at risk of
going out of business. Their tax bill will go up and if you cannot
pay your taxes, and it was pointed out earlier by other folks here
on the panel, I mean, you choose from paying the tax bill or going
out of business. And those things that we have talked about today,
the stepped up basis and where your capital rate is taxed and the
death tax, they are hugely important in agriculture. They will
make the difference between that operation continuing or not con-
tinuing quite frankly.

Mr. HUNT. And so, you talk about this death tax, and I often-
times hear, you know, last year I heard a company or an industry,
they had record profits. The first thing I think to myself is, hot
damn, that is really good. Yeah, that is called capitalism. And of-
tentimes these record profits make up for losses in previous years.
And so I think that is kind of what you are getting at if I am not
mistaken; right, sir?

Mr. BOENING. Yes, sir. Yes, sir.

Mr. HUNT. Could you also please kind of talk about what audits
do. Audits from the IRS, do they help spur economic growth? And
do they allow small businesses to flourish?

Mr. BOENING. You know, I guess we all will agree that audits
are necessary at times.

Mr. HUNT. Of course.

Mr. BOENING. And we are not going to, but no, they take away
resources and time that the owners of the business would be spend-
ing on their business. You know, both time resources and money
resources. So no, they do not spur economic growth. You know,
there is no way that that would work. But again, they are not
something that we look forward to. We know they are a necessary
evil. But no, they do not spur economic growth.

Mr. HUNT. Again, I just want to thank you all for being here.
Greatly appreciate it. Those are my only questions but I am blessed
to have you all around here. I am blessed to have you in my pres-
ence. I want to work, and we want to continue to work as much
as we can for you. It is not the other way around. We work for you;
not the other way around. It is my goal and our goal, at least on
this side, to make sure that we allow you to keep as much in your
own pockets so you can reinvest in your own lives, in your own
families, in your own companies moving forward for the future.

And with that, Mr. Chairman, I yield back. Thank you very
much.

Chairman WILLIAMS. Thank you.

I now recognize Mr. Pappas from the Great State of New Hamp-
shire, for 5 minutes.

Mr. PAPPAS. Thank you very much, Mr. Chairman. I appreciate
the conversation here today.

And Ms. Mucenski Keck, I wanted to start with you with a ques-
tion. I appreciate the way that you highlighted the change in the
Tax Cuts and Jobs Act as it pertains to research and experimenta-
tion expenses. I have heard directly from businesses in my home
state of New Hampshire on this including one in Hanover. It is a
small business that has seen their tax liability more than double in
this tax year. And obviously, there are implications to that sort of
a change on their operations and their ability to innovate over time.

Just to underscore, this is a change in tax law that contradicts 70 years of prior law where all R&E expenditures were immediately expensed in the year accrued. And so discouraging the risk-taking needed for innovation will certainly have negative impacts on entrepreneurial startups and small technology businesses.

Clearly, the time to address this was before today, which is Tax Day. That is why you have certainly been hearing about it as businesses have been filing their taxes this year. But I know that legislation will soon be introduced in the house, a bipartisan bill that I will cosponsor because I am hopeful that we will be able to address this in this tax year and potentially even make it retroactive to help provide some predictability to this issue moving forward.

Could you just, you have already addressed it, businesses that might be forced to close their doors over this. But talk about the environment around innovation and technology in the United States and how crucial this particular provision is.

Ms. MUCENSKI KECK. Thank you. I appreciate the question.

It is absolutely vital that we continue with the research and experimental expenditures. I do not think everyone actually realizes how expansive they are across industry groups. We are not just talking about pharmaceutical companies or tech companies. We are talking about engineering companies. We are talking about agriculture, plant growers. It is really something that if we want to keep in the United States at the top of our game for lack of better terminology, we need to give them at least the tax deduction while a variety of other economically developed companies are giving them much, much more. And so if we want to attract and maintain our research in the United States, it is going imperative that that deduction goes back to 100 percent.

Mr. PAPPAS. Well, thank you for those comments, and I certainly hope that Congress will focus on this issue and find a fix to it this year.

Ms. Zimmerman, maybe I could turn to you. I am the co-owner of a fourth generation family business in New Hampshire. We have been open 106 years. It is certainly a challenging environment to operate a small business. We have lived through a global pandemic. We are seeing supply chain disruptions, workforce challenges. And obviously, as we move forward, we need to ensure that the tax code is fair, that it encourages small business growth and sustainability.

One provision that I have worked to address is eliminating the federal excise tax that is levied on heavy duty trucks and trailers. It is something that I have heard from small businesses in my district. It stifles their ability to be able to procure new equipment and cleaner and safer trucks out on the roadways.

But I am just wondering more generally if you could talk about the tax environment for our small main street businesses and where we should be looking this Congress to help make things a little bit easier.

Ms. ZIMMERMAN. Thank you. Yes.

Where I would be looking is to give us certainty. That matters. To level the playing field rather than just renewing what is already
24 out there. Again, small business proportionately should have the same advantages that large businesses do. And as a CPA, I think the IRS funding, we need better customer service. We need modernization. And audits, while a necessary part of life, they spur compliance. There is no question. The lower the rates go, the more we believe that we are losing into the coffers, which means we need higher rates for those of us that are honest. And I believe most small business owners are honest and try to be compliant and are not necessarily afraid of that. I do not see a huge increasing worrying them.

Mr. PAPPAS. Well, thanks for those comments. I think every congressional office increasingly hears from constituents, including small business owners that are struggling with issues around the IRS. They have been asked through the pandemic period not just to do more with less but to do it at an extraordinary time in our history. And certainly, we have got to make sure that customer service improves, that people get their returns processed, and get their refunds and tax credits when they need them. That is really important for the small business world. So thanks for those comments and I yield back my time, Mr. Chair.

Chairman WILLIAMS. I recognize now Mr. Alford from the Great State of Missouri for 5 minutes.

Mr. ALFORD. Thank you, Mr. Chairman, and thank you Ranking Member Velázquez for holding this important hearing today.

Good to see you all, especially from Texas. I am a native Texan, so glad to have you. I have not seen this many Stetsons in one room since Leddy’s down in the Fort Worth Stockyard. So good to see you all today.

I firmly believe that America experienced its greatest economy in my lifetime under President Trump. And it was no coincidence, really. It was thanks to the Tax Cuts and Jobs Act of 2017. The TCJA allowed Americans to take the leap, businesses to flourish. It allowed our country to move forward as one nation under God. It ushered in hope. It ushered in the reality of the American dream once again, as small business owners around the country were all living their own version of that American dream.

But now, just after really 2 years of the Biden administration it has turned into a nightmare. Small businesses are struggling with record inflation, labor shortages, supply chain issues, and all these factors severely hurt the competitiveness of our small businesses.

The 2024 budget proposal has no intention of waking us up from this nightmare. It proposes another $1.8 trillion in new taxes and fails to address the TCJA’s expiring provisions. Allowing those provisions to expire and increasing taxes will only hurt the competitiveness of small businesses. It will crush them, the jobs that they provide, and the communities that they serve. It is going to chill the hope and reality of the American dream once again that we all saw was a real possibility just a few years ago.

So I want to get to the question. I wanted to start with Mr. Boening. Thank you for your service as the president of the Texas Farm Bureau. Missouri, I am proud to say, has the second highest number of farms in the nation, 95,000, but we are outdone with Texas there. I am also proud to sit on the House Ag Committee along with Aaron here
and some other Members. And it is great because farmers are small business owners. And this Biden proposal calls for $77 billion in death tax increases. All right? How do you see this impacting family farms and ranchers?

Mr. BOENING. Thank you. Thank you for the question, Congressman.

You know, I alluded to it earlier. Agriculture, you can go ahead and use the words land-rich, cash-poor business model. It is. It always has been. And whenever, land is one of your most important capital investments. You know, often you lease land when you are getting started normally in your operation, and if you are able to acquire land you do that over the years. And then like I said, land in Texas, as it has in many other parts of this great country has increased dramatically.

Mr. ALFORD. Skyrocketed.

Mr. BOENING. And to have the size operation that is a full-time farmer ranch that will support maybe your family, some extended family, and then a few employees, it takes quite a bit of land. And then if you want that operation to continue, how does it continue if it is going to be taxed at 40 percent when you pass away? It just does not make sense. We go back to the same mantra; death should not be a taxable event. So that would be my comment.

Mr. ALFORD. Well, I hope it is not the death knell on family farmers because that is what it is looking like if we revert to this.

Mr. Hudak, your firm focuses on small business accounting in addition to farming. We have a lot of other small businesses in our district in the Great State of Missouri. And I met with a lot of those business owners, listened to their concerns. It is really heartening to hear all they do through the investment, the time, money, the energy they put into being a success. They reinvest in our community every day and every chance they can get.

From what you have seen, do businesses typically just sit on a pile of money when they pass, when they pay less taxes? Or what do they do with that money?

Mr. HUDAK. They invest in plant, property, and equipment always. But it is not about the tax bill. When we are talking about the death tax, what we are doing is we are preserving a way of life. A small business owner wakes up every single day, and some days he is the only one who thinks it is going to work out. Not the wife, not the dog, not the in-laws. They wake up and everybody says you have got to stop. This is crazy. What are you doing to yourself? They believe every single day. They are the only ones who believe. They have heart. They have soul. They are the backbone of America. We are not talking about taxes. We are talking about preserving a way of life. On the left and the right. And I hear both sides agreeing on all of this stuff. Forget about the personalities. Let's focus on what we agree on. Because without agreement, there can be no certainty.

Mr. ALFORD. Thank you, sir. Thank you, Mr. Chairman.

Chairman WILLIAMS. I now recognize Mr. Thanedar, I am sorry, from the Great State of Michigan for 5 minutes.

Mr. THANEDAR. Thank you, Chairman.
Since, and again, this discussion is music to my ears because I am a former small business owner and serial entrepreneur. So I am just excited to be here.

But since the Tax Cuts and Jobs Act of 2017, small businesses have been placed at a disadvantage, especially in paying higher taxes and navigating the cumbersome tax code. Contrary, the tax cuts were a gift to large corporations. They have leveraged their resources and fleet of lawyers from paying their fair share and routinely exploit loopholes. As a result of the Inflation Reduction Act, the IRS will be bolstering through increased funding to mitigate tax cheats and ensure that fairness is omnipresent in our business environment.

So I have a question, Ms. Zimmerman, if I may. Most would agree the tax code should not pick winners and losers. Unfortunately, it seems that the 2017 tax law did just that. That by cutting the corporate tax rate from 35 to 21 percent, would you say that the structure of the tax cuts is more beneficial to corporations as opposed to small businesses? And what impact does it have on inequity, inequality?

Ms. ZIMMERMAN. Absolutely. I, like you, am a serial entrepreneur. It is in my blood. And that is why I talk about the unlevel playing field. That we did not get the same reductions. The answer is it hurt equity. It means that the gap between the truly wealthy and middle class has widened. Most small business owners, and again, there are a lot of definitions of small business, but most small business owners from the Small Business for America’s Future, I told you that we concentrate on smaller businesses. They are almost all middle-class. They are lifestyle businesses. They are working to support their families, feed them, maybe send them to school if they get lucky. And they did not get near the break. They did not get near the break that the large corporations did. And I am asking that we rebalance that. We restore, reverse just a slight portion of the larger corporation rates to be able to give a fairer rate to small business.

We also got a very complex law that was thrown on us at the last minute because they said, oh, no, we forgot the little guy. Right? And so it became so complex, it limits who can take it. Right? It takes more work to get it. It is not just a rate cut.

Mr. THANEDAR. Thank you, Ms. Zimmerman.

Also, the 2017 law affected different businesses in different ways. However, as someone who is preparing returns for small firms, what are some common themes you hear from your clients about the law’s impact on their business, especially people of color who are business owners?

Ms. ZIMMERMAN. Well, I have been told that the extra complexity has wiped out their savings because they have to pay more to an accountant to get it done.

Mr. THANEDAR. And everyone on this panel that does tax will agree that our lives changed when that law came through. We had to learn about 163Js and 199As and the pandemic was upon us and all that. So, my client, as I mentioned before, a small C corporation asked me, why did my tax go up? I thought this was a tax cut.

Now, a number of them benefited and had lower taxes. There is no question. It was not unhelpful. It was just that it was a complex
way to throw a smaller bone to small business while allowing big business to get the burden, the majority of the savings.

Thank you. Thank all of you for being here and for your testimony.

And Mr. Chairman, I yield back.

Chairman WILLIAMS. I now recognize Mr. Bean from the Great State of Florida for 5 minutes.

Mr. BEAN. Thank you very much, Mr. Chairman. Good afternoon to you, and good afternoon to Small Business.

To those in the audience, who here owns a small business? Raise your hand. Look at that. Thank you for coming. It is great to have a crowd in this audience, Mr. Chairman. It is much more exciting in person than watching C-SPAN, especially when you know what we are talking about. We are talking about your business and we are talking about how changes up here affect your small business.

So I am going off script, Mr. Chairman. And that is this: I have heard this phrase several times, even during this Committee, “Pay your fair share. People are not paying their fair share.”

Can anybody tell me what a fair share is? Anybody? It is a toss-up question for our all-star panel.

Mr. Hudak, jump in.

Mr. HUDAK. I could not reach the button fast enough.

Well, we keep on talking about the 2017 tax law complicating the tax code. Does anybody believe it was simple before? Who lived here through URISA? This is crazy. When you start talking about audits and compliance, one-third of all the audits have to do with the earned income tax credit. The program is not working. By the IRS’s own admission, one out of every $4 is paid improperly. They say it is because of lack of understanding of a complex tax code. Well, simplify it. More than that, those dollars for the earned income tax credit are supposed to be helping families lift them up out of poverty. It needs to be tied to other programs. Do not do it through the tax code. It causes and motivates honest people who are willing to pay Caesar what Caesar is due to game the system for a variety of reasons.

We have tied health care to that. Instead of paying a $10,000 bill, if they file their tax return and did not game the system it would be $20,000. They want to pay their tax bill but they do not want to pay the $20,000 health care bill. Stop using the tax code for other things other than the tax code. People need help. The earned income tax credit, fine. You want to help people, lift them up? Tie it to a program that will help them get the skills they need.

Mr. BEAN. Well said. We have got a quick lightning round.

Ms. Mucenski Keck, what say you to fair share?

Ms. MUCENSKI KECK. [Audio malfunction]

Mr. BEAN. Gotcha. Here is a quick question. I already want to jump in but I have got another question.

Why is anybody worried if you make under $400,000? President Biden has said so many times he is not going to raise taxes on anybody making under $400,000. So why is everybody worried?

Mr. Hudak, are you saying, Mr. Hudak, that that is incorrect? That taxes have gone up on people making less than $400,000? Or should I not be worried if I am making less than $400,000?
Mr. HUDAK. You should be worried. There are a lot of unintended consequences. Just yesterday we talked about having a tax bill that they cannot afford. A guy just was bought out of his business. He has got hundreds of thousands of dollars of income. He received not a dime of it. Not a dime of it.

Mr. BEAN. So Mr. Hudak, I do not mean to interrupt you but the time is going, the clock is going. Are you saying before this Committee and before all these small business owners right now before us that they should be worried if they make under $400,000 in spite of what the president is saying? Are you saying that before this Committee today?

Mr. HUDAK. I am. And I believe the president. It is everybody else I have a problem with.

Mr. BEAN. 10-4.

Mr. RUSSELL, are we in danger of losing family farms because of unfair tax bills?

Mr. BOENING. Yes. But I did want to address the “my fair share.”

Mr. BEAN. Go right back to it. Yeah, sure.

Mr. BOENING. Sitting on a panel with three CPAs, my fair share is whatever my CPA tells me I owe.

Mr. BEAN. Amen. Amen. Amen.

Thank you each for being part of our panel today.

Mr. Hudak, thank you. And your passion. We need a fair, easier way to go and it should not take a rocket scientist to fill out taxes.

So thank you very much for coming.

Mr. Chairman, I yield back.

Chairman WILLIAMS. Thank you very much.

And now I recognize Ms. Scholten from the Great State of Michigan for 5 minutes.

Ms. SCHOLTEN. Thank you, Mr. Chairman. And thank you so much to our panelists for joining us today.

It is Tax Day. I love this theme. We are keeping on the continued questioning about some of the complexity of the tax code. And I wonder, and this is for Mr. Hudak and Ms. Zimmerman, if you can talk specifically about the most complex. I hear from small business owners all the time. In addition to some of the unfairness, it is the complexity, the density, the difficulty, unnecessarily so of understanding this tax code.

If you could talk about particularly some of those portions that you find most unnecessarily complex. And what you would like to see us in Congress do to resolve that. And particularly make filing more accessible for small businesses who are not themselves tax experts.

Ms. ZIMMERMAN. All right. I will jump in and go first.

I believe small businesses, a number of them have to file their own returns. A number of them, most of them do not have a team of lawyers and accountants. Many of them, I believe Ranking Member Velázquez told us that the average small business makes $75,000. With that as your profits, you very possibly are not even hiring an accountant to do your taxes.

So the IRS, with their modernization, needs to have education and communication out to the small business community. Use the existing networks that are there. We have chambers. We have
groups of accountants like this panel that can help the IRS reach these small businesses. Add a hotline where they can call and ask questions. And try to figure out how do I calculate this 199A, which sounds simple but I need to know if I am a specified service business, and I need to know how much I have in assets and how much I have in W2 wages if I make more, and that sort of thing. Consumer centric.

Ms. SCHOLTEN. Thank you.

I have a second question. Last year the Inflation Reduction Act included $80 billion in funding for the IRS to hire personnel, modernize systems, and increase enforcement actions.

Mr. Zimmerman, Ms. Zimmerman, excuse me. In your testimony, you talked about how the IRS needs better customer service. You talk now about, you know, a more consumer friendly approach. Do you expect this IRA funding to make the agency more responsive to the needs of small businesses and CPAs like yourself?

Ms. ZIMMERMAN. Well, I do not think at this point they can be less responsive. It has been a real nightmare through the pandemic. And I recognize they had their issues also. But when I call, and I have a practitioner’s hotline that we can call. And get people that are supposed to be even better trained. But we cannot get through to that anymore. And when we call and they have to jump from one computer program to another because that one has this information and this one has that, and oh, we do not have a copy of that in front of us, how can they handle that? How can they be an advocate, part of the team instead of the adversary? They cannot. We need that modernization.

Ms. SCHOLTEN. Agreed. Do you have any suggestions or examples from your experience for ways in which this investment could be best, most efficiently utilized to make a more consumer friendly approach?

Ms. ZIMMERMAN. Certainly. You know, have a number that I as a business owner, not the CPA in me but the business owner in me, can call and discuss with the agent on the other end, so do you think I qualify for this deduction? And where do I take it? Oh, I do not take it on the business page; I take it over here on my personal return. And that is not a conversation that can even be had now with the IRS. So that to me is part of the customer service I am talking about that we need.

Ms. SCHOLTEN. Thank you.

What about using some of these IRS funds to focus on education and tax literacy for small businesses? Do you think something like that would be beneficial?

Ms. ZIMMERMAN. Absolutely. The report that was released recently really focused on education and leveraging technology so they can put it out there as webinars and common things that small businesses have questions about.

Ms. SCHOLTEN. Thank you so much. I yield back the remainder of my time.

Chairman WILLIAMS. I now recognize Mr. LaLota from the Great State of New York for 5 minutes.

Mr. LALOTA. Thanks, Chairman. And good afternoon, everybody. I represent the 1st District of New York, and New York State has the dubious distinction of having the highest taxes in the na-
tion at 12.47 percent. New York's average income sales and property taxes are almost twice as what Florida's are. And they are the catalyst for so many New Yorkers leaving for states like Florida.

We also lead in another category. We led in out of state migration. Said simply, more people leave our state than any other state in the nation. And unfortunately, President Biden's proposed tax plan would only worsen a New Yorker's tax burden and thus exacerbate my state's loss of population. The president's Tax Plan is riddled with policies which will further financially burden my constituents. In fact, according to the tax policies, centers 20, 22 to 20, 32 analysis. The average New Yorker's tax burden will increase by about $17,000. Likewise, many small businesses in my district will be negatively impacted by these new tax proposals as well. These taxes are especially harmful as they will target the taxpayer's assets and not their income.

I am also concerned about the tax penalty on research and development. My district is home to the Brookhaven National Laboratory and the Stony Brook Neuroscience Institute to name a few. These entities and small businesses which support them depend on the ability to expense their research and development costs. I am tired of Washington treating places like Long Island like a piggybank. I have only been on the job for a few months here but some folks in this town are competing with the folks in my state's capitol for taking my constituents' money.

This frustration has motivated me to serve on this Small Business Committee and to ensure that we are doing our part to cap and cut taxes, to ease regulations, and where grant money exists, to ensure that it gets to the right people.

My first question is for Mr. Boening. Sir, in your testimony you laid out the grim but realistic future for family businesses if the stepped up basis provision is removed. Like Texas, many of the small businesses where I am from on Long Island are land-rich and cash-poor. If more families have to sell their companies to the highest bidder, how would this affect the local communities in your opinion, sir?

Mr. BOENING. Well, I think for one thing, it would accelerate land turning into something else. I mean, we all love our shopping malls and our strip centers and those type of things. But, you know, agriculture is still very important in this country. And when those things would happen, if farmers and ranchers are forced to sell, many times they are not going to sell to another farmer or rancher because I have just discussed what land values have done. So, you know, progress is great. And you know, one of those states that are getting some of your folks as well from New York and other places. But it will definitely accelerate the loss of the agricultural land.

Mr. LALOTA. Yeah, the agricultural issue is not as big of a one, although it is on the east end of my district. Any time a change of use of a piece of land happens in Suffolk County where I am from, the community often gets quite excited, rightfully so, about it. So I appreciate you turning our radar onto that.

Ms. Mucenski, in your testimony you stated the failure to restore the research and experimental expenditures provision will signifi-
cantly decrease innovation in the United States and even hindered new business from forming here.

In our opinion, how would this affect small businesses which serve entities in the community. In mine, like I mentioned earlier, the Brookhaven National Lab and higher institutions of learning, like Stoneybrook University.

Ms. MUCENSKI KECK. I think they are going to either have to scale back the research that they are involved in or they are going to have to let go of certain divisions all together. So currently, it is just not palatable for them to keep paying these taxes related to R&E capitalization, especially when previously they are used to having zero taxes. And a normal grant life, if you were given a grant and you are told that you have to spend all the grant money on certain expenditures, then the grant’s income and all the expenditures or expenses. And it is zero taxable income. And now by pushing that out and saying you can only—you still have to include all the income, the grand income, but you have to spread the expenses out. They are not going to be able to operate at the expansion or the growth model that they would have prior to that.

Mr. LALOTA. Thanks. And thinking more globally, you mentioned in your statement about other nations’ approach to this particular issue. How would you rate the president’s proposal compared to some of our strategic competitors like China with respect to R&D?

Ms. MUCENSKI KECK. You see most companies want the research and experimental expenditures and the patents and the intangibles in their country because ultimately that brings an income stream in for you to actually tax even more. They are encouraging it through not only saying take the deduction, they are hyping the deduction. They are allowing you 180, 200 percent. And then they go even further to develop something we do not need to get into today but patent boxes where all the income coming in will be subject to much smaller tax rates. They want it. They are striving for it. They are going for it. They are incentivizing for it. We are doing the exact opposite.

Mr. LALOTA. Thank you very much. I yield, Chairman.

Chairman WILLIAMS. Thank you.

I now recognize Mr. Landsman from the Great State of Ohio for 5 minutes.

Mr. LANDSMAN. Thank you, Mr. Chairman.

Let me just start with the earned income tax credit because you mentioned, Mr. Hudak, that it was not tied to a program. It is tied to work. I mean, it is tied to work. And in a question about whether or not there are certain people who pay their fair share and those who do not, how quickly we get to the earned income tax credit and low-income working families is pretty astonishing. When we know that there are companies who find all kinds of ways out of paying what on paper they are supposed to pay in taxes, and the same is true for millionaires and billionaires who have accountants that can find all of the loopholes and deductions and all kinds of different things to ensure that they do not pay what I pay or what you pay or what my sister who is a teacher pays. And from the part of the country I am from, and Anne is from the same place, we are neighbors, which is a pretty cool moment for at least me.
Okay, for both of us. Republicans, Democrats, Independents, we do want folks at the top who have been doing really, really well for a long time to pay what they had in the 1990s. That I think is the fair share. Because it allows us to balance a budget. It allows us to do what we are supposed to do on behalf of small businesses and working families.

So the two big tax cuts that were in the 2017 bill that have sunn extra and it does seem like with the majority these should be something we can both agree on. One is the R&D piece, the tax deduction for R&D for small businesses, and the other one is interest payments, which I have to imagine have only gone up; right? To be able to use both interest payments as tax deductible and the R&D, those are two very significant, correct me if I am wrong, but those seem to be two very significant tax benefits that small businesses have now lost, that Republicans and Democrats could come together on and put back on the table, would it make a big difference or am I speaking out of turn here?

And since I picked on you a little bit I will let you start.

Mr. HUDAK. Every tax payer should pay exactly what they owe. Okay? For every $1 that we spend improperly, and on the IRS website they clearly state one out of every $4 spent in this program is paid improperly. It serves no good purpose to talk about the big corporations who maybe are taking advantage of the tax code in ways we did not contemplate. But likewise, for every $1 in the earned income tax program that is spent improperly by the IRS and the taxpayer advocate’s own admission, that is $1 we do not have for someone who really needs it.

Mr. LANDSMAN. These are for folks who do not pay. They do not have tax liabilities. We are supplementing what are very, very poor private sector wages so that they can pay their bills. That is it. So instead of focusing on all of the billions and trillions of dollars over 10 years that we could be security if people paid their fair share at the top, we are talking about all these low-income working families that are struggling to make ends meet does not make sense to me. But I guess the question is on R&D and interest payments, that seems like something we could all agree on should be back on the books. No?

Ms. MUCENSKI KECK. I am just jumping in. I think from a bipartisan standpoint R&E is a no brainer. I think everyone supports keeping research and innovation in the United States. I think you are never going to get away from the interest expense calculation, but it can definitely revert back to 2021. And I think it would be a welcomed response due to the rising interest rates.

Mr. LANDSMAN. Yeah. On that last piece it does seem like it is going to hit small businesses very hard this year. And it is something I would assume both parties would agree on, put it back in
play and maybe make it retroactive so that people can get the relief that they missed out this year.

Anne?

Ms. ZIMMERMAN. Agree.

Mr. LANDSMAN. Okay. Well, then I yield back. Thank you.

Chairman WILLIAMS. Next I want to recognize Mr. Stauber from the Great State of Minnesota for 5 minutes.

Mr. STAUBER. Thank you very much, Mr. Chair.

Ms. Zimmerman, why did the ice cream shop close? What was the reason?

Ms. ZIMMERMAN. Struggling with their finances. Struggling, I think part of it was the location. I mean, there are a lot of things that cause a small business to close.

Mr. STAUBER. Would one of those things, would one of the causes maybe be the additional $320 billion of additional regulations on small businesses and farms since this administration has taken over the White House?

Ms. ZIMMERMAN. They did not mention any of that when they told me they were closing.

Mr. STAUBER. Do you think that is good for small businesses? As a former small business owner myself I thought the regulations, any regulations that were not necessary would be detrimental to us.

Ms. ZIMMERMAN. I absolutely agree that we should simplify things for small business owners. We are on the same page.

Mr. STAUBER. Yes. And so one of the things that we have to do is we have to push back on those types of regulations that are hurting small businesses like the new definition of the WOTUS rule for our small businesses and farmers. It is going to be devastating. And it was just this administration that changed the definition without going through Congress. And small businesses, we always talk about small businesses being the engine of our economy. They are not only the engine; they are the innovators of our economy. So let's treat them like that. Let's treat them with respect. I do not see that necessarily coming from this administration.

So Mr. Hudak, do any proposals in the president’s budget stick out to you as particularly harmful for small businesses?

Mr. HUDAK. The pass-through deductions, UBI, the capital gains. We just rain into that recently. The capital gains problem; right? A guy wanted to sell a business to trade in his old digs for new digs. He is a seasoned entrepreneur. He wants to grow his business and sell his business to the new guy; right? One out of five small businesses succeed. The rest fail. Why? Inexperience. A whole bunch of reasons. We cannot not reward success. Business churning is a healthy thing. I want the seasoned entrepreneur to dream a bigger dream and trade out that old dream. But let's not prevent him from doing that because he has got a capital gains bill that he cannot afford. He cannot afford closing on that new thing. That just happened to one of our clients recently. Well, okay, I am sorry, American. There is one business that is not going to grow. One entrepreneur is not going to realize his dream.
Mr. STAUBER. Mr. Hudak, President Biden has also repeatedly stated that he will not raise taxes on anyone making less than $400,000. Do you think that is true?

Mr. HUDAK. I believe President Biden when he says that. It is not his promise. I remember a certain election. There was not going to be any new taxes, George Bush. Anybody remember that? Right? Both sides break their promises on this. Both sides. Codify it. Put it in the law and I will buy it.

Mr. STAUBER. I love that answer. Put it in the law. Exactly. Because in my humble opinion, the current president has been bloviating on Capitol Hill for 51 years now. I have always said you will have to watch what he does, not what he says. Because in 2020 he said he was going to mine domestic critical minerals. In Northern Minnesota we have the biggest copper nickel find in the world and he will not mine there. He changed after he became president which upsets me.

Ms. Mucenski Keck, there you go. Can you elaborate on some of these new reporting requirements that have effects or could have effects on our small businesses, 1099Ks, for example?

Ms. MUCENSKI KECK. Oh, sure. The 1099Ks are going to be an administrative burden on our small businesses. So under previous law they used to say you could have to report a 1099 Miscellaneous or K if you use a different type of company that helps you transact payment or acceptance. And they have lowered the threshold, or they are proposing to lower the threshold to $600. So if you pay or you receive $600 from a third party you should have to fill out a form and send it to the person who you have paid or you have received money from.

Mr. STAUBER. Is that good for small businesses?

Ms. MUCENSKI KECK. I cannot imagine the administrative costs that they are going to have to pay to comply with that rule. It is going to be very overwhelming and it is not great for small businesses as was already pointed out by many. They are struggling already preparing their tax forms. Now you are adding an additional compliance layer that they probably had very little to any actual experience with.

Mr. STAUBER. As I said earlier, small businesses are the engine and the innovators in our economy and we have to treat them as such. And I see the devastating effects of this administration and their rules and regulations that they are forcing upon our innovators and entrepreneurs.

And I yield back.

Chairman WILLIAMS. Thank you. And I would like to say thanks to our witnesses today for their testimony, for appearing before us. And I think through a lot of testimony, there is a lot that we do agree on. And that is encouraging.

So without objection, Members have 5 legislative days to submit additional materials and written requests for the witnesses to the Chair, which will be forwarded to the witnesses. I ask the witnesses to please respond promptly.

If there is no other further business, without objection the Committee stands adjourned.

[Whereupon, 4:08 p.m., the committee was adjourned.]
Chairman Williams, Ranking Member Velazquez, and members of the Committee:

I am Russell Boening. My family and I live in Poth, Texas where we make our living farming and ranching. I serve as President of Texas Farm Bureau, the largest general farm organization in the state, representing over 538,000 member-families. I also serve on the American Farm Bureau Federation’s Board of Directors.

I appreciate the opportunity to testify before you today on the very important topic of taxes. Farmers and ranchers across the country continue navigating challenges such as high input prices, inflation, extreme weather, and volatile commodity prices, among others.
In fact, when adjusted for inflation, 2023 net farm income is expected to decrease $30.5 billion, or 18.2 percent, from 2022.

In addition, the average age of the American farmer and rancher is 60 years old with more than a third being at retirement age. It is estimated that more than 370 million acres, or 40 percent of farmland, will trade hands over the next 15 years. These men and women work hard to provide the food and fiber of our country and pass their operations to the next generation. Any additional tax burden on them would put our national food security at risk, increase consolidation, and make America more reliant on foreign countries.

President Biden’s budget puts farmers, ranchers, and small businesses squarely in the crosshairs. For instance, the President’s budget calls for the elimination of stepped-up basis and doubling the rate capital gains are taxed. These changes combined with the proposed revisions to the death tax law would result in over $280 billion in tax increases over the next decade.
I am a fourth-generation farmer who has been fortunate enough to hold on to our family property. While we have navigated challenges over the years, my family, and those before us, have worked hard to continue operating. Taking away stepped-up basis would devastate my family and many other farmers and ranchers across the country.

Stepped-up basis has helped us pass our land from one generation to the next because it values the farm at the time of inheritance. If this tool is eliminated, and I pass away, my children would be forced to pay taxes on appreciation from the previous generation.

In Texas, population pressure has driven land values very high, yet left farmers and ranchers no more liquid than they have historically had. To put a finer point on the pressure to take land out of production – since 2014, when I became president of Texas Farm Bureau, 4 million acres have left agricultural production, a reduction of over 3 percent. Nationally, over the last eight years, nearly 20 million acres have been taken out of production.
The tax increases in the president’s budget proposal would leave our children with a tax bill that will likely leave them no choice but to sell the property.

To make matters worse, this additional tax burden would come on top of paying the death tax. Of course, this assumes there will still be an estate left to tax after paying capital gains on the assets of the estate.

This means upon my death, after paying staggering capital gains taxes, the federal government would claim up to 40 percent of the taxable estate from my children. This is a cruel way to generate tax revenue to pay for the president’s budget proposals.

Anyone who thinks the death tax only affects the wealthy are ill advised. Farming and ranching is a land rich, cash-poor way of life. A farmer might technically be worth several million dollars, but a vast majority of that is land and farming equipment, with only a fraction being money in the bank.
Thanks to the 2017 Tax Cuts and Jobs Act, the estate tax exemption rate was doubled from $11 million per couple to $22 million per couple, which helped prevent most family farms from paying the tax.

The president’s budget would cut that exemption rate back to $11 million per couple, saddling American farm and ranch families with a devastating tax burden, often forcing them to sell their property. The lower the exemption level, the more ag land you put at risk of being sold off to the highest bidder.

To put it simply, death should not be a taxable event. Therefore, Texas Farm Bureau advocates for abolishing the estate tax, or at minimum, ensuring the current exemption rate set forth by the Tax Cuts and Jobs Act does not expire in 2025. We also call for the continuation of stepped-up basis.

There are other important provisions in the Tax Cuts and Jobs Act set to expire in 2025. This includes reduced pass-through tax rates, expanded brackets, and the Section 199A 20 percent business income deduction.
In addition, unlimited bonus depreciation starts to phase out this year.

Texas Farm Bureau calls on Congress and the administration to work together across the aisle to make these provisions permanent and combat tax increases. Family farms and ranches are the building block for a secure America. We must fight for a tax code that provides certainty for their future – not one that puts them in jeopardy.

--END TESTIMONY--
TESTIMONY BEFORE THE COMMITTEE ON SMALL BUSINESS UNITED STATES HOUSE OF REPRESENTATIVES

Hearing on:
Paying Their Fair Share: How Tax Hikes Crush the Competitiveness of Small Businesses
Lynn Mucensis-Keck, CPA, MST, Withum Principal, National Lead, Federal Tax Policy
April 18, 2023

Mr. Chairman and Ranking Member Velazquez, thank you for allowing me the opportunity to testify on how small businesses are impacted by federal tax legislation.

Most recently, my focus has been helping clients understand the changes originally included in the Tax Cuts and Jobs Act that are effective in the 2022 and 2023 taxable years. This includes the requirement that research and experimental expenditures are no longer immediately deductible but required to be spread over five or fifteen years for purposes of determining taxable income, the significant changes made when calculating the interest expense limitation rules, and the tiered decrease of bonus depreciation to zero over the next five years.

Coupled with the existing law changes, I also monitor significant tax law changes that would increase taxes on closely held and small businesses, including provisions to:

- increase of the top individual tax rate to 39.6% for single filers making more than $400,000 ($450,000 for joint filers);
- Expand the base of the Net Investment Income Tax to apply to active pass-through business income;
- Increase the net investment income tax to 5% (from 3.8%) for earnings of more than $400,000;
- Limit the total pass-through deduction to $400,000 ($500,000 for joint filers) or eliminating the entire deduction for all taxpayers whose taxable income exceeds $500,000; and
- Make permanent the pass-through business loss limitation rules and treat excess business loss carry forwards as current-year business losses, rather than net
operating losses

While business owners understand the need to pay their “fair share” of federal income taxes, there is an overriding concern that coupling an already expanded tax base with the proposed increases in tax rates could cause a crucial tipping point where businesses are no longer be able to invest back into the economy and secure growth. The significant increase in federal tax payments will continue to cause negative effects on savings, investment, and entrepreneurship that could ultimately have a much broader impact on the United States economy. The challenge for Congress is to determine what is indeed a “fair share” of taxes while not negatively impacting a teetering economy and exhausted business community.

Broadening of the Tax Base Under Existing Legislation

Interest Expense Limitation Rules Modified (Effective for Taxable Years As Of January 1, 2022)

With the average fixed business interest expense rates increasing at least 5% between the 2021 and 2023 taxable year, and a substantial modification to the limitation of interest expense taking effect in the 2022 taxable year, it has become harder for small businesses to receive a tax deduction for needed capital. Businesses are often surprised that the interest expense allowed as a tax deduction has been reduced while their financing structure has remained unchanged.

Section 163(j) limited the amount of business interest expense to 30% of adjusted taxable income plus floor plan financing interest. For taxable years beginning before January 1, 2022, taxpayers were allowed to add back depreciation, amortization, and depletion when determining the amount of adjusted taxable income for this calculation. This provided a broader base, increasing the allowable business interest expense deduction. However, starting in the 2022 taxable year, the addback of depreciation, amortization, and depletion is no longer available. This change creates a smaller base and further limits the allowable business interest expense deduction.

The impact that the adjusted interest calculation can have on taxable income in 2021 versus the 2022 taxable year is illustrated below.
<table>
<thead>
<tr>
<th>Interest Expense Limitation</th>
<th>2021 Taxable Year</th>
<th>2022 Taxable Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest Expense Rate</td>
<td>2.6%</td>
<td>5.39%</td>
</tr>
<tr>
<td>Preliminary Taxable Income</td>
<td>$300,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>Plus Interest Expense</td>
<td>$195,000</td>
<td>$404,250</td>
</tr>
<tr>
<td>Plus Depreciation</td>
<td>$500,000</td>
<td>Not Allowed in 2022</td>
</tr>
<tr>
<td>Adjusted Taxable Income</td>
<td>$1,295,000</td>
<td>$1,004,250</td>
</tr>
<tr>
<td>30% Limitation</td>
<td>$388,500</td>
<td>$301,725</td>
</tr>
<tr>
<td>Disallowed Interest</td>
<td>$0</td>
<td>$102,975</td>
</tr>
</tbody>
</table>

Even worse for industries that utilize floor plan financing (essentially a revolving line of credit to purchase inventory), such as the automotive dealership industry, if their floor plan financing and their business interest expense exceeds 30% of adjusted taxable income, no bonus depreciation is allowed for qualified property purchases.

Due to rising inflation, businesses are being forced to maintain or increase their borrowing. I encourage the committee to consider relieving businesses during this high inflation period and allowing depreciation and amortization to be included in the adjusted taxable income when calculating the interest expense limitation.

*Research and Experimental Expenditures (Effective for Taxable Years As Of January 1, 2022)*

Businesses investing in research are baffled that the current federal tax code severely limits tax incentives for innovation. The Tax Cuts and Jobs Act requires the capitalization of research and experimental ("R&E") expenditures over a 5-year period (a 15-year period for foreign research) starting for taxable years beginning after December 31, 2021. For the 2022 taxable year, domestic R&E expenditures are not only required to be amortized over a 5-year period, but taxpayers can only begin at the midpoint of the taxable year, resulting in a 10% deduction. This is a stark contrast to the 2022 taxable year, when the entire amount of R&E expenditures were allowed to reduce taxable income.

Many businesses were anticipating a modification to the capitalization policy before the end of the 2022 taxable year, allowing immediate R&E expensing to boost business and economic growth, but Congress failed to address tax extenders at year-end.
Our current policy provides for only 10% of R&E expenses incurred in 2022 to be deducted in the same year, with the remaining costs must be spread over an additional 5 years. This is in drastic contrast to many OECD countries that provide for a “super-deduction,” allowing businesses an additional fictitious deduction for eligible research expenses. For example, in the United Kingdom small companies can deduct up to 230% of qualifying costs and convert the deduction to cash if there is no tax liability. China provides a 175% deduction for qualifying research expenses and recently raised that amount to 200% for manufacturing enterprises until December 31, 2023.

Not only do many OECD countries provide for super-deductions, but nineteen of thirty-seven countries provide further innovation incentives through a patent box which allows for revenue income related to intellectual property to be taxed at lower corporate income tax rates. For example, the lowest patent box rate in Belgium provides an 85% deduction for income related to eligible intellectual property, resulting in a 3.75% tax rate on designated income. Alternatively, Italy has the highest patent box rate, which results in patent income being taxed at 13.95%. China’s patent box regime reduces their general corporate tax rate from 25% to 15% for eligible high and new technology enterprises. The United States does not have a patent box regime.

It would only be reasonable to conclude that the United States’ policy of limiting R&E expenses, coupled with the lack of a patent box regime, would be a significant economic factor when businesses decide whether they should continue to be involved in research. The R&E capitalization policy also confuses many who have been monitoring the Inflation Reduction Act clean energy initiatives. On the one hand, Congress is investing $369 billion for energy security and climate change as part of the IRA, but then appears to be stifling a clean energy transformation by requiring capitalization of R&E expenses. While the two policies were developed separately, it would make more sense if the policies worked in tandem to promote clean energy modernization. For example, Belgium provides for an increased research deduction and credit for environmentally-friendly investments.

The R&E capitalization policy has a direct impact on business compliance costs as well. It not only raises their federal and state tax payments, it also results in an administrative nightmare.
Businesses must determine whether a cost is considered an R&E expenditure that requires capitalization or an ordinary and necessary business deduction that can be immediately expensed.

Here is a simple example for a start-up company whose only income is related to research funded by grants. The grant requires that the funding be spent within the year on qualified expenses. The company can retain the rights to any useful research (i.e. know-how, design, formula, process, etc.) if developed.

<table>
<thead>
<tr>
<th>R&amp;E Capitalization</th>
<th>2021</th>
<th>2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grant Income Received</td>
<td>$5,000,000</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>Grant Expenditures</td>
<td></td>
<td></td>
</tr>
<tr>
<td>R&amp;E Expenses</td>
<td>($5,000,000)</td>
<td>($500,000)</td>
</tr>
<tr>
<td>Taxable Income</td>
<td>$0</td>
<td>$4,500,000</td>
</tr>
</tbody>
</table>

The requirement to capitalize R&E expenditures has some start-up businesses concerned they will be unable to continue their business as they do not have the cash required to pay the federal taxes due under the revised law.

I fear this policy will significantly decrease innovation in the U.S. by limiting existing businesses' research spending and deterring new businesses from forming in the United States. It is important for the R&E capitalization policy to be reversed as soon as possible for the U.S. to remain competitive. At the very least, I would expect a small business exception to be provided so that small businesses can immediately expense R&E.

*Bonus Depreciation Tiered Decrease (Effective for Taxable Years As Of January 1, 2023)*

For any qualified property placed in service in the 2023 taxable year, bonus depreciation is reduced from 100% to 80%. Based on the current legislation, bonus depreciation will continue to decrease by 20% each year until it is no longer available starting in the 2027 taxable year.

Through the interplay of these three Internal Revenue Code Sections, taxpayers are already seeing a significant increase in their federal income taxable income and corresponding federal
income tax payments. Any proposed legislation limiting the pass-through deduction or individual business losses, coupled with increasing individual income tax rates and expanding the applicability of the Net Investment Income Tax will only drive cash federal income tax payments higher.

Proposed Legislation

Increased Individual Income Tax Rate

Starting in 2026, the top individual income tax rate will increase from 37% to 39.6%. In the most recent Fiscal Year 2023 Budget proposal, the increased rate of 39.6% would be effective sooner and apply to a lower threshold amount of taxable income: $400,000 for single filers ($450,000 for joint filers). In addition, the same proposal would subject pass-through active business owners to an additional 3.8% net investment income tax. If the active business owners have modified adjusted gross income exceeding $400,000, it is proposed that the net investment income tax rate increase to 5%.

It is important to stress that while pass-through owners are required to pay tax as soon as the business has earnings, that does not necessarily equate to the owner receiving the cash from the business. In the event a pass-through business has positive earnings, often the earnings need to be put back into the business for additional investment, improvements, expansion, etc. Therefore, even though a pass-through entity owner must report the business’s earnings on their personal tax return, the owner’s cash distribution from the pass-through entity is often limited to the taxes they will have to pay on the earnings of the business. In short, the S corporation shareholder is not left with significant cash to spend at the individual level as the cash remains in the corporation for additional investment. This concept is extremely important when statements refer to only raising taxes on the wealthy.

The taxation of pass-through entity owners is in direct contrast to the tax treatment of C corporation shareholders. The C Corporation shareholders do not pay tax on the earnings of the C Corporation that is being reinvested in the corporation, rather they only pay tax when the C Corporation makes a dividend distribution to the shareholders.

Ignoring the pass-through deduction, a pass-through entity owner is taxed on every dollar of
income earned during the taxable year (but not received in cash) would increase their marginal tax rate from the current 37% to a shocking 44.7% (39.7%+5%). For every dollar the pass-through entity earns, approximately 45 cents will be remitted to the federal government as income tax, regardless of whether a cash distribution was made to the pass-through owner. This is in addition to the assorted other taxes assessed on the business, including state income tax, sales tax, and real property taxes. The significant increase in required taxes discourages businesses from reinvesting, or even continuing operations, considering how much of their profit they must immediately remit to various governments.

**Pass-Through Entity Deduction**

The Pass-Through Deduction was originally enacted as part of the Tax Cuts and Jobs Act to provide some tax rate parity between pass-through entity owners and C corporation shareholders. With the C corporation tax rate dramatically decreasing from 35% to 21%, pass-through entity owners also required tax relief. The first income tax rate decrease provided to pass-through business owners was to lower the highest individual income tax rate from 39.6% to 37%. The second income tax decrease was provided through a fictitious 20% deduction pass-through entity owners receive in relation to their pass-through taxable income.

For example, assume a pass-through entity owner is allocated S corporation taxable income of $100,000. If the taxpayer qualifies for the pass-through deduction, they will be allowed a $20,000 deduction, resulting in taxable income of $80,000 (ignoring the standard deduction). This allows the owner of the pass-through entity business to decrease their marginal tax rate from 37% ($100,000 x 37%) to 29.6% ($80,000 x 37%).

In its most basic form, pass-through entities welcome an effective tax rate of approximately 30% when utilizing the pass-through entity deduction. However, applying the pass-through deduction is far more complicated. The first step is in relation to taxable income. For the 2023 taxable year, a taxpayer’s taxable income must be below $182,100 ($364,200 for joint filers); otherwise, the ability to utilize the deduction could be limited. If a taxpayer’s taxable income exceeds $232,100 ($464,200 for joint filers) in the 2023 taxable year and they are involved in certain designated businesses, then the ability to utilize the pass-through deduction
disappears. Taxpayers will no longer receive the benefit after a taxpayer’s taxable income exceeds $232,100 ($464,200 for joint filers) in the 2023 taxable year if the pass-through business involves the performance of services in the fields of health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, and brokerage services.

In addition, even if a taxpayer’s taxable income exceeds $232,100 ($464,200 for joint filers) in the 2023 taxable year and they are not operating a designated business, additional hurdles must be passed to claim the deduction. These include limiting the deduction to 50% of the wages incurred at the business level or 25% of the wages incurred at the business level plus 2.5% of qualified business property.

Based on the complexity, and variations, pass-through entity owners often confront additional barriers to receiving the deduction and thereby reduce their effective tax rate. While the pass-through deduction benefits small business owners, it is not as simple of an application as experienced by C corporation’s when their tax rate was decreased to 21%.

Previous proposals have included limiting the pass-through entity deduction to a maximum amount of $400,000 ($500,000 for joint filers) or even eliminating the pass-through deduction for taxpayers with taxable income exceeding $500,000.

If taxpayers are no longer allowed the pass-through deduction, their effective tax rates will increase by as much as 7%. For small business owners who are immediately paying tax on their earnings (though not necessarily receiving a cash distribution from the pass-through entity), a 7% increase in an effective tax rate is severe. In addition, the original intention to provide some equality between small business owners and C corporations would no longer exist.

I strongly encourage the committee to remember the reasoning for the pass-through deduction implementation and continue to ensure that pass-through businesses can retain this benefit to ensure closer parity with C corporations.

Loss Limitation For Non Corporate Taxpayers

One of the more unexpected legislative changes in the Tax Cuts and Jobs Act relates to limiting losses for noncorporate taxpayers. Under current legislation, noncorporate taxpayers are disallowed from deducting excess business losses for tax years 2021 through 2028. Excess
business losses are the excess of current-year net business losses over a specified amount (for 2023, $578,000 for married couples filing jointly and $289,000 for other taxpayers).

Under recent proposals, the loss limitation would become permanent and treat excess business loss carryforwards as current-year business losses, rather than net operating losses. Removing excess business loss carryforwards from net operating losses could be catastrophic to the small business community.

It is important to remember that losses that flow from a pass-through entity to the owners often reflect a true-economic loss. For example, decreased sales, increased inventory costs due to supply chain issues, or increased costs in salary and employee benefits in order to maintain a strong workforce. In addition, there are a variety of tax limitations that must be applied before a business loss can be reported on a pass-through entity owner’s tax return. For example, pass-through owners must have enough basis in their S Corporation stock or partnership interest to reflect the business loss on their individual tax returns. In addition, if the pass-through owner is deemed passive, they are only allowed to reflect the amount of the passive loss to the extent of passive income. Many pass-through owners were surprised, and dismayed, that yet another limitation was being added to prevent their ability to utilize business losses in the year incurred.

Limiting a taxpayer to total business losses of $578,000 for married couples filing jointly ($289,000 for other taxpayers) and then allowing them to utilize these excess losses in the future as a net operating loss is already challenging for small businesses. For example, assume that an S corporation shareholder who is single generates a loss of $3,000,000. Assuming the taxpayer passes the various other limitations, the business loss limitation would only allow the shareholder to utilize $289,000 in the current year taxable income. If the shareholder received reasonable compensation from the S corporation of $400,000, they would still be required to pay tax related to the $111,000 of income (400,000-289,000) even though they incurred an overall business loss of $3,000,000. The remaining $2,711,000 (3,000,000-289,000) would be considered the excess loss and included in the net operating loss for the individual in the following taxable year. However, net operating losses can only be utilized to offset 80% of taxable income.
Under the proposed legislation, generating a loss would be debilitating for business operations. Using the same example from above, the 5 corporation shareholder would be limited to a $289,000 business loss every year. The excess loss of $2,711,000 would no longer be classified as a net operating loss and instead would be limited to $289,000 per year. For start-up businesses that generate losses in the beginning years, or for businesses negatively impacted due to an economic downturn, it would be difficult to overcome the minimal loss being allowed and the corresponding federal tax payments.

**Cumulative Example**

In the comprehensive example below, the same income and deduction items were evaluated under the tax law that existed in the 2021 taxable year versus the 2023 taxable year. Based on the existing tax law changes already incorporated in the Internal Revenue Code, the taxpayer in our example will increase their taxable base by 47.9% or $243,030, which is related to the decrease of allowable bonus depreciation starting in the 2023 taxable year and the new interest expense calculation requirement starting in the 2022 taxable year. The increase in taxable income between 2021 and 2023 results in additional income tax of $86,619, a 3.74% increase in the taxpayer’s effective tax rate and a 2% increase in their marginal tax rate. Even with the changes that have gone into effect in the last two years, it is clear that small business taxpayers will be forced to pay more taxes.

<table>
<thead>
<tr>
<th></th>
<th>2021</th>
<th>2022</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxable Income</td>
<td>$507,134</td>
<td>$750,164</td>
<td>$243,030</td>
</tr>
<tr>
<td>Tax Due</td>
<td>$121,286</td>
<td>$207,475</td>
<td>$86,189</td>
</tr>
<tr>
<td>Marginal Tax Rate</td>
<td>35%</td>
<td>37%</td>
<td>2%</td>
</tr>
</tbody>
</table>

In the far right column of the comprehensive example below, the same fact pattern is considered and continues to decrease bonus depreciation an additional 20%. The last column also continues to reflect the change in the interest expense calculation requiring adjusted taxable income to include depreciation and amortization deductions. Both the proposed increase in the individual income tax rate from 37% to 39.6% as well as the application of net investment income tax on materially participating pass-through owners is also applied. Lastly,
the pass-through deduction is disallowed.

The contrast in the amount of taxes due in the 2021 taxable year and under the proposed legislation results in an increase in federal income taxes of over 100%. In addition, the marginal tax rate spikes to 10%. Based on these examples many small businesses will be forced to close as they will be unable to bear this cash impact.

<table>
<thead>
<tr>
<th></th>
<th>2021</th>
<th>2022</th>
<th>Proposed Legislation Changes</th>
<th>Difference between 2021 versus Proposed Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxable Income</td>
<td>$507,134</td>
<td>$750,164</td>
<td>$1,026,130</td>
<td>$518,996</td>
</tr>
<tr>
<td>Tax Due</td>
<td>$121,286</td>
<td>$207,475</td>
<td>$382,795</td>
<td>$261,509</td>
</tr>
<tr>
<td>Marginal Tax Rate</td>
<td>35%</td>
<td>37%</td>
<td>44.6%</td>
<td>9.6%</td>
</tr>
</tbody>
</table>
### Comprehensive Example

<table>
<thead>
<tr>
<th></th>
<th>2021 Taxable Year</th>
<th>2023 Taxable Year</th>
<th>Future Years With Proposed Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marital Filing Status</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>W-2 Wage Income:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Spouse Wages</td>
<td>100,000</td>
<td>100,000</td>
<td>100,000</td>
</tr>
<tr>
<td>S Corporation Wages</td>
<td>125,000</td>
<td>125,000</td>
<td>125,000</td>
</tr>
<tr>
<td><strong>S Corporation Taxable Income (See calculation below)</strong></td>
<td>384,043</td>
<td>688,830</td>
<td>828,830</td>
</tr>
<tr>
<td>Standard Deduction</td>
<td>(25,100)</td>
<td>(25,900)</td>
<td>(27,700)</td>
</tr>
<tr>
<td>Pass Through Deduction</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Assumed Pass-Through</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deduction is removed or owners in future legislation)</td>
<td>(76,809)</td>
<td>(137,766)</td>
<td></td>
</tr>
<tr>
<td><strong>Taxable Income</strong></td>
<td>507,134</td>
<td>750,164</td>
<td>1,016,139</td>
</tr>
<tr>
<td>Federal Tax Due Using Current Tax Rates</td>
<td>121,238</td>
<td>207,475</td>
<td>349,582</td>
</tr>
<tr>
<td>Effective Tax Rate</td>
<td>22.92%</td>
<td>27.44%</td>
<td>30.17%</td>
</tr>
<tr>
<td>Marginal Tax Rate</td>
<td>38%</td>
<td>37%</td>
<td>37%</td>
</tr>
<tr>
<td><strong>Proposed Federal Tax Rate Increase to 39.6%</strong></td>
<td><strong>345,454</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Modified AGI exceeding $400,000</td>
<td>5%</td>
<td>32,692</td>
<td></td>
</tr>
<tr>
<td>Remaining S Corporation Income</td>
<td>3.8%</td>
<td>6,650</td>
<td></td>
</tr>
<tr>
<td>Proposed Net Investment Income Tax on S Corporation Income For Materially Participating Owners</td>
<td></td>
<td>79,342</td>
<td></td>
</tr>
<tr>
<td>Federal Tax Due Using Proposed Rates</td>
<td><strong>382,785</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Effective Tax Rate</td>
<td>37.30%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marginal Tax Rate in Relation to S Corporation Income</td>
<td>44.60%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Current Income Tax Rates Are Applied To All Years for Consistency & Comparison Purposes

<table>
<thead>
<tr>
<th>Income brackets</th>
<th>Tax Rate</th>
<th>Income Tax Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0-$2,000</td>
<td>10%</td>
<td>22,000</td>
</tr>
<tr>
<td>$2,000-$89,450</td>
<td>12%</td>
<td>67,450</td>
</tr>
<tr>
<td>$89,450 to $190,750</td>
<td>22%</td>
<td>103,300</td>
</tr>
<tr>
<td>$190,750 to $364,200</td>
<td>24%</td>
<td>173,450</td>
</tr>
<tr>
<td>$364,200 to $462,500</td>
<td>32%</td>
<td>98,300</td>
</tr>
<tr>
<td>$462,500 to $693,750</td>
<td>35%</td>
<td>231,250</td>
</tr>
<tr>
<td>$693,750 or more</td>
<td>37%</td>
<td>80,938</td>
</tr>
</tbody>
</table>

Proposed Tax Rates: Brackets have not been released as part of the proposals, but a rate of 39.6% will start to apply for joint filers with more than $450,000. The below brackets are for illustrative purposes.

<table>
<thead>
<tr>
<th>Income brackets</th>
<th>Tax Rate</th>
<th>Income Tax Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0-$18,650</td>
<td>10%</td>
<td>18,650</td>
</tr>
<tr>
<td>$18,650-$75,900</td>
<td>12%</td>
<td>57,250</td>
</tr>
<tr>
<td>$75,900-$153,390</td>
<td>22%</td>
<td>77,200</td>
</tr>
<tr>
<td>$153,390-$233,350</td>
<td>24%</td>
<td>80,250</td>
</tr>
<tr>
<td>$233,350-$416,700</td>
<td>32%</td>
<td>183,350</td>
</tr>
<tr>
<td>$416,700-$450,000</td>
<td>35%</td>
<td>33,500</td>
</tr>
<tr>
<td>Over $450,000</td>
<td>39.6%</td>
<td></td>
</tr>
</tbody>
</table>

$ Corporation Taxable Income

<table>
<thead>
<tr>
<th>Note 1</th>
<th>Note 2</th>
<th>Note 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Receipts</td>
<td>10,086,287</td>
<td>10,086,287</td>
</tr>
<tr>
<td>Cost Of Goods Sold</td>
<td>(7,479,919)</td>
<td>(7,479,919)</td>
</tr>
<tr>
<td>Gross Profit</td>
<td>2,606,368</td>
<td>2,606,368</td>
</tr>
<tr>
<td>Salaries/Wages</td>
<td>(582,173)</td>
<td>(582,173)</td>
</tr>
<tr>
<td>Payroll Taxes and licenses</td>
<td>(56,015)</td>
<td>(56,015)</td>
</tr>
<tr>
<td>Rent</td>
<td>(52,737)</td>
<td>(52,737)</td>
</tr>
<tr>
<td>Interest Expense</td>
<td>(400,000)</td>
<td>(400,000)</td>
</tr>
<tr>
<td>Disallowed Interest Expense</td>
<td>(295,213)</td>
<td>(295,213)</td>
</tr>
<tr>
<td>Employee benefit programs</td>
<td>(131,400)</td>
<td>(131,400)</td>
</tr>
<tr>
<td>Depreciation</td>
<td>(600,000)</td>
<td>(600,000)</td>
</tr>
<tr>
<td>Ordinary Business Income</td>
<td>384,043</td>
<td>688,830</td>
</tr>
</tbody>
</table>

Interest Expense Limitation

<table>
<thead>
<tr>
<th>Adjusted Taxable Income</th>
<th>1,784,043</th>
</tr>
</thead>
<tbody>
<tr>
<td>50% LIMITATION</td>
<td>535,213</td>
</tr>
</tbody>
</table>

Note 1: In the 2021 taxable year the applicable rate for bonus depreciation was 50% and the interest expense calculation is based on adjusted taxable income after adding back depreciation and amortization.

Note 2: In the 2023 taxable year the applicable rate for bonus depreciation is 80% and the interest expense calculation is based on adjusted taxable income reduced by depreciation and amortization.

Note 3: In the 2023 taxable year the applicable rate for bonus depreciation is 60% and the interest expense calculation is based on adjusted taxable income reduced by depreciation and amortization.
TESTIMONY BEFORE THE UNITED STATES CONGRESS
ON BEHALF OF THE
NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Statement for the Record of Warren S. Hudak
President, Hudak & Company

United States House of Representatives
Committee on Small Business

Paying Their Fair Share: How Tax Hikes Crush the
Competitiveness of Small Businesses

April 18, 2023

National Federation of Independent Business
555 12th Street NW, Suite 1001
Washington, DC 20004
Good afternoon, Chairman Williams, Ranking Member Velazquez, and Members of the House Small Business Committee. My name is Warren Hudak; I am the President of Hudak and Company, an accounting and payroll firm in Camp Hill, Pennsylvania. Thank you for inviting me to testify on Tax Day at this important hearing.

Our firm, Hudak and Company, is a small business that serves small businesses. We have 11 employees and 90% of our customers are small businesses. Hudak and Company's focus is small business accounting. We provide the full resources small businesses would expect from a large accounting firm – accounting, business planning, tax return preparation, payroll, or small business consulting – while maintaining a personal touch.

It is our job to work with small business clients to translate the complicated federal tax code and frequently changing tax provisions. This challenge comes on top of other economic problems that small businesses are facing, which include stubbornly high inflation and workforce shortage issues. Our business similarly faces these challenges as our labor costs are up 40% and software costs have tripled since the pandemic began. Tax professionals, who face demographic challenges due to an ageing workforce, have been stretched thin over the pandemic as we worked long hours helping our clients navigate pandemic assistance programs.

Small businesses are facing a very uncertain future that makes business planning extremely difficult. Beginning this year, certain business provisions of the Tax Cuts and Jobs Act (TCJA) of 2017 expire or wind down. In fewer than 3 years, the vast majority of the provisions that benefit individuals and small businesses will also expire. If Congress fails to act, there will be a detrimental and substantial tax increase on more than three quarters of small employers. Further, proposals to increase taxes on businesses cloud optimism and further complicate business planning. Finally, the small business paperwork burden is increasing, which complicates tax compliance and shortens the tax season, while the IRS disproportionately expands enforcement efforts over compliance assistance and customer service improvements.

Benefits of Tax Cuts and Jobs Act of 2017
Small businesses received substantial tax savings upon enactment of the Tax Cuts and Jobs Act of 2017. For the more than three-quarters of businesses organized as pass-throughs (S-Corporations, LLCs, Sole Proprietorships, and Partnerships), the 20% Small Business Deduction (also known as Section 199A), combined with the lower individual tax rates and broader income brackets, provided tax relief that was invested in the businesses and employees. All of these provisions expire on December 31, 2025.

The TCJA also contained provisions that encouraged business investment by allowing for the immediate deduction of equipment and research and development. These provisions include permanently extending Section 179 expensing and temporarily extending bonus depreciation and Research and Development (R&D) expensing (Section 174). The latter two provisions expire or wind down last year and this year. R&D expensing is a big deal when cashflow is tight, which it is occurring right now with pervasive inflation and rising interest rates. The sooner that the beneficial small business and expensing provisions are extended, the better small businesses will be able to plan for the future. Extension of these provisions is paramount to recovering from the Covid malaise.

President’s Fiscal Year 2024 Budget Request
Further clouding business planning are proposed tax increases on small businesses. President Biden’s Fiscal Year 2024 Budget Request would increase taxes on small businesses organized as corporations and pass-throughs. For the nearly one-quarter of small employers organized as corporations, the budget proposes increasing the corporate tax rate from 21% to 28%. For the more than three-quarters of small employers that are pass-throughs, the budget proposes increasing the top marginal income tax rate, lowering the threshold that the top rate begins, creating a new 5% tax on business income above $400,000, increasing capital gains tax rates above $1 million, and further limiting the ability to smooth

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1 Congress made a number of significant changes in the (bonus) depreciation allowance. BDA in P.L. 115-97. Specifically, the act set the rate for the BDA at 100% for qualified property acquired and placed in service between September 28, 2017, and December 31, 2022. The rate then is scheduled to decrease to 80% for property placed in service in 2023, 40% for property placed in service in 2024, 40% for property placed in service in 2025, 20% for property placed in service in 2026, and 0% starting in 2027 and thereafter. Gary Guenther, The Section 179 and Bonus Depreciation Expensing Allowances: Current Law and Economic Effects, Congressional Research Service, May 1, 2016, https://www.everycrsreport.com/reports/RL347152.html.
2 Beginning in tax year 2022, small businesses are now required to capitalize R&D costs and amortize them over a minimum of 5 years for domestic research and development.
3 The Build Back Better Act that was considered by the Ways and Means Committee would have created a graduated corporate rate structure, as did the Senate amendment offered by Senators Sanders (I-VT) and Whitehouse (D-RI). The President’s FY2024 Budget Proposal does not.
4 The threshold for joint filers is $450,000. These thresholds are not indexed for inflation so it will absorb an increasing number of small businesses and a greater percentage of small business income every year.
out business losses. For all structures of businesses, the proposed budget limits like-kind exchanges and changes tax treatment of stepped-up basis for family businesses and farms. While small businesses may not be impacted by these proposed tax changes every year, they will be impacted when they have profitable years, when they sell their businesses to fund their retirement, or when they pass along their businesses to the next generation.

The President’s Budget Request describes certain tax increases misleadingly as “closing loopholes.” One example of this mischaracterization was a deliberate policy choice. This proposal would expand the 3.8% “Net Investment Income Tax” (NIIT) to active business income and increase the tax rate to 5%. This tax was originally created as part of the Affordable Care Act reconciliation bill as a tax on investment, or passive, income above $200,000. It was a deliberate policy choice to not apply it to active business income, which is not investment income. As former Chairman of President Obama’s Council of Economic Advisors Jason Furman described, it was not applied to active business income, “because it could be demonized as a tax on small businesses and doctors.”

A deliberate policy choice is not a “loophole.” The proposed expansion of the tax would more than double the revenue collected, further demonstrating that the tax increase proposal is not “closing a loophole.” If it is ultimately enacted, this substantial tax increase would reduce the ability of pass-through business owners to invest in their businesses and employees, leaving them at a further disadvantage relative to corporations.

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6 The Budget closes the loophole that allows certain business owners to avoid paying Medicare taxes on these profits, and dedicates revenue raised by the Net Investment Income Tax (NIIT) to the Medicare HI Trust Fund, as originally intended. In addition, the Budget raises the Medicare tax rate on earned and unearned income and the NIIT rate from 3.8 percent to 5 percent for the wealthiest Americans. Budget of the U.S. Government, Fiscal Year 2024, Office of Management and Budget, page 45, March 9, 2023. https://www.whitehouse.gov/wp-content/uploads/2023/03/Budget-52024.pdf.
7 The NIIT was neither included in the House or Senate ACA proposals. It was added during reconciliation after the Cadillac tax (which has since been repealed) was delayed and Cadillac tax thresholds were increased.
8 The threshold for joint filers is $250,000. These thresholds are also not indexed for inflation.
9 In summary, the NIIT arose as a last-minute revenue replacement to offset the revenue loss from Congress’s delayed implementation of the 40% excess tax on high-cost, or Cadillac, health insurance plans. As a direct substitute for the Cadillac tax’s general fund revenues, the receipts from the NIIT needed to flow into the Treasury’s general fund instead of being dedicated to either Medicare and tax funds. In other words, while helpful in supporting federal expenditures, including Medicare, the ACA did not directly link the NIIT to Medicare.” Ausher M.B. Kohlksy and Bryan P. Schmutz, What a Long Strange Trip It’s Been for the 3.5% Net Investment Income Tax, May 15, 2019. https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=1057&context=landnotes.
12 According to the FY2024 Treasury Greenbook, the proposed tax increase would collect an average of $65 billion per year over ten years - expansion of 3.8% NIIT to active business income (average $30.6 billion per year over ten years) and increase NIIT rate to 5% (average $34.4 billion per year over ten years). https://home.treasury.gov/system/files/131/General-Explanations-FY2024.pdf.
IRS Enforcement Expansion

The Inflation Reduction Act of 2022 provided nearly $80 billion in new funding for the Internal Revenue Service (IRS), primarily focused on enforcement. Unfortunately, only 4% of that funding was designated for customer service, which needs significant improvement at the IRS. Small business owners are concerned about the implementation of increased enforcement efforts, the continued backlog of tax returns, and the combination of increased paperwork and data privacy.

On April 6, 2023, the IRS released the long-awaited Strategic Operating Plan seven weeks after the original deadline directed by Treasury Secretary Janet Yellen.13,14 The Strategic Operating Plan is vague and dominated by increased enforcement efforts. For example, the plan would increase enforcement on "large corporations, large partnerships, and high-income individuals" without defining a "large corporation," "large partnership," or "high-income individual." Additionally, the plan states five times that small businesses and individuals earning less than $400,000 will not see increased audits relative to historical levels, but never quantifies "historical level."15

The IRS processing backlog was historically large, and while there have been improvements, it remains considerable.16 Paperwork burdens are expanding. Currently, business owners are inundated with paperwork and current Form 1099 information reports. This paperwork makes tax preparation more difficult for preparers and business owners. I previously mentioned that tax professionals are already stretched thin. The forthcoming expansion of Form 1099-K reporting could further complicate tax preparation and require more reconciliation of paperwork. It

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14 "Before it was struck by the Byrd process, the Inflation Reduction Act would have required the IRS to produce a six-month operational plan detailing how these resources will be deployed over the course of the next decade. This kind of planning is crucial and I am directing that such a plan should be delivered to me six months from today," Janet L. Yellen, Secretary of Treasury, IRS Operational Plan, Memorandum for Commissioner Rettig, August 17, 2022, https://www.taxcontroversy360.com/wp-content/uploads/2022/08/2022-27034-TNT_Docs.pdf.

15 See, for example, the description of pass-through audit rates, which lists multiple historical levels of audits. "For example, while total tax return filings increased by 1% from 2011 to 2021, filings by pass-through entities, including partnerships and S corporations, increased by 26% over the same period. However, monitoring the compliance of pass-through entities—particularly large and more complex ones—requires more IRS resources. As a result of funding limitations, the audit coverage rate has fallen. While the IRS audited 4.4% of pass-through entities in 2010, that number fell to 0.7% in 2017 [the most recent tax year with nearly all audits closed], and audits have continued to decrease." Internal Revenue Service Inflation Reduction Act Strategic Operating Plan, FY2023–2021, Internal Revenue Service, page 141, April 6, 2023, https://www.irs.gov/pub/irs-pdf/p3744.pdf.

16 See, for example, "As of April 1, 2023, we [IRS] had 2.26 million unprocessed individual returns... Status of Processing Form 941, Employer's Quarterly Federal Tax Return: As of April 6, 2023, we had 140,000 unprocessed Forms 941... As of April 4, 2023, our total inventory of unprocessed Forms 941-X was approximately 922,000, some of which cannot be processed until the related 941s are processed." IRS Operations: Status of Mission-Critical Functions, accessed on April 16, 2023, Internal Revenue Service, https://www.irs.gov/newsroom/irs-operations-status-of-mission-critical-functions.
has already been delayed once administratively as a result. Small business owners must also file beneficial ownership reporting paperwork with Treasury beginning next year. The outreach and education efforts on both of these new reporting requirements has been lacking.

I also remain concerned about the ability of the IRS to protect personal information, and I worry pre-populating tax returns could exacerbate privacy risks. Late last year, the IRS admitted to “inadvertently” exposing confidential data of more than 112,000 taxpayers. This data remained publicly available on the IRS’ website for more than a month. 17

If there is massive tax evasion, I hope the IRS finds it. But I worry if that is not the case. If there is not sufficient revenue generated from increased audits and enforcement of large corporations and high-income taxpayers, then what happens? Is the priority for enforcement to crack down on tax evasion at the top or is it to collect nearly $200 billion to fund the Inflation Reduction Act spending and tax credits? I encourage continued oversight of the IRS expansion and the potential impacts on small businesses.

Small businesses continue to face economic headwinds. Congress can help mitigate economic challenges by extending beneficial small business tax provisions and rejecting tax increases on small businesses. Tax certainty will help businesses plan for the near- and medium-term and increase small business confidence. I appreciate your time and attention to these concerns. Thank you for the opportunity to testify today on behalf of small businesses.

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My name is Anne Zimmerman, and I am President & CEO of Zimmerman & Co CPAs, Inc. with offices in Cincinnati and Cleveland, Ohio as well as the Co-chair of Small Business for America’s Future—a national coalition of small business owners and leaders working to give the small business community a voice at every level of government. We’re committed to ensuring policymakers prioritize Main Street by advancing a just and equitable economic framework that works for us, our employees, and our communities.

As a small business owner myself, I take great pleasure in supporting other small businesses in my community. Every Friday, my grandson AJ and I have a special tradition of treating ourselves to creamy whips—also known as soft serve ice cream for those not from Ohio—on our way home from school. Regrettably, we won’t be able to enjoy that delightful ritual this week, as the small business we’ve grown fond of permanently shut its doors on Sunday.

While unfortunate, this is not uncommon. Small businesses face a critical period of vulnerability during their initial years of operation. Establishing an equitable tax code can offer the essential support they need to successfully navigate these challenging early stages. With a record 10.2 million new small business starts since 2021, there’s a renewed urgency to develop such a tax code to bolster their chances for success. The

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1 The White House. "Statement from President Joe Biden on Record-Setting Small Business Applications." The White House, 17 January 2023
recent resurgence in American entrepreneurship, reversing decades of decline, signals a promising outlook for our economy and communities. Small businesses are vital in creating jobs, driving economic growth, and delivering essential goods and services across our nation—they indeed form the backbone of our economy. To turn this surge in entrepreneurial spirit into long-term positive economic activity, we must support new business owners during their make-or-break early years while fostering a favorable economic environment for more established businesses as they continue on their path to recovery.

A key aspect of this support should be developing a tax code that puts small businesses on a level playing field with large corporations. The Tax Cuts and Jobs Act (TCJA) has primarily benefited large corporations, while offering minor relief for small businesses. Extending those tax cuts after they expire in 2025 would permanently enshrine those tax inequities.

We can, and indeed must, do better. Small businesses do much of the heavy lifting in our economy. A recent Wall Street Journal analysis revealed that small businesses had, at the time, been responsible for all net job growth in the U.S. since the pandemic began, and they account for nearly four out of every five available job openings. This is not the first time small businesses have been the driving force behind economic recovery. Following the 2008 recession, they were responsible for creating 75% of new jobs. Small businesses have a proven history of rescuing our economy, and they deserve a tax system that levels the playing field with major corporations. Supporting the success of small businesses is not only beneficial but essential for our country’s overall wellbeing.

To enable small businesses to grow and thrive, we need to implement solutions such as offering tax credits for hiring the first employee, making the first $25,000 in profit tax-free, simplifying tax compliance, and enhancing IRS customer service.

By placing the needs of small businesses at the forefront of our tax code and political choices, we can cultivate a robust economy rooted in entrepreneurship and innovation. Making the TCJA permanent does not get us there.

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1 Angell, Melissa. “Small-Business Applicants Smash Another Record in 2022 as More Americans Turn to Entrepreneurship.” Inc. Magazine, 18 January 2023


A public opinion poll conducted for Small Business for America’s Future by Morning Consult in 2019 found that the small business deduction in the 2017 Tax Cuts and Jobs Act has not helped the vast majority of small business owners hire, grow, or invest in their businesses, nor has it had a positive impact on their businesses’ growth or profitability. The poll found that 48% of small businesses said the new tax law had no impact on their growth or profitability, and 24% said it had a negative impact. Only 19% of owners said the law had a positive impact on their business.

The vast majority of small business owners said the new law didn’t allow them to hire more employees, give employees raises, offer employees bonuses, pay off a business loan, or invest in new equipment or construction. Additionally, the majority of respondents said they did not have an easier time filing their business taxes.

By contrast, the Tax Cuts and Jobs Act gave large corporations a tax rate of 21%, cutting their tax rate by 40% (from 35% to 21%). Much of that money did not make it down to workers or stimulate job growth as predicted. In addition, I have small business clients who are C-Corporations who actually saw their tax bill increase by 40% (from 15% to 21%) because the TCJA not only cut the top corporate rate, but it eliminated the lower graduated rates for the smallest and least profitable businesses. Pass-through businesses, representing the vast majority of small businesses, got a temporary 20% deduction—half as much as their big business competitors. It is time to undo those mistakes.

Small business owners, like most Americans, want to see corporations and the wealthy pay their fair share. This is because the vast majority of small business owners are not affected by proposed changes to the upper income tax brackets, estate taxes, capital gains taxes or the corporate tax rate. In fact, 95% of small businesses are not taxed as C-corporations, and their owners are predominantly middle-class individuals. The average small business owner salary was $66,373 in 2019, with 83% of them taking an annual salary of less than $100,000, and 30% reporting that they take no salary at all.

These small business owners consistently express the belief that large corporations do not pay their fair share and desire a tax code that levels the playing field. This perspective is understandable, as the issues faced by companies like Amazon and a family-run pizza shop on the corner come Tax Day are vastly different. Small Business for America’s Future has surveyed small business owners about their attitudes toward taxes since 2017, and one survey of more than 1,000 small business owners is representative of the responses we typically receive:

- 72% believe that the current tax code favors large corporations
- 75% do not believe that large corporations pay their fair share of taxes
- 76% agree that small businesses are harmed when corporations use loopholes to avoid paying taxes
- 60% support partially rolling back the 40% corporate tax cuts given to large companies in 2017
- 51% say raising taxes on Americans making more than $400,000 would not harm small businesses

If we genuinely want to support small businesses, we must avoid taking the easy route by merely extending the TCJA. Instead, our policymakers should do the hard work to develop a tax code that actually benefits small businesses rather than giving them a token deduction. There is no reason for the tax code to favor large corporations. Given the potential for job creation and economic activity in every community across the country to be had by empowering small businesses, the tax code can and should be designed to help our Main Street entrepreneurs thrive. Here are a few suggestions on crafting a tax code that will foster small business success:

- Create a tax credit for hiring the first employee, fostering job growth
  - Giving new businesses a tax credit for their first employee hired will help them scale and overcome obstacles to hiring while trying to get footing as a new business.
- Make the first $25,000 in profit tax-free to strengthen truly small businesses
  - Creating a standard deduction of $25,000 for small businesses would allow the owner more time to work to get the business off the ground rather than having to keep detailed expense records in their early days.
- Rebalance the TCJA tax cuts
  - Restore a small portion of big businesses’ 40% cuts to equalize small businesses 20% cuts and make them all permanent.

**Survey: Small Business Owners Strongly Support American Rescue Plan & Corporate Tax Increase to Spur Economic Recovery, 13 May 2021,**
• Simplify tax compliance and improve IRS customer service
  o It's no secret that the IRS needs better customer service. When I began practicing tax accounting, the IRS would answer the phone and discuss a topic in the tax code and how we were interpreting it in our reporting. That no longer exists. The IRS will only tell a taxpayer if they have filed, the status of their return, what payments have been posted to their account, and other administrative items. A taxpayer now has to be in appeals or in court with the IRS before an agent will have any discussion with them about the law and whether they believe the taxpayer complied with it. The IRS funding in the Inflation Reduction Act will add human power and technology to boost customer service that will help small business owners looking to comply but in need of direction.
  o A recent study\textsuperscript{10} shows that as funding for the IRS was cut over the past decade, audit rates decreased the most for taxpayers with high incomes. This will help fix that imbalance and Treasury Secretary Janet Yellen has specifically directed the agency to not utilize any additional auditing staff or resources to increase audits\textsuperscript{10} on small businesses or households making less than $400,000 a year.
  o Keep any changes simple enough that small business owners can understand them and increase education about the changes aimed at these owners.
  o Consider a minimum tax on corporate book income, something that would not cost most small businesses anything at all but would go a long way to equalizing the playing field.
  o These measures will help small businesses that don’t have robust finance teams better navigate their taxes. Rescinding funding would do the opposite.

Another crucial area to foster small business success is to avoid destabilizing political fights. Specifically, using the debt ceiling as leverage for political gain could lead to economic fallout and jeopardize the livelihood of small business owners. When political brinkmanship takes center stage, small businesses often bear the brunt of the consequences. Previous debates over the debt ceiling have resulted in increased borrowing costs, stock market volatility, and reduced consumer and business confidence. Such outcomes disproportionately affect small businesses, which typically


have fewer resources to weather economic uncertainty compared to their larger counterparts.

As the economy shows signs of progress and recovery, lawmakers must prioritize bipartisanship and responsibly address the debt ceiling issue to prevent potential economic damage, especially for small businesses. A stable economic environment is crucial for small businesses to thrive, create jobs, and drive innovation. By avoiding the use of the debt ceiling as a political weapon, Congress can provide a more predictable landscape for small business owners to plan, invest, and grow.

In conclusion, I urge Congress to do the hard but necessary work of creating a more equitable tax system that supports small businesses and fosters a stable economic environment rather than taking the easy route of making a bad tax law permanent. As we continue to recover from the pandemic, it is more important than ever that our lawmakers invest in the long-term health and strength of our economy. Ensuring the well-being of small businesses is essential to this endeavor—and essential to making sure creamy whip stores can keep serving up smiles. Thank you for your time and consideration.
Questions for the Record

“Paying Their Fair Share: How Tax Hikes Crush the Competitiveness of Small Businesses”

Tuesday, April 18, 2023
Committee on Small Business

Statement #1 submitted for the record by Congressman Kweisi Mfume:

The Tax Cuts and Jobs Act of 2017 (TCJA) was the largest tax overhaul in many years. And, it cut taxes, yet lower and middle-income Americans paid for it. This law was the wrong thing at the wrong time. It provided large, regressive, deficit-financed tax cuts to an economy with low unemployment, rising long-term inequality, and high debt. Not only did it take resources from future generations and from today’s lower- and middle-income households to enrich today’s well-to-do, it was so unpopular with the American people that some Republican members of Congress resorted to justifying their support for the bill by saying that their donors would cut off funding if they voted against it. Only about a third of the American people supported the legislation. Now, six years later, our economy continues to experience extreme levels of income and wealth inequality.

Questions #1 submitted for the record by Congressman Kweisi Mfume, directed at Ms. Anne Zimmerman:

1. Is it fair to say that the current tax code, which reflects the changes made by the Tax Cuts and Jobs Act, is at least partially to blame for these widening inequalities, and do you think it is the job of the tax code to help create a fair and level playing field?

The Tax Cuts and Jobs Act favored large corporations over Main Street small businesses, channeling its benefits into their coffers, while failing to trickle down to employees or local communities. The result? A widening wealth gap fueled by stock buybacks and missed opportunities for economic upliftment. Small businesses, the backbone of job creation and economic vitality, received meager tax relief that did not allow them to invest in their companies, hire new employees, pay off debts, buy new equipment, or seize growth opportunities. There is no reason the tax code has to be written to favor large corporations over small businesses. It can, and should, support small businesses by ensuring a level playing field and promoting long-term, broad-based economic growth for Main Street entrepreneurs and, by extension, their communities.

2. What are some actions that we can take through the tax code that would decrease the levels of inequality we have and give more opportunities to those with lower incomes?
Given the potential for job creation and economic activity in every community across the country to be had by empowering small businesses, the tax code should be designed to help our Main Street entrepreneurs thrive. Here are a few suggestions on crafting a tax code that will foster small business success:

- Create a tax credit for hiring the first employee, fostering job growth
  - Giving new businesses a tax credit for their first employee hired will help them scale and overcome obstacles to hiring while trying to get footing as a new business.

- Make the first $25,000 in profit tax-free to strengthen truly small businesses
  - Creating a standard deduction of $25,000 for small businesses would allow the owner more time to work to get the business off the ground rather than having to keep detailed expense records in their early days.

- Rebalance the TCJA tax cuts
  - Restore a portion of big businesses’ 40% cuts to equalize small businesses 20% cuts and make them all permanent. Also simplify the portion of the cuts that apply to small businesses.

- Simplify tax compliance and improve IRS customer service
  - It’s no secret that the IRS needs better customer service. When I began practicing tax accounting, the IRS would answer the phone and discuss a topic in the tax code and how we were interpreting it in our reporting. That no longer exists. The IRS will only tell a taxpayer if they have filed, the status of their return, what payments have been posted to their account, and other administrative items. A taxpayer now has to be in appeals or in court with the IRS before an agent will have any discussion with them about the law and whether they believe the taxpayer complied with it. The IRS funding in the Inflation Reduction Act will add human power and technology to boost customer service that will help small business owners looking to comply but in need of direction.

  - I have reason to hope that that is changing now. Funding from the Inflation Reduction Act to modernize and improve customer service at the IRS is already having a positive impact. The IRS started this tax season with 5,000 new customer service representatives who provided live assistance to 87% of taxpayers’ phone calls, up from 13%. Call wait times were down to four minutes
from 27 minutes. Its “Paperless Processing” initiative is expected to speed up the
time it takes for people to get returns. Technological improvements will enable the
IRS to digitize paperwork submitted by mail or fax by the 2025 tax season.

- A recent study shows that as funding for the IRS was cut over the past decade,
audit rates decreased the most for taxpayers with high incomes. This will help fix
that imbalance and Treasury Secretary Janet Yellen has specifically directed the
agency to not utilize any additional auditing staff or resources to increase audits
on small businesses or households making less than $400,000 a year.

- Keep any changes simple enough that small business owners can understand them, and
increase education about the changes aimed at these owners. These measures will help
small businesses that don’t have robust finance teams better navigate their taxes.
Rescinding IRS funding would do the opposite.

3. What are some ways we could structure tax cuts in the future that provide relief to truly
small businesses, while still ensuring wealthy, large corporations pay their fair share?

To ensure that the wealthy and large corporations contribute their fair share, it is crucial to
enforce the current tax codes rigorously. Studies have shown that audits of the wealthiest in our
country have dropped off significantly because of their complexity and insufficient funding for
the IRS. Enforcing the existing tax code will add a meaningful amount to our country’s coffer.

Another way to provide relief to small businesses is to offer resources to help them remain
compliant. Small business owners are eager to comply with tax regulations, but the intricate tax
code poses challenges, particularly for those operating on limited budgets. To assist small
businesses in meeting their tax obligations, a collaborative effort between the IRS and the Small
Business Administration (SBA) is imperative. Establishing accessible online platforms and
dedicated telephone assistance can provide invaluable support and guidance for these
entrepreneurs.

The largest inequity we have seen in recent years is the wealthy and large corporations receiving
twice the tax cut as small businesses and their owners when the Tax Cuts and Jobs Act passed.
Reversing a portion of those cuts to rebalance the savings would go a long way toward fixing
some of the current inequities.

**Statement #2 submitted for the record by Congressman Kweisi Mfume:**

One of the primary issues with the Tax Cuts and Jobs Act is that it permanently changed the
corporate tax system for C-Corporations from a graduated or progressive system with a top rate
of 35 percent to a flat tax of 21 percent. Small businesses make up the majority of the tax returns filed in this category.

Question #2 submitted for the record by Congressman Kweisi Mfume, directed at Ms. Anne Zimmerman:

4. Can you explain how, in changing the graduated rate to a flat tax, the Tax Cuts and Jobs Act put small C-Corporations at a disadvantage?

The Tax Cuts and Jobs Act’s change from a graduated rate structure to a flat tax of 21% for C-Corporations put small corporations at a disadvantage.

Previously, smaller and less profitable C-Corporations benefited from lower graduated rates, sometimes as low as 15%. However, the flat tax introduced by the TCJA eliminated these lower rates, leading to an increase in the tax burden for some small C-Corporations. In contrast, large corporations enjoyed a significant tax cut, from 35% to 21%, further exacerbating the disparity between small and large businesses.

As an example, a client of mine that is taxed as a C-Corporation earns about $45,000 per year after paying its owner a wage of $85,000. This client pays $2,700 more in federal corporate tax each year after the TCJA than it did prior to that tax change. How does any of that make sense?

As a result, the TCJA put small corporations at a competitive disadvantage, making it even more difficult for them to compete with larger corporations that already enjoy economies of scale and other advantages.

Statement #3 submitted for the record by Congressman Kweisi Mfume:

It remains clear to me that the Tax Cuts and Jobs Act fell short of the tax reform needed to make this country one that serves its small businesses and supports the needy. Instead, the Tax Cuts and Jobs Act simply created loopholes for the wealthiest corporations and left small businesses and the American people to pay the bill.
April 17, 2023

The Honorable Roger Williams  
Chair, Committee on Small Business  
United States House of Representatives

The Honorable Nydia Velázquez  
Ranking Member, Committee on Small Business  
United States House of Representatives

Dear Chair Williams and Ranking Member Velázquez:

The American Rental Association, representing the equipment and event rental industry, appreciates the opportunity to submit a statement to the record for the April 18, 2023, full Committee hearing entitled: *Paying Their Fair Share: How Tax Hikes Crush the Competitiveness of Small Businesses*. We request that our full statement which is attached to this letter is included in the hearing record. If you or your colleagues on the Committee have any questions regarding our policy positions or prescriptions, please do not hesitate to contact me directly.

With Kindest Regards,

John W. McClelland Ph.D.
Statement for the Record
American Rental Association
Committee on Small Business
United States House of Representatives

Background

This statement is submitted to the record of the April 18, 2023, hearing entitled: Paying Their Fair Share: How Tax Hikes Crush the Competitiveness of Small Businesses. The American Rental Association (ARA) represents the equipment and event rental industry. ARA’s 5,600 members operate approximately 12,000 locations throughout the United States with locations in every Congressional district. ARA members buy equipment used in construction and related activities as well as equipment used for staging events large and small. The vast majority of ARA members are small independent businesses with less than $30 million in annual revenues, and a majority of those have revenues of less than $5 million. Moreover, most ARA members are organized as pass-through entities.

ARA members rent the equipment in their inventories to other businesses and to the public. ARA estimates that equipment rental companies own approximately 55 percent of the construction equipment in the U.S. on a value basis. In 2023, the equipment and event rental industry will generate about $60 billion in aggregate revenues in the U.S. Approximately 90 percent of those revenues will come from the rental of construction equipment and tools used in the construction industry as well as by small contractors and homeowners. Two general statements about the equipment and event rental industry are 1) the industry is very capital intensive, and 2) equipment and event rental companies are constantly turning over their inventories; retiring older equipment and replacing it with new equipment.

Equipment and event rental businesses can be characterized using the concepts of stocks and flows. The inventory (fleet) is the stock of equipment owned by the company. There is a constant flow of equipment in and out of the fleet as old equipment is retired and new equipment is added to the fleet. When flows of assets into the fleet are greater than the flow of assets out of the fleet, the asset base is expanding. When the opposite occurs, the fleet contracts. Over the past fifteen years, from the beginning of the financial crisis through the Covid pandemic, the equipment and event rental industry has experienced cycles of significant fleet expansions and contractions.

Annual fleet turnover is necessary because rental equipment experiences high levels of utilization. It is not uncommon for some assets to be on rent for more than 60 percent of the time. When equipment is brought back to the rental business it must be cleaned and maintained to get it ready for its next rental. Managing an equipment or event rental inventory is complex and a large part of this is related to financial management.
Bonus Depreciation/Full Expensing

For more than twenty years, Congress has enacted provisions in the tax code that created incentives for businesses to increase capital expenditures that stimulate economic growth. This is one of the reasons the equipment and event rental industry has essentially tripled in size since 2000. Another reason is the growing cost of owning and maintaining equipment that is underutilized by a single owner.

Tax incentives that have helped small equipment and event rental businesses expand their fleets are Section 179 and Bonus Depreciation provisions in Section 168. In 2017 the Tax Cuts and Jobs Act of 2017 (TCJA) made Section 179 permanent and indexed for inflation. In 2022, businesses using Section 179 could expense up to $1,080,000 if their aggregate investment in qualified equipment was less than $2,700,000. Once the $2,700,000 limit is reached, the allowable expensing under Section 179 is reduced dollar-for-dollar. Any amount of expenditures between $1,080,000 and $2,700,000 could be fully expensed using the 100% bonus depreciation available in tax year 2022. The combination of Section 179 and 100% Bonus Depreciation has meant that since 2017, capital intensive businesses like equipment and event rental businesses have been able to fully expense all of their equipment purchases in fleets with very dynamic asset flows.

Another factor affecting the equipment and event rental industry is the significant inflation in equipment costs and the residual value of these assets on the secondary market. Price increases by as much as 60 percent for some pieces of equipment over the last few years, and the already high cost of owning and maintaining this equipment has significantly increased capital outlays for the equipment and event rental industry. With investment rates equal to about 25 percent of industry revenues, these price increases for equipment have driven revenues higher because increasing costs have driven rental rates higher. As revenues have increased, and the cost of owning and maintaining these assets has increased, the demand for equipment has also continued to grow because of the economic environment created by increases in infrastructure spending as well as renewed spending on events following the Covid pandemic. The result is that many small businesses that were strictly covered by Section 179 are now being pushed into a situation where they need both Section 179 and Bonus Depreciation if they choose to fully expense their equipment purchases. Inflated equipment prices mean other ARA members that are small family-owned enterprises are now exceeding the limits of Section 179 and can only use Bonus Depreciation. Still other equipment rental companies that are defined as small businesses according to the Small Business Administration size standards have only been able to use Bonus Depreciation for the past 20-year period. In 2022, the size standard for an equipment rental business classified as NAICS 532412 (construction equipment rental) was $40 million in annual revenues.

Under TCJA, Section 168 Bonus Depreciation was set at 100 percent from 2017 through 2022. Beginning in 2023, Bonus Depreciation is reduced to 80 percent with additional 20 percent reductions in 2024, 2025, and 2026, respectively. If these reductions in Bonus Depreciation are allowed to take effect, equipment and event rental companies will face a two-edged sword. First, as retired equipment flows out of the fleet and into the secondary market, the proceeds from those sales will be subject to capital gains taxes which will be significant because the assets have a tax basis of zero and used equipment prices are relatively high. At the same time, new equipment is being purchased to replace equipment that has been retired and this new equipment cannot be fully expensed. Thus, the capital gains liability created by the sale of retired assets will not be offset by a tax write-off created by expensing the newly acquired assets. The aggregate result will be the creation of a fiscal drag on the economy because businesses either must curtail their purchases of new equipment or incur debt to pay the
capital gains taxes that are no longer offset by expensing their purchases of new equipment. Moreover, if the current provisions of TCJA go unchanged, the signal to small, capital-intensive businesses is do not grow too much or you will fall off a tax cliff that could have long term consequences for the business.

We note that this is not only true for small businesses, but for all equipment and event rental businesses going forward. However, it will make small equipment and event rental businesses less competitive vis-à-vis their larger competitors because smaller firms do not have the financial resources or flexibility that are characteristic of larger firms. In addition, Section 1031 for like-kind-exchanges that allowed businesses to forgo capital gains taxes on exchanges of like-kind assets was eliminated for business personal property in TCJA. For this reason, the American Rental Association supports a permanent extension of the 100-percent expensing provisions of TCJA.

Section 199(A)

TCJA lowered the corporate tax rate from 35 percent to 21 percent. In an effort to maintain tax rate parity between small and large businesses the TCJA created Section 199(A). This provision allows businesses that are organized as pass-through entities to have a portion of their income taxed at a rate significantly less than the ordinary individual tax rate. This has allowed small pass-through businesses in the equipment and event rental industry to remain competitive relative to their larger competitors with a traditional corporate structure.

We believe Section 199(A) has been successful in maintaining robust competition within the equipment and event rental industry. However, under TCJA, Section 199(A) will expire in 2025 and every small business using the deductions allowed in Section 199(A) will be subjected to a massive tax increase. The result will be significantly less competition in the equipment and event rental industry because small businesses in the industry will be paying more in taxes instead of buying more equipment and hiring more employees. In the aggregate, the expiration of Section 199(A) will create an additional fiscal drag on the economy causing economic contraction and increases in unemployment. These costs will be primarily borne by small businesses and their employees but will ultimately ripple through the economy with negative impacts.

Conclusions

The equipment and event rental industry is a textbook example of a competitive industry. There are many firms participating in the industry and barriers to entry are relatively low. While there are large corporations in the industry, small firms still generate a significant amount of industry revenues. Moreover, the industry is decentralized because markets are local in cities and towns large and small across the U.S. The TCJA created a tax environment that has allowed the equipment and event rental industry to grow as the demand for equipment has increased and as the “sharing economy” has become prevalent throughout the U.S. economy. If Congress does not act and 100 percent Bonus Depreciation and Section 199(A) are allowed to expire there will be a significant and negative impact of the equipment and event rental industry in particular, but also on the entire U.S. economy. That is why the American Rental Association fully supports the permanent extension of 100 percent Bonus Depreciation and Section 199(A).
Statement for the Record in Connection with the hearing of the United States House of Representatives Committee on Small Business on “Paying Their Fair Share: How Tax Hikes Crush the Competitiveness of Small Businesses.”

Professor Caroline Bruckner,
Sr. Professorial Lecturer, Accounting and Taxation
Managing Director, Kogod Tax Policy Center
Kogod School of Business, American University

April 27, 2023

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Chair Williams, Ranking Member Velázquez, U.S. Senate Committee on Small Business (the "Committee") Members and Staff, thank you for holding a full committee hearing on April 18, 2023, titled, “Paying Their Fair Share: How Tax Hikes Crush Small Business Competitiveness.” My name is Caroline Bruckner and I am a tax professor at the faculty at American University Kogod School of Business. I also serve as the Managing Director of the Kogod Tax Policy Center (KTPC), which conducts non-partisan policy research on tax and compliance issues specific to small businesses and entrepreneurs. The KTPC’s mission is to develop and analyze research and policy recommendations for tax-related problems faced by small businesses, and to promote public dialogue concerning tax issues critical to small businesses and entrepreneurs.

Since 2015, I have focused our research agenda, in part, on the tax and compliance issues impacting self-employed small business owners and women business owners, the overwhelming majority of which are small businesses, as well as the need for increased tax data transparency. In connection with the April 18 hearing, I am submitting preliminary findings and recommendations from my latest research, The Small Business Tax Literacy Project (SBTLP), related to the Committee’s critical work on studying the impact of taxes on small business competitiveness and efforts to engage in effective policymaking and oversight with respect to small business tax expenditures.


In general, tax literacy is a significant—albeit overlooked and understudied—pain point of small business owners. Since 2016, the KTPC has developed research and testified before this Committee, on how millions of small business owners struggle to meet their tax filing obligations and don’t know how to comply with tax rules.1 For our latest research on small business tax literacy, we partnered with Barbara Robles, retired former Principal Economist with the Federal Reserve Board in Washington, D.C., and Public Private Strategies Institute (PPSI) to develop and administer a unique 20-question survey that builds on prior public and private sector tax compliance and financial literacy surveys and captures key demographic information to gauge tax literacy of small businesses and the independent workforce.2 Our online findings reflect the fact that too many small businesses are struggling with their taxes and are a good starting place for this Committee to develop actionable outreach, education and tax assistance strategies for helping small businesses navigate the complexities of the U.S. tax code. Specifically, our survey respondents reported that:

- It’s a Pay-to-Pay System 87% hired someone or bought software to do their taxes;
- A College Degree Doesn’t Guarantee You Know How to Do Your Taxes: while 76% had at least a college degree (compared to 23.5% of the U.S. population), only 13.5% of our respondents learned how to do taxes in college and only 7.5% reported learning how to do taxes in high school;
- You’re On Your Own When It Comes to Taxes: 62% reported learning how to do taxes on their own;

2. The KTPC/PPSI survey was administered online from Sept 25, 2022 to October 22, 2022 by PPSI and was sent to approximately 90,000 small businesses, self-employed, independent contractors, freelancers and gig workers, and 562 respondents completed the 20-question survey with a cumulative response rate of 0.13 percent.
• **Small Businesses Don’t Know What’s Due:** Approximately one-third didn’t know whether they needed to pay quarterly-estimated taxes and 25% didn’t know how to pay their taxes. While 54% of our respondents did set aside money to pay taxes, 30% didn’t know if they would own money and didn’t set aside money to pay taxes; and

• **Tax Time Triggers Anxiety:** Over 37% felt nervous/scared or bad about filing taxes.

Compounding these challenges is the fact that more than one-third of respondents reported that they never or only sometimes received tax forms from businesses that engaged them. These initial SBTLP survey results strongly indicate that small business owners are both unprepared and unnecessarily challenged in trying to comply with the complexities of the U.S. tax system. It’s not just tax rates that crush small business competitiveness; it’s a lack of understanding on what’s due when and how to file, and ultimately having to spend money to pay taxes. Moreover, existing research on the growth of small businesses in recent years suggests that the tax challenges captured in SBTLP survey results have and are going to continue to grow exponentially.

2. **The Growing Small Business Tax Literacy Gap Contributes to the Tax Gap**

In recent years, more and more Americans are supplementing their incomes by working outside of traditional employment. This is a trend that tax data research has documented. Following the onset of the COVID-19 pandemic, private sector research has found that the trend for independent work has even accelerated. For example, in 2022, MBP Partners found that the number of independent workers, “soloed” by 26% to 644 million, which was up from 51.1 million in 2021. This notable increase followed 2021’s “unprecedented” 34% year-over-year increase. In addition, a McKinsey report from last year confirmed that “[n]in the latest iteration of McKinsey’s American Opportunity Survey, a remarkable 36 percent of employed respondents—equivalent to 58 million Americans when extrapolated from the representative sample—identified as independent workers.” But it’s not just individuals working for themselves outside of traditional employment. Since 2020, small business establishment data shows the number of new firms has “risen at a historic rate.” While 54% of independent workforce and number of small business owners has grown, there has not been a corresponding effort to promote small business tax education to prepare these new business owners for the tax challenges they face.

Although extensive research has been done to show that financial education has become a significant factor in preparing the next generation of work-for-pay labor market participants and at least 26 states require some
financial literacy training for high school graduation, a review of the financial education curriculum for high school and beyond displays a disturbing gap in preparing young and work-age labor market entrants as well as early-stage entrepreneurs for meeting their tax compliance obligations and accessing capital through tax savings as they engage in a variety of income generating activities.

The growing small business tax literacy gap has quantifiable implications for the tax gap, which is the difference between the amount of tax imposed by law and that which is ultimately collected. Last year, IRS published its latest estimate of the gross annual tax gap for the 2014–2016 tax years and found it to be $496 billion, which was comprised of (1) nonfilers ($39 billion), (2) underreporting ($398 billion), and (3) underpayment ($9 billion). Of that $398 billion underreporting tax gap, IRS estimated individuals failing to report all of their business income to be $130 billion (20%), and individuals failing to correctly report their self-employment taxes estimated to be $53 billion (11%). Overall, the IRS estimated underreported nonfarm proprietor income to be approx. $1.26 billion. While these estimates indicate that small businesses contribute to the tax gap, they don’t explain why. Based on the latest SITLP survey results, there’s no question poor small business tax literacy contributes to the tax gap. In addition, other KTPC research has found that small businesses struggle to comply with tax filing obligations because the current tax administration system is not designed to facilitate compliance for the independent workforce, and this, in turn, contributes to the tax gap and shortfalls in retirement savings. Consequently, prioritizing closing the small business tax literacy gap is one way that Congress and IRS can help small businesses access capital through tax savings and work to close the growing tax gap.

3. Recommendations for Closing the Small Business Tax Literacy Gap

While this Committee does not have jurisdiction over tax matters specifically, this Committee does have small business outreach expertise and oversight of the U.S. Small Business Administration (SBA), and can engage constructively with IRS, SBA, and other federal agencies that have financing programs targeted specifically to small businesses. As a result, this Committee is uniquely positioned to aid and educate small businesses on tax issues and advise IRS and SBA on outreach, education and assistance strategies targeting small business tax literacy. To that end, I recommend this Committee engage with IRS and other federal agencies to prioritize small business tax education initiatives. Specifically, this Committee should take steps to recommend:

I. IRS prioritize outreach and education of small business owners and the independent workforce by forming a small business tax information and training coalition together with SBA, U.S. Department of Agriculture, U.S. Department of Commerce and other agencies with small business financing programs. The coalition’s main charter should be promoting small business tax education to facilitate compliance and access capital through tax savings.

II. IRS expand Volunteer Income Tax Assistance (VITA) program recruiting through SBA’s network of programs (e.g., Small Business Development Centers; Women’s Business Centers; SCORE) and other small business financing networks (e.g., CDFI networks) as well as high schools, community colleges and university students. For example, IRS could develop “VITA Volunteer Corps” certifications together with targeting existing volunteer organizations for VITA recruiting (e.g., Americorps/SCORE volunteers).

11 Bruckner & Forman, Shoring Up Shortfalls, supra n. 3.
III. Together with IRS, SBA develop small business and independent workforce tax literacy modules for inclusion in financial literacy and civics curricula/courses developed for SBA programs, including those prepared and distributed among SBA’s networks and programs as well as K-12, High School and University programs.

Going forward, IRS/SBA should collaborate on funding and employing participatory research and tax awareness and education as a wholistic methodology for learning what type and level of tax literacy has the most significant impact on small business access to capital and facilitates compliance.


Finally, this Committee should engage with IRS, SBA’s Office of Advocacy and other federal agencies to develop inclusive tax data and research. The U.S. tax system reflects racial, ethnic and gender bias and “adds to inequality in this country.” The pervasive nature of the bias in the U.S. tax system is compounded by the fact that for the most part, civil rights protections and data transparency guardrails that require federal agencies to collect data on beneficiaries of federally-funded programs don’t expressly apply to “tax expenditures” (i.e., the special provisions that provide some taxpayers “more favorable treatment than regular income tax”). In other words, civil rights laws don’t mandate Treasury or IRS collect demographic data on who benefits from tax expenditures. So, for example, while federal and state housing agencies are required to track and publish data on the race, ethnicity, family composition, age, income, use of rental assistance, disability status, and monthly rental payments of households residing in low-income housing tax credit properties, neither Treasury nor the Committee has any idea of what the equity implications are for the corporations that are profiting from them.

In recent decades, Congress has increasingly turned to tax expenditures to deliver critical anti-poverty, health care or housing programming for taxpayers or to stimulate business activity through deductions for accelerated depreciation and individuals with business income. As you know, for budgetary purposes, tax expenditures are similar to direct spending programs that function as entitlements. However, the absence of inclusive demographic data on taxpayers that claim tax expenditures raises both equity issues and oversight challenges for Congress. How can Congress know if the programs funded through the U.S. tax code are working as intended if they don’t track who benefits? How can the Committee effectively conduct its oversight function of these “entitlement” programs absent inclusive tax data?

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15 JCX-22-22, supra n. 9 at 69 (stating that “the largest tax expenditure related to rental housing is the low-income housing tax credit, with a tax expenditure estimate of $65.0 billion. Approximately $64.1 billion of the $65.0 billion is attributable to corporations.”)

16 JCX-22-22, supra n. 11 at 3.
Notwithstanding these challenges, legal researchers have been using data from the private sector and federal agencies—other than IRS—to estimate the discriminatory racial and gender implications for various tax expenditures.16 Economists and members of Congress have been increasingly insistent on the need for additional research and demographic data on how taxpayers benefit from—or are penalized by—different tax provisions and administrative policies.17 Recently, researchers at Treasury and IRS are stepping up and working to enable tax expenditure data transparency.18 However, Congress needs to do its part and incorporate and normalize the use of inclusive tax data in the legislative process. In connection with this, the Committee should work with Treasury and the Joint Committee on Taxation to include demographic distribution data when preparing estimates of small business tax expenditures in connection with the work on improving tax policy for small business owners. Updating small business tax expenditures to make smarter, equitable investments in the small businesses who will grow our economy is a vital function of this Committee.

Again, thank you to the Committee for holding this important hearing. I stand ready to help the Committee with its work. Feel welcome to contact me with questions regarding the foregoing.

April 18, 2023

The Honorable Roger Williams
Chairman
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

The Honorable Nydia Velázquez
Ranking Member
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Williams and Ranking Member Velázquez,

The National Association of Manufacturers appreciates the opportunity to submit a statement for the record as part of the committee’s hearing on “Paying Their Fair Share: How Tax Hikes Crush the Competitiveness of Small Businesses.”

The NAM is the largest manufacturing association in the United States, representing manufacturers in every industrial sector and in all 50 states. Manufacturing employs nearly 13 million men and women, contributes $2.9 trillion to the U.S. economy annually, pays workers over 18% more than the average for all businesses and has one of the largest sectoral multipliers in the economy. Taken alone, manufacturing in the United States would be the eighth-largest economy in the world.

Small manufacturers are the heart of the manufacturing industry in America, forming the backbone of their communities, creating jobs and driving economic growth. Nearly 75% of manufacturers have fewer than 20 employees, and nearly 88% have fewer than 50 employees. Given the importance of small manufacturers to the strength of the U.S. economy, a tax code that allows them to be competitive is critical to ensuring our country’s future success.

The Tax Cuts and Jobs Act included many key reforms necessary to boost manufacturing in America: a lower, more competitive corporate tax rate, a reduced tax burden on pass-through income, incentives for investment in capital equipment and estate tax relief. Following the passage of the TCJA in 2017, manufacturers responded by hiring more workers, increasing wages and benefits and investing in their businesses and communities.

Consider the following:

- Manufacturers created 263,000 jobs in 2018, the best year for manufacturing job creation in the previous 21 years.
- Wages rose for production workers 3.4% year-over-year in March and April of 2018 (at the time, the highest rate since February 2003).
- Manufacturing capital expenditures increased by 4.5% and 5.7% in 2016 and 2019, respectively.

Increasing the tax burden on manufacturers would reverse these gains and result in significant job losses and harm to the economy. According to an NAM-commissioned analysis by economists from Rice University, adopting tax policy changes including but not limited to increasing the corporate tax rate to 28%, increasing the top individual tax rate to 39.6% and
repealing the 20% deduction for certain pass-through business income would cost the United States 1 million jobs in just the first two years after enactment and result in an average loss of 600,000 jobs each year over the next decade.\(^1\) In addition to these job losses, wages, investment and U.S. GDP would all decline under a less competitive tax code.\(^2\) Moreover, in the NAM’s latest quarterly survey of manufacturers, more than 90% of respondents said higher tax burdens on manufacturing income would make it difficult for their companies to expand their workforce, invest in new equipment or expand their facilities.\(^3\)

Unfortunately, several harmful tax changes have recently gone into effect that make it more costly to perform research, buy machinery and finance capital investments. If not reversed, these policies will hurt manufacturers’ ability to create jobs in the United States, invest in their communities and effectively compete in the global economy. Moreover, starting in 2026 several scheduled tax increases affecting pass-throughs and family-owned businesses are set to go into effect that would make it even harder for manufacturers to compete and succeed.

The NAM respectfully urges members of this committee to strengthen manufacturing’s competitiveness by supporting the tax policies described below.

1. **Ensure the tax code continues to support innovation.**

Manufacturers in the United States drive more innovation than any other sector, performing 55% of private-sector research and development in the U.S. In 2021 alone, manufacturers spent nearly $350 billion on R&D. Research is the lifeline of manufacturing: new products, new materials and new processes help propel manufacturing in America forward. Unless Congress acts, manufacturers’ ability to innovate and create new products, technologies and lifesaving medicines will be harmed.

Since 1954, the tax code has recognized the important role of R&D in creating jobs and spurring innovation by providing a critical incentive for investments in R&D. Specifically, the tax code has allowed businesses to immediately deduct 100% of their R&D expenses in the same year in which they are incurred. However, as of Jan. 1, 2022, businesses have been required to amortize these expenses (deducting them over a period of years), making R&D more costly to conduct in the U.S.

Coming at a time of increasingly fierce global competition for research dollars, this policy—if not reversed—will hurt jobs, innovation and competitiveness. According to a recent economic analysis, the U.S. economy would lose 263,382 jobs and experience a GDP reduction of $82.39 billion in 2023, with the manufacturing industry projected to lose nearly 60,000 jobs, if the harmful R&D amortization policy is not reversed quickly.\(^4\) For small manufacturers, the impact is especially onerous because the tax change took effect in 2021, creating unexpectedly higher


\(^2\) Ibid.


tax bills for this filing season, which significantly reduces the amount of capital available to reinvest in the business.

Unless Congress acts, the U.S. will continue to be just one of two developed countries with an amortization requirement for R&D expensing (the other being Belgium). Meanwhile, China, which has made no secret of its ambition to become the world leader in advanced manufacturing, currently provides a 200% deduction for R&D expenses for manufacturers.

For these reasons, the NAM strongly encourages members of the committee to support expeditious passage of the American Innovation and R&D Competitiveness Act, bipartisan legislation introduced by Reps. Ron Estes (R-KS) and John Larson (D-CT) that would repeal the R&D amortization provision, so that manufacturers in the U.S. can continue leading the world in innovation, growing the economy and creating well-paying jobs.

2. Enable manufacturers to continue to finance growth.

Debt financing plays an important role in supporting manufacturing growth. Many manufacturers borrow funds to finance long-term investments in equipment and facilities, which in turn help create jobs and enable manufacturers to compete effectively in today’s global economy. At the beginning of 2022, a stricter limitation on the deductibility of the interest payments on business loans went into effect, increasing the cost of financing critical investments in machinery and equipment.

The maximum interest deduction under section 163(j) is now limited to 30% of a company’s earnings before interest and tax (“EBIT”), a substantial change from the standard in place prior to 2022, which was based on earnings before interest, tax, depreciation and amortization (“EBITDA”). By excluding depreciation and amortization, the EBIT-based limitation makes it more expensive for capital-intensive companies to finance critical purchases, grow their businesses and hire new workers. This stricter limitation effectively acts as a tax on investment and has a disproportionate impact on manufacturers given that long-lived manufacturing investment can generate significant depreciation and amortization.

The EBIT standard also makes the U.S. a global outlier and directly harms the competitiveness of manufacturers in the United States. Of the more than 30 OECD countries with an earnings-based interest limitation, the U.S. is the only one that employs an EBIT standard.

According to a recent study, failing to reverse this harmful change could cost the U.S. economy 467,000 jobs and reduce U.S. GDP by $43.8 billion. These job losses will be felt across the country, as the depth of manufacturing supply chains and the broad impact of this tax increase will ensure that small and medium-sized businesses are directly affected.

The NAM encourages members of the committee to support job-creating manufacturing investments here in the U.S. by acting expeditiously to pass bipartisan legislation introduced by Reps. Adrian Smith (R-NE) and Joe Morelle (D-NY) that would permanently preserve the EBITDA standard for interest deductibility.

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3. **Make permanent a key incentive for capital equipment purchases.**

For the past several decades, the tax code has provided businesses with varying degrees of first-year expensing (i.e., accelerated depreciation). A 100% deduction for the purchase of equipment and machinery in the tax year purchased has been in place since 2017. This critical incentive for capital-intensive industries like manufacturing reduces the after-tax cost of investments that support job creation. According to recent analysis by the nonpartisan Joint Committee on Taxation, manufacturers led all sectors in the use of expensing by a wide margin. Unfortunately, the 100% level of full expensing began to phase out this year and will be eliminated completely by 2027. If this occurs, it will become costlier for manufacturers to undertake job-creating investments and effectively compete on a global scale.

The NAM encourages members of the committee to support job-creating manufacturing investments here in the U.S. by acting expeditiously to pass H.R. 2406, the Accelerate Long-Term Investment Growth Now (ALIGN) Act, legislation introduced by Rep. Jodey Arrington (R-TX) which would make permanent the ability to fully expense new investments.

4. **Protect pass-through manufacturers from damaging tax increases.**

Beginning in 2018, pass-through entities (including partnerships, S corporations and sole proprietorships) have been eligible for a qualified business income deduction under the new section 199A of the Internal Revenue Code, which allows eligible taxpayers to deduct up to 20% of the income earned by their business from their taxable ordinary income. This deduction was put in place to provide targeted tax relief for small business owners that pay tax at individual rates, and it was coupled with a reduction in individual rates. However, both the individual rates and the Section 199A deduction are set to expire at the end of 2025, increasing the tax burden on small and medium-sized businesses that are organized as pass-through entities.

The NAM strongly urges members of the committee to prevent the expiration of Section 199A and make permanent the individual tax rates. These looming tax increases make it difficult for small businesses to plan for long-term investments.

5. **Preserve family-owned manufacturers’ ability to pass their business on to the next generation.**

Family-owned businesses are central to the manufacturing industry. These companies have often been pillars of their communities for generations, creating jobs, bolstering economic development, supporting charitable endeavors and investing for the future.

The estate tax can have a significant impact on family-owned manufacturers’ ability to continue to operate following the death of an owner. The estate tax has a disproportionate impact on family-owned manufacturers because their companies consist largely of illiquid assets that would need to be sold or leveraged to pay the tax burden. Limiting the impact of the estate tax allows family-owned manufacturers to continue operating following the death of a loved one. Conversely, increasing the estate tax burden could force these businesses to close their doors.

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In 2017, the TCJA increased the exemption threshold for the estate tax, allowing more of a family-owned business’s assets to be passed on to the next generation without the company incurring a tax burden. The increased exemption is set to expire in 2028, which will expose more of family-owned businesses’ assets to taxation, making it more difficult for them to continue operating and supporting local jobs following the death of a loved one.

The NAM strongly encourages members of the committee to prevent a reduction to the estate tax exemption threshold. Manufacturers also support efforts to permanently repeal the estate tax.

Additionally, the NAM encourages members of the committee to fully preserve stepped-up basis, which prevents a business owner’s heirs from being forced to pay capital gains tax on the appreciation in value of the business’s assets that occurred during the owner’s lifetime. A recent study found that taxing these unrealized gains would cost the U.S. economy 80,000 jobs per year over the course of a decade and 100,000 jobs per year thereafter.7

***

After decades of advocating for a pro-growth, competitive tax code, manufacturers in America kept their promises following the enactment of the TCJA by raising wages and benefits, hiring more workers and investing in their communities. Tax policy plays a critical role in the ability of manufacturers to thrive in the United States and effectively compete in a global economy, and the NAM urges members of the committee to support a competitive tax regime that allows manufacturing in America to continue to grow.

Sincerely,

Chris Nettam
Managing Vice President, Tax and Domestic Economic Policy
National Association of Manufacturers

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April 18, 2023

The Honorable Roger Williams  
Committee on Small Business  
U.S. House of Representatives  
2361 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Nydia Velázquez  
Committee on Small Business  
U.S. House of Representatives  
2069 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Williams and Ranking Member Velázquez,

The White House believes small businesses are a tax loophole.

On March 9, the Administration released their proposed budget for fiscal year 2024. For one of the largest tax increase proposals, President Biden claims he is “closing a loophole” by subjecting small business income to a new 5% tax. “The Budget closes a loophole that allows certain business owners to avoid paying Medicare taxes…”

As a business owner, we know better than anyone the tax contributions we already pay to Medicare and Treasury generally. Our business and employees make significant contributions to Medicare taxes every single year. We are joining fellow small businesses across the country in petition to help set the record straight – small businesses pay more taxes than the Administration gives us credit for.

Sincerely,

11,255 Small Business Owners

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Ontario, California

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The White House is wrongly calling small business a tax loophole in plans to add new taxes on Main Street.

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Stefanie Wooten
Small Business Owner
Middletown, Delaware

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The White House is wrongly calling small business a tax loophole in plans to add new taxes on Main Street.

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Small Business Owner
Danbury, Iowa
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Bernie McCollam
Bill Schuteeman
Bill Waflul
Blake Korns
Bob Donelson
Bob Garren
Brad Beadle
Brad Carrier
Brad Cole
Brad Jipp
Brad Leuthold
Brad Madsen
Brad Tallafarro
Brad Weielenga
Bradley Knutsen
Bradley Simpson
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Brandon Boullion
Brandon Moret
Brandon Popken
Brenda Dokter
Brenda Richardson
Brendan Rus
Brent Brownmiller
Brent DeHaan
Brent Willimack
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Brian Drilling
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Brian Ostrander
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Brian Swartz
Brian Van Bruggen
Brian Zoet
Brock Boeding
Brock Kroeger
Bruce Brock
Bruce Vansant
Brycen Smith
Buck Henderson
Caleb Beer
Cara Naatjes
Carl Anderson
Carl Nolt
Carlene Daniels
Carol Pryor
Carroll Reynolds
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Chad Herr
Chad Heying
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Chad Plambeck
Chandra Younie
Charlie Nelson
Che Hanson
Cherie Schuttler
Cherilyn Sokol
Chris Bursmeier
Chris Germain
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Chris Page
Christy Font
Christy Kooi
Clarence Kruse
Clayton McOlivitts
cleotilde Reyes
Cody Maynard
Cody Neil
Colby Behring
Colin Larsen
Connie Debner
Corwin Vanveldhuizen
Cory Hillman
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Craig Faber
Craig Jarrard
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Curtis Aller
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Curtis Nelson
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Dale Luhrs
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Damon Bahnson
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Dan Johnsen
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Daniel Frederick
Daniel Van Klompenburg
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Darrin Speed
Darrel Huls
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Dave Langel
Dave Mosier
David Gritsch
David Heeren
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Dean Brumm
Dean John Dolphin
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Tara Reller

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The White House is wrongly calling small business a tax loophole in plans to add new taxes on Main Street.

Alisha Rausch
Small Business Owner
Elkton, Maryland

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Leslie Fetters
Small Business Owner
West Branch | Michigan

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Small Business Owner
New Prague, Minnesota
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James Ryan
James Stellpflug
Jamie Scharfencamp
Jason Hoffman
Jason Schwarz
Jayden Huset
Jeff Kruse
Jeff Minske
Jeff Rahman
Jeff Schneter
Jeffro Paulson
Jenni Palm
Jeremy Vandermay
Jerry Humbert
Jerry Rutgers
Jesse Forstner
Jim McBride
Jim Palmby
Jody Hemker
Joe Efta
Joe Lennartson
Joe Oeltjen
John Collier
John Genosky
John Mesa
John Steffens
Jon Doerr
Jonathan Donarski
Jonette Pierce
Joseph Burgess
Josh Lutgen
Josh Richardson
Josh Simon
Justin Zmyewski
Kathy Hanson
Kay Sunderland
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Kim Olson
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Larry Atneosen
Lee Cummins
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Matt Hinckley
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Vicki Olson
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William Brown
William Durlay
William McCormick
Zach Erickson
Zachary Broberg

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Allison Wallace
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Brittany Henricks
Small Business Owner
Festus, Missouri

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Small Business Owner
DeSoto | Missouri

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Terry McCain
Terry Phillips
Tiara Culpepper
Tina Babb
Todd Thomas
Tommy Naron
Tracy Vince
Troy Garrett
Troy Shaw
Ty Powell
Tyler Clancy
Vance Watson
Wally Morgan
William Cole
Zachary McCraw

MISSOURI
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Aaron Greer
Aaron Sheltone
Adam Cook
Alan Doty
Alec Bray
Alex Clark
Amanda Surber
Amanda Watkins
Amy Kirk
Amy Renken
Andrew Kranz
Andy Sadler
April Rhodes
Art Spradlin
Arthur Turner
Ashley Obert
Ashley Phillips
Ashley Warren
Bart Inman
Belinda Tety
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Bill Morris
Bill Shumake
Blake Watson
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Bobbi Ogle
Bonnie Hemman
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Brandon Hoyer
Brennan Scheeter
Brett Smith
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Carolyn Norton
Catherine Dec
Cathy Sisseck
Celia Willett
Cesar Marin
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Chad Duncan
Charles Merritt
Charles Stanley
Charlie Peterson
Charmaine McConnell
Chaundra Mason
Cheryl Skosimas
Chris Chamberlin
Chris Marchi
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Chris Stone
Christopher Belmar
Christopher Glaucque
Cindy Wirsig
Clayton Daniel
Cleta Sweeney
Cliff McKinney
Cliff Ring
Clint Hylton
Cody Strouse
Cole Suter
Colt Jolliff
Connor Duncan
Cory Slusher
Courtney Kellogg
Craig Coppenbarger
Craig Thorpe
Curtis Wendt
Dakota Lievens
Dakota Mahan
Dale Hughes
Damon Drumm
Dan Nesser
Dan Tuschhoff
Daniel Degonia
Daniel Sherry
Daniel Ulmanis
Danielle Schroeder
Danielle Sharp
Darren Street
Dave Davis
Dave French
Dave Hamrick
David Brubaker
David Eich
David Krough
David Pigg
David Rigel
David Tison
Dawn Harmon
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Donald Parham
Dondee Nations
Dondriel English
Doug Dunning
Dustin Hewkin
Dustin Wallace
Dusty Ferrell
Dusty Hambelton
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Elliott Peak
Eric Journagan
Fred Stanley
Gary Newman
Gary Reesh
Guy Renshaw
H.K. Gauding
Harry Hoffert
Harry Khethra
Heath Karr
Heather Trytsman
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Jagit Farman
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James Ferguson
James Lambert
James McDowell
James Wright
James Zade
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Jason Meisenheimer
Jason Ramirez
Jay Copeland
Jay Ferguson
Jeana Thomas
Jeff Nash

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Jennifer Collins
Jennifer Inman Howell
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Jeremy Naeger
Jeremy Singer
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Jim Guinde
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Jim McNaron
Jimmy Litzinger
Jimmy Oweroy
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John Voelmeck
John Wolfe
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Joshua Hopper
Justin Eslinger
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Karvel Kofoid
Kathy Oberbeck
Keith Murphy
Keith Wheeler
Kelli Faulkner
Kelly Irvin
Kelly Wertz-Black
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Kendal Howe
Kendra Bovard
Kenneth Pratt
Kent Goss
Kim Dunn
Kris Metje
Kyle Porter
Kyle Schulze

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Larry Forschler
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Larry Zahn
Layton York
Linda Swope
Lisa Duggan
Lisa Jones
Lisa Sweeney
Liz Hollingsworth
Lloyd Stoner
Lora Gerster
Luma Shaer
Makayla Bryant
Marc Fritter
Mark Cromwell
Mark Masterson
Mark Rinehart
Marshall Aubach
Mary Harper
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The White House is wrongly calling small business a tax loophole in plans to add new taxes on Main Street.

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Bill Shumake
Small Business Owner
Warsaw, Missouri

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Dean Petty  John Paddock  Robert Steen
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Dollene Long  Joseph Slonaker  Ross Grubb
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Heather Quinn  Mark Pirrie
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Arnold, Missouri

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Angel Soto
Beverly Crowe
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Centenario Hernandez
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Eric Rupnarain
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Emerson, New Jersey

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Gale LaBeef
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Bernhards Bay | New York
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Patrick Driscoll  
Small Business Owner  
South Plainfield, N.J., New Jersey

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<td>Jose Pinto</td>
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<td>Rudy Holesek</td>
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Justin Gammons
Small Business Owner
Mount Airy, North Carolina

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Kenny Forbes
Small Business Owner
Bullock | North Carolina
Tina Poplin

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Blake Shupe
Small Business Owner
Mount Airy, NC

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Veronica Maier  Ann Foos
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William Church  Antonia Williams
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Devon Johnson  Bethany Wittman
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Erin Foltz  Betty Piscione
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Lakisha Best
Small Business Owner
Cincinnati, Ohio

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<thead>
<tr>
<th>Name</th>
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<td>Caleb Helms</td>
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<td>Curt Rosio</td>
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Darren Richards, Denise Bosch, Ed Pastoreks
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Dave Berger, Dennis Alexander, Eddie Bonsteel
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David Douglass, Don Lee, Eric Moore
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David Frost, Don Potter, Eric Ott
David Hershberger, Don Ramseyer, Eric Sadowski
David Legg, Don Redding, Eric Wilson
David Logan, Don Troxell, Erin Orr
David Long, Donald Gaddis, Erron Porter
David Miller, Donna Ebenshade, Esther Retig
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David Silvestri, Doug Baker, Eunice Herman
David Storrer, Doug Crowley, Fatima Jones
David Story, Doug Entenman, Frank Martinez
David Ulery, Doug Heagren, Frank Trapp
David Wolfe, Doug Mueller, Fred Stimpert
Dawn Brown, Doug Neighbarger, Frederick Wall
Dawn Burkhart, Doug Sinclair, Gabriel Lazer
Dawn Butzer, Doug Tomak, Gabriella Gonzales
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Andrew Tomlinson  Brandon Downey  Chris Santos
Andrew Vincent  Brandon Hickey  Chris Tilloston
Andy Swann  Brandon Pitts  Christopher Banks
Anna States  Brandon Smith  Christopher Trueblood
April Kershner  Brendan Horn  Christopher Wilson
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Bobby Ryans  Chelsie Semkoff  Daniel Van Winkle
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Brad Childers  Chism Whitnah  Danny Keen
Brad Leaf  Chris Auge  Danny Morris

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Amber Polhans
Amelia Hamilton
Amirai Maknojia
Amy Boren
Amy Condon
Amy Huffman
Amy Leavelle
Amy Nicolas
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Andrew Sweet
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Bill Wheeler
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Billy Lernley
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The White House is wrongly calling small business a tax loophole in plans to add new taxes on Main Street.

LeaAnn Fritz
Small Business Owner
Tyler, Texas

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The White House is wrongly calling small business a tax loophole in plans to add new taxes on Main Street.
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Susan Harang
Small Business Owner
Brazoria | Texas

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Kevin Reifel
Small Business Owner
Brazoria, Texas

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Jeffrey Williams  Joe Smith  Jose Macias
Jeffrey Zaber  Joe Ybarra  Jose Rodriguez
Jenni Moore  Joel Guzman  Joseph Barnes
Jennifer Burch  Joel Kelton  Joseph Jamieson
Jennifer Goff  Joel Langhoff  Joseph Johnson
Jennifer Lee  Joel Mcderoy  Joseph Loggins
Jennifer Powers  Joel Wood  Joseph Marcias
Jennifer Wilson  Joey Helms  Joseph V. Logozzo
Jenny Hugghins  Joey Kovocik  Josh Alonzo
Jeremy Branske  John Ash  Josh Barton
Jeremy Jordan  John Biden  Josh Hawkins
Jeremy Mayes  John Boothman  Josh Hayes
Jeremy Steding  John Fennell  Josh Mosby
Jerriacah Morales  John Fernandez  Josh Peterson
Jerry Cailler  John Fry  Josh Pipka
Jerry Gurunlian  John Guzman  Joshua Rosas
Jerry Pollard  John Hessong  Joshua Thornberry
Jesse Clifton  John Horn  Joshua Turner
Jessica Grajeda  John Longacre  Joyce Robicheaux
Jessica Harrell  John Martin  Joyce Strain
Jessica Hodges  John Smith  Juan Monterrosa
Jessica Stewart  John Tucker  Juan Ralph Orellana
Jim Laible  John Wather  Juan Rodriguez
Jim Pahnke  Johnnie Luper  Juan Zepeda
Jimmy Arber  Johnny Nipper  Jubinno Maldonado
Jimmy Clay  Johnny Storey  Judd Fults
Jimmy Glaser  Johnny Wade  Judy Martin
Jimmy Isaacs  Jon Finley  Julie Jolley
Jimmy Negem  Jon Hurt  Julie Midsident
Jitai Patel  Jon Lamson  Justin Edwards
JJ. Dickens  JonAnn Welch  Justin F
Jo Ann De Los Santos  Jonathan Green  Justin Minzenmayer
Joanne Kiser  Jonathan Groth  Justin Penick
Jocelyn Olivera  Jonathan Henderson  Justin Wilson
Joe Estes  Jonathan Ingram  Kagnary Phann
Joe Fiacco  Jonathan Lesniowski  Kamisha Jackson
Joe Flowers  Jonathan Payne  Kanya Nhok
Joe Hall  Jonathan Wilson  Karen Medders
Joe Hawkins  Joni Clots  Karen Riley
Joe Penn  Joni Jack  Karen Shipman

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Martin Villarreal
Small Business Owner
Freeport, Texas

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Karla Tristan
Karlye Fleniken
Kasandra Vasquez
Kasey Kunkel
Kasey Sinclair
Katelynn Herber
Kathy Barrett
Kathy Bosley
Kathy Rice
Kati Gay
Katie Sanders
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Kay Patterson
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Kyle Brasher
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Yolanda Vasquez  Zach Ingram

**UTAH**

**VERMONT**
Eric Shaw

**VIRGINIA**
The White House is wrongly calling small business a tax loophole in plans to add new taxes on Main Street.

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Rick Looney
Small Business Owner
Danville, Virginia

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The White House is wrongly calling small business a tax loophole in plans to add new taxes on Main Street.

Cody Moorefield
Small Business Owner
Collinsville | Virginia

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Ryan Nichols
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Sammy Wright
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Scott Stickley
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Sharon Smith
Stacy Wiseman
Stanley Kerms
Steve Foster
Steve Hiatt
Steve Weingarten
Sue Hailey
Suzanne Lacy
Tammy Woodward
Terry Shadrick
Thomas Ward
Tim Monsell
Tracy Williamson
Troy Graves
Virginia Aylor
Wayne Price
Wayne Racey
Wheatley Shackelford
William Emerson
William Fizer
William Foster
William Koontz
Wm Gregory
Woods Carter

WASHINGTON
Aaron Cantu
Aaron Murphy
Aaron Zachry
Alicia Link
Alicia Thomas

Amanda Timm
Amanda Van Leuven
Andi Toman
Andre Rivera
Andrea Heinz
Andrew Marrone
Andrew Tukey
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Ben Uskoski
Betty Jessup
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Bob Wolfe
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Brady Allen
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Choon Cha
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Jayson Homola
Jeff Randall
Jeffery Gould
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Jennifer Nelmida
Jennifer Olson
Jesiah Seekins
Jessica Cox

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Reid Fryhover
Small Business Owner
Wenatchee, Washington
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My Small Business — is not a — Tax Loophole!

Augustian Farms LLC

Todd Augustian
Small Business Owner
Kewaunee, Wisconsin

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Brian Meyer  
Small Business Owner  
Oconto | Wisconsin

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Sue Marchant
Small Business Owner
Brussels, Wisconsin

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Phil LaCrosse
Small Business Owner
Kewaunee, Wisconsin

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Abrams | Wisconsin

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Small Business Owner
Oconto, Wisconsin
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Dear Chair Williams, Ranking Member Velázquez, and Members of the Committee:

On behalf of National Taxpayers Union (NTU), the nation’s oldest taxpayer advocacy organization, we thank you for holding this important hearing on the effect federal tax policies and tax administration have on America’s small businesses. In an increasingly uncertain, complex, and global economy, federal policymakers should be doing everything in their power to provide tax and regulatory certainty to entrepreneurs and their employees. There are bipartisan paths forward to doing so, and there are also policies Congress should avoid enacting that would do harm to small businesses and their workforce. We hope to discuss both in this written testimony, and hope you will give our views and perspectives consideration.

About National Taxpayers Union

NTU is the nation’s oldest taxpayer advocacy organization, founded in 1969 to achieve favorable policy outcomes using the most effective pro-taxpayer team on Capitol Hill and in the states. Our team has gained a reputation for its expertise on matters of tax administration, pro-growth tax policy, and regulatory policy. We know all three issue areas remain of relevance and importance to the House Committee on Small Business, and its vital role in overseeing the opportunities and threats facing America’s millions of small businesses.

Small Businesses Are Essential to the U.S. Economy

As of 2022, the U.S. was home to 33.2 million small businesses employing 61.7 million people—nearly half (46.4 percent) of all workers in the U.S. Entrepreneurs face different levels and types of taxation depending on how they organize their business, but hundreds of thousands of small businesses employing millions of Americans were organized as C corporations in 2019 subject to the corporate income tax, while millions of businesses employing nearly 50 million Americans were organized as pass-through entities (S corporations, partnerships, and sole proprietorships) subject to individual income taxes on pass-through business income. Millions of small businesses are also required to collect and remit sales taxes in 45 of 50 states and sometimes hundreds or even thousands of local jurisdictions, while almost every active small business has to devote time and/or resources to complying with tax law and understanding federal and state tax administration.

In short, the tax code imposes significant financial and compliance burdens on small businesses around the country. Small businesses, especially sole proprietors, may be less equipped than large, publicly-traded corporations to handle the burdens of tax compliance. Without the armies of lawyers and accountants that large, profitable companies can afford to hire, some small businesses risk financial losses or even business failure as a result of the disproportionate tax (and tax compliance) burdens they face at the federal, state, and even local levels. Federal lawmakers – especially those serving on this Committee – should work together in the 118th Congress to eliminate barriers that prevent small businesses from growing and reduce tax compliance burdens for entrepreneurs.

Recent Tax Policy Changes Affecting Small Businesses

Congress has passed major legislation affecting the U.S. tax code several times in recent years, and many of the enacted changes have a direct impact on the nation’s millions of small businesses.

Perhaps the most impactful recent changes were made by the 2017 Tax Cuts and Jobs Act. TCJA lowered the corporate income tax rate from 35 percent to 21 percent, bringing the U.S. rate more in line with its economic peers around the world and significantly reducing tax burdens for thousands of small businesses organized as C corporations. TCJA also created a temporary qualified business income (QBI) deduction, effective from 2018 through 2025, that allows individuals “to deduct up to 20% of their qualified business income (QBI) from their taxable ordinary income.”

Other changes to the individual and corporate sides of the tax code enacted in TCJA reduced small business (and small business owner) tax burdens:

- The across-the-board rate reductions, effective 2018 through 2025, have the effect of reducing taxes on pass-through business owners’ business income;
- Higher alternative minimum tax (AMT) exemption thresholds, effective 2018 through 2025, may have the effect of reducing the number of pass-through business owners subject to the AMT;
- Higher estate, gift, and generation-skipping transfer (GST) tax exemption amounts, effective 2018 through 2025, may reduce tax burdens on the decedents of business owners who pass a business and its assets on to family members when they die.

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1 In 2017, America’s 35-percent federal corporate income tax rate was third highest among the Organisation for Economic Co-operation and Development’s (OECD) 38 member countries. In 2018, America’s new 21-percent rate was tied for 22nd, i.e., closer to the middle of the pack. For more, see: OECD Stat. (2022). “Table II.1. Statutory corporate income tax rate.” Retrieved from https://stats.oecd.org/index.aspx?DataSetCode=Table_II (Accessed April 12, 2023.)

2 In 2019, the U.S. Census Bureau estimated that there were 919,073 firms with fewer than 500 employees organized as corporations. These firms employed a total of 12.4 million workers. Not all would have paid the top rate of 35 percent before 2018, given the corporate income tax rate was graduated based on income. Still, we can safely estimate that thousands of these firms earned enough income to be paying rates higher than the 21 percent enacted in TCJA. For more, see: U.S. Census Bureau, February 2022. “2019 SUSB Annual Data Tables by Establishment Industry.” Retrieved from https://www.census.gov/data/tables/2019/meta/susb/2019-susb-annual.html (Accessed April 12, 2023.)

A temporary allowance of 100 percent bonus depreciation (i.e., full expensing) for businesses’ investments in certain short-lived assets, such as machinery and equipment, has the potential to reduce small business tax burdens in the year they make those investments; 100 percent bonus depreciation begins phasing down 20 percentage points per year in 2023 until it fully expires in 2027; and

A near-doubling of the section 179 expensing allowance—the most valuable tax preference for small businesses—and in the allowance’s phaseout threshold, with the expansion made permanent and indexed to inflation.3

Certain changes enacted by TCJA also have the potential to raise tax burdens on small businesses:

- TCJA limited through 2025 (and members of both parties in Congress subsequently extended through 2028) limits on net operating losses (NOLs) taken by pass-through business owners to offset non-business income.4
- TCJA also limited, on a permanent basis, NOL deductions for corporate taxpayers and repealed the ability to carry back NOLs and reduce income in a prior taxable year.5
- TCJA switched the tax treatment of businesses’ research and development (R&D) expenditures from full expensing to five-year amortization effective in 2022, raising tax burdens on small businesses making those investments; and
- TCJA proposed limits on the deductions businesses can take for interest on debt financing, effective 2022; the previous limit was based in part on 30 percent of adjusted taxable income (ATI) based on earnings before interest, taxes, depreciation, and amortization (EBITDA) while the new limit is 30 percent of ATI based on earnings before interest and taxes (EBIT).

NTU and its sister organization, NTU Foundation, have long encouraged lawmakers to correct TCJA’s treatment of R&D expenditures from 2022 onwards and restore full and immediate expensing for R&D. A recent report in The Wall Street Journal underscores that small and start-up businesses have been adversely affected by the switch to five-year amortization for R&D expenditures, with one small business leader telling the Journal, “It’s 100% going to prohibit me from growing any more the next three years.” Fortunately, there is strong bipartisan support for full R&D expensing. Recent legislation introduced in the Senate (S. 866) that would restore full expensing for R&D has the support of more than one-fifth of the Senate – 11 Republicans, eight Democrats, and two independents who caucus with the Democratic Party.6 This is a vital issue for American small businesses that Congress must act on in 2023.

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NTU also strongly believes that Congress should make full and immediate expensing for short-lived assets (i.e., 100 percent bonus depreciation) permanent, and that such a policy change would benefit small businesses as well as mid-sized and large American businesses. Data from the Joint Committee on Taxation suggests that, in 2017, businesses with less than $10 million in receipts reported $88.9 billion in bonus depreciation deductions.\(^\text{12}\)

As we approach the 2025 expiry of reduced individual income tax returns, higher AMT thresholds, and higher estate, gift, and GST exemption amounts, lawmakers in Congress should consider how the expiry of these policies could negatively affect small businesses and small business owners by increasing their tax burdens. While heated rhetoric on TCJA has been in no short supply, we believe an honest and bipartisan assessment of the law’s changes to the tax code will lead lawmakers in both parties to identify provisions that are beneficial to small businesses and should be made permanent.

**Recent Proposals That Would Affect Small Businesses**

President Biden’s Treasury Department recently released its “General Explanations of the Administration’s Fiscal Year 2024 Revenue Proposals,” colloquially referred to as the Green Book.\(^\text{13}\) Several of the administration’s proposals would increase taxes on small businesses and/or their owners. This includes, but is not limited to:

- The administration’s proposal to **increase the corporate income tax rate from 21 percent to 28 percent,** which the Treasury Department estimates would increase revenues by $1.326 trillion from fiscal years (FYs) 2024-2033. While the vast majority of these revenue increases would fall on large C corporations, a portion of the revenue increases would no doubt fall on small and mid-sized C corporations as well.
- The administration’s proposal to **make permanent the stricter limits on pass-through NOLs currently in effect through 2028, while tightening those limits further,** which the Treasury Department estimates would increase revenues by $71 billion from FYs 2024-2033. The administration’s defense of these proposals is limited to a vague reference to “misreporting” of NOLs and the distortive effects NOL deductions may have on a business’s entity organization choice. However, the allowance of NOLs for both pass-through businesses and corporations helps smooth out “lumpy” tax burdens over time, as stated by former NTU Foundation Vice President Nicole Kaeding in April 2020.\(^\text{14}\) NOL deductions also, per the Congressional Research Service (CRS), “[help] to minimize the distorting effects taxation has on risky investment decisions. As a result, limiting the NOL offset amount may deter certain investments.”\(^\text{15}\)

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\(^\text{12}\) TCJA increased the bonus depreciation allowance for qualified assets from 50 percent to 100 percent for property acquired after September 27, 2017. JCT’s data reviews bonus depreciation deductions for calendar year 2017, which may reflect property eligible for 50-percent bonus depreciation and property eligible for 100-percent bonus depreciation. For more, see Joint Committee on Taxation. “Tax Incentives for Domestic Manufacturing.” March 16, 2021. Retrieved from: https://www.jct.gov/publications/2021/pt-11-21/ (Accessed April 12, 2023.)


• The administration’s proposal to apply the net investment income tax (NIIT) to pass-through business income, which the Treasury Department estimates would raise $306 billion from FYs 2024-2033; and the administration’s proposal to increase the NIIT and additional Medicare tax rate, which the Treasury Department estimates would raise $344 billion from FYs 2024-2033. NTU Foundation wrote in March that, “[i]t’s difficult to determine how significantly President Biden’s proposals will affect investment in the U.S., but by increasing the tax rate on investment (particularly the increased NIIT rate from 3.8 percent to 5.0 percent for households with more than $400,000 in income) the Biden proposals may negatively impact investment. The expansion of the Additional Medicare Tax and NIIT bases to pass-through business income may also discourage investment by affecting how business owners and partners organize both their business structure and the income they receive from their business activity.”

• The administration’s proposal to increase the top marginal individual income tax rate, which the Treasury Department estimates would raise $235 billion from FYs 2024-2033. This proposal will no doubt affect many pass-through business owners who, due to their business income, pay the top individual income tax rate. Their rate of taxation would rise 2.6 percentage points, or seven percent, from its current rate of 37 percent, and could negatively impact pass-through business growth and investment.

The Biden administration and some lawmakers have argued that these proposals can help offset new spending initiatives or expanded tax credits for low- and middle-income Americans. This may be true, but policymakers must also grapple with the effect these tax increases would have on investment and job creation for small businesses, particularly pass-through business owners who would be affected by proposals to increase the top individual income tax rate, apply the NIIT to pass-through business income, and raise the NIIT tax rate.

**Tax Administration and IRS Funding**

The Internal Revenue Service (IRS) recently released its spend plan for the $80 billion the IRS received in last year’s Inflation Reduction Act (IRA). While the spend plan is short on some key details, it does make reference to initiatives and projects that could affect small business taxpayers. The IRS makes several references to Treasury Secretary Janet Yellen’s pledge to not increase audit rates on small businesses making under $400,000 per year relative to historical levels. However, the IRS also pledges to step up enforcement of “large partnerships,” which they appear to define as partnerships “with assets exceeding $5 million.” The Committee should scrutinize this threshold, since many small business partnerships could have assets of around or even in excess of $5 million and still be considered “small” by many policymakers’ standards.

Congress should also step in where the IRA declined to weigh in on the protection and enhancement of taxpayer rights. One such bill, the Small Business Taxpayer Bill of Rights from Sen. John Cornyn (R-TX) and Rep. David Kustoff (R-TN), would ensure that small businesses have access to due process and to expanded alternative dispute resolution procedures as the IRS increases enforcement activities under the IRA.

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Again, we appreciate your attention to the important tax policy issues facing small businesses in 2023, and hope the 118th Congress acts to advance pro-growth and pro-small business policies in the years ahead.

Sincerely,

Brandon Arnold
Executive Vice President, National Taxpayers Union

CC: Members of the House Committee on Small Business
WRITTEN STATEMENT FOR THE RECORD
BEFORE THE U.S. HOUSE COMMITTEE ON SMALL BUSINESS

Hearing on “Paying their Fair Share”

April 18, 2023
John Arensmeyer
Founder & CEO, Small Business Majority

Dear Chairman Williams, Ranking Member Velázquez and members of the House Committee on Small Business:

My name is John Arensmeyer. I am the founder and CEO of Small Business Majority, a national small business organization that empowers America’s diverse entrepreneurs to build a thriving and equitable economy. Prior to launching Small Business Majority, 17 years ago, I was the founder and CEO of an award-winning international interactive communications company which I ran for 12 years. Earlier, I was the Chief Operating Officer of a pioneering multimedia business.

At Small Business Majority we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to advocate for public policy solutions and deliver resources to entrepreneurs that promote equitable small business growth. As a leading representative of America’s 32 million small businesses, Small Business Majority is pleased to submit written testimony on the importance of a fair and equitable system of taxation that promotes inclusive entrepreneurship as the foundation of our economy.

The need for a level playing field
America’s small business owners want a level playing field on which to do business. An essential component of this is a tax system where individuals and corporations pay their fair share.

For more than a decade we have examined the reality of how taxation affects America’s Main Street businesses and effectively advocated for policies that support a fair, resilient, inclusive economy. Our work has combined analyses of tax policies’ impacts on Main Street along with scientific research into small business attitudes. This data is bolstered by the stories of real small business owners.

Our scientific research over the years supports a very different picture of small business attitudes toward tax policy than what is typically put forth by other organizations purporting to speak for small businesses.

- A poll of small business owners across the country found that 73% believe the current tax system favors big businesses over small businesses and 64% believe that wealthy individuals currently do not pay their fair share of taxes.
- Another poll found that 67% of small businesses support raising the top marginal rate to fund important programs.
- Moreover, 62% support increasing the tax enforcement budget at the IRS.
- These same attitudes have been expressed over many years of prior research, including our October 2017 poll fielded during the Tax Cuts and Jobs Act (TCJA) debate and our November 2012 poll taken during the 2012 “fiscal cliff” debate.

1 https://smallbusinessmajority.org
© 2023 Small Business Majority www.smallbusinessmajority.org
The actual impact of tax policies on small business

All too often the tax debate misrepresents the actual impact of tax policies on entrepreneurship. While it is true that 95% of small businesses pass their profits and losses to their owners (a fact that is repeated ad nauseam by those advocating tax cuts for the wealthy), this statistic on its own is irrelevant. Based upon 2021 Tax Policy Center data:

- Only 2% of businesses have pass-through business income taxed in the top bracket and just over 4% in the top two brackets. As such, almost all small businesses in the U.S. (96%) are not affected by any proposed changes in the upper-end tax rates.
- 69% of all pass-through income is earned by the 4% of business owners in these two rarified tax brackets. This disparate economic impact is even more pronounced when you factor in the marginal tax rates themselves. So, most of the benefit of the Section 199A 20% pass-through deduction in the TCJA flows to the wealthiest 4% of businesses, not to Main Street enterprises.
- These inequitable tax policies adversely impact the smallest businesses in our most under-resourced communities. In particular, businesses owned by people of color and women, as well as those in rural areas, have struggled to recover from the pandemic and continue to face hardship accessing capital and other resources. Tax policies skewed toward the very wealthy do not help them thrive.

Policy solutions

We are currently having a debate about a responsible budget that ensures the funding of critical programs, including those directly benefiting small businesses. This requires tax policies that support true entrepreneurship with an equitable sharing of the burden. As such, we recommend the following:

- Enact the Biden administration’s proposal to expand revenues to support critical programs and reduce the deficit by increasing the top marginal tax rate on the very wealthy. Only 2% of businesses with pass-through income pay at the top marginal rate and two-thirds of small businesses support raising the top rate to fund important programs.
- Do not extend the Section 199A tax deductions established by the 2017 TCJA tax law that allow businesses to deduct 20% of pass-through business income. Almost 70% of the total 199A benefit flows to approximately 4% of pass-through businesses.
- If Congress is truly interested in providing tax benefits to the nation’s smallest, most under-resourced businesses, there are myriad other ways to provide bottom-up solutions. Instead of the current law that provides most of the benefit to an elite few, Congress could instead allow the recipients of pass-through income to deduct the first $15,000, phasing out the benefit for business owners making between $100,000 and $150,000. This is just one idea, and the numbers could be adjusted. But this demonstrates a way to provide a benefit to the smallest businesses that need the help the most, rather than favoring the very wealthy with limited benefits trickling down to the rest of businesses.
- Maintain full funding of the Internal Revenue Service (IRS) to ensure that small businesses have access to information and services from the now-understaffed IRS and to improve revenue collection from large corporations and the very wealthy. Almost two-thirds of small business owners support expanded IRS funding.

Conclusion

America’s small business owners want a level playing field on which to do business. An essential component of this is a tax system where individuals and corporations pay their fair share. We need solutions that recognize where the biggest benefits flow in our current system and make changes that result in a fairer, more equitable economy.
April 18, 2023

The Honorable Jason Smith  
Chairman  
House Ways and Means Committee  
1139 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Ron Wyden  
Chairman  
Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Richard Neal  
Ranking Member  
House Ways and Means Committee  
1139 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Mike Crapo  
Ranking Member  
Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairmen Smith and Wyden and Ranking Members Neal and Crapo:

We, the undersigned 597 small software business owners, are extremely concerned about the impacts of Section 174 amortization on our businesses. We are an informal coalition of small software companies, most with less than $10 million in annual revenue. We are located across the U.S. with signers in all 50 states and the District of Columbia. We ask that you immediately repeal Section 174 amortization retroactive to 2022.

In 2017, the Tax Cuts and Jobs Act (TCJA) modified Section 174 to require companies to amortize their research and experimentation (R&E) expenses over five years (15 years for international expenses) beginning on January 1, 2022. Among the various Section 174 expenses that need to be amortized are “software development” expenses, which represent a disproportionate amount of our expenses.

For decades, companies like ours could immediately deduct our R&E costs. We work hard to grow our businesses, yet changes to the tax code now stand to make that difficult, if not impossible. Requiring us to amortize our R&E expenses means shockingly higher tax bills than expected—hundreds of times higher in some cases.

These higher taxes are having a significant and immediate negative impact on our small businesses. We are now facing difficult choices because of the large, unexpected, and unprecedented tax liability that we face. For example, many of us have frozen hiring or suspended projects. Some of us are now considering laying off staff or reducing salaries. Others are borrowing to pay our taxes, either from credit cards, personal savings, or lines of credit.
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Given that we are small businesses with limited access to additional funds, this crisis requires urgent relief. As small businesses, we can not wait months or years for a fix, and without swift Congressional action, some of us will need to consider closing our businesses or filing bankruptcy due to Section 174 amortization.

We are already encountering large economic headwinds without the impacts of Section 174 amortization, and now we are confronted with an unnecessary tax increase with no policy justification.

We urge you to quickly repeal Section 174 amortization to ensure that we can continue to not only operate our small software businesses but innovate, compete, and grow.

Sincerely,

14bis Supply Tracking, Brookline, MA
48 Made LLC, Bellingham, WA
4STEL Engineering Inc, San Clemente, CA
A Little Drive LLC, Lafayette, CA
Abstract Edge Inc, Oakland, CA
Accelerating Progress Inc, Lafayette, CA
AccessAlly, Houston, TX
Accomplice AI Inc, Charlotte, NC
Ad Astra Apps LLC, Lawrence, KS
Ad Reform LLC, Decatur, GA
Adamlogic LLC, Lewis Center, OH
Affordable Homeschool Testing Services LLC, Wyoming, MN
Agilevent Corporation, Freehold, NJ
Airbo, Los Angeles, CA
Allfactors, San Jose, CA

Amp Reporting LLC, Gilbert, AZ
Applura Inc, Denver, CO
Aptuitiv Inc, Farmington, ME
Aptus Collaborative, Providence, RI
Arbo Technologies, Atlanta, GA
Arch Virtual LLC, McFarland, WI
Ardas, Rolling Hills Estates, CA
Arising Ventures, Las Vegas, NV
Arrows Software Inc, Los Angeles, CA
Artcompiler Inc, Mountain View, CA
Arter LLC, Wake Forest, NC
ArtworkIQ LLC, Madison, WI
Ascent Technologies, North Hollywood CA
Asha, Charleston, SC
ASI - Advertising Specialty Institute, Trevose, PA
Assignr, Rochester, NY
Astropad, Excelsior, MN
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Beri Labs LLC, Santa Monica, CA
Best Attendance, Faribault, MN
BetFully Inc, Carlsbad, CA
Better Automations LLC, Hollister, FL
Big Band Software, Minneapolis, MN
BizToCustomer.com, Thornton, CO
BKMW Holdings LLC, Milwaukee, WI
Blitz Revolution Inc, Dayton, OH
Blocknative, San Francisco, CA
Blue Whale Apps, Chantilly, VA
Bluerithm, Minneapolis, MN
BoomCloud, Lehi, UT
Bootspoon LLC, Durham, NC
Brainingcamp, Austin, TX
BranchLabs LLC, Santa Barbara, CA
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Brickwall Web Agency LLC, Pittsburg, TX
Brightworks Digital, Austin, TX
Brilliant Fantastic LLC, Sylvania, OH
Brite Idea Software, Spring Valley, WI
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Brown Creative Group, Winston Salem, NC
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Building Block Labs, Spokane, WA
BuildLab LLC, Arlington, VA
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macMonkey Digital Studios LLC, Saint Paul, MN
MacrosFirst LLC, Santa Rosa, CA
Magic Makers LLC, Bentonville, AR
SaaS Cache LLC, Eureka, MT
Manifold Markets, San Francisco, CA
MarketBeat, Sioux Falls, SD
Maybe Finance Inc, Birmingham, AL
Maynetainable LLC, Frederick, MD
MDES Technology Group LLC, Kennett Square, PA
Media Grid LLC, Caledonia, MI
MemberDev LLC, Denver, CO
MemberVault, Olympia, WA
MemoryShare, Dallas, TX
Menor Technical Services Inc, San Clemente, CA
Metaform, Charlottesville, VA
Meticulous LLC, Charlottesville, VA
MFR Holdings LLC, Bernardsville, NJ
Mighty Ant DataWorks Inc, West Lafayette, IN
MightyScoot Inc, Las Vegas, NV
Minaki Corporation, Palo Alto, CA
Mined XAI, Bellbrook, OH
Minute7.com, Wilmette, IL
Mission Met LLC, Athens, OH
Mobile Storage Tech, Princeton, TX
Modern Logic, Minneapolis, MN
Molten Bits LLC, Minneapolis, MN
Monfresh LLC, Vienna, VA
MoonClerk LLC, Greer, SC
Moonstone Media, Clovis, CA
Mountain Insight LLC, Park City, UT
Mythic Insight Cooperative Inc, Lacombe, LA
Novus, Kansas City, MO
Nalpeiron Inc, Boulder, CO
ND EXT LLC, Blue Ash, OH
Neon Rain Interactive LLC, Denver, CO
Newcomb & Boyd, Atlanta, GA
Next Reason Inc, Portland, OR
NextLink Labs, Pittsburgh, PA
Nice Mohawk Limited, Athens, OH
NiftyCo LLC, Dubuque, IA
Nimdone Inc, Bethpage, NY
Nines Services LLC, New York, NY
Nine Two Three Venture Studio, Boxford, MA
Noodlestudios LLC, Rustburg, VA
Nomorobo, Mount Sinai, NY
Nozzlegear Software, Sibley, IA
NTG Consulting LLC, Virginia Beach, VA
Nysus Solutions, Maumee, OH
Oak Web Solutions LLC, Pewaukee, WI
OctoLabs, Norman, OK
One Law LLC, Bethesda, MD
One More Cloud Inc, Austin, TX
OneUp App LLC, Cranberry Township, PA
OpenClinica LLC, Waltham, MA
OpenVia, Birmingham, AL
Opsmate Inc, Medford, MA
Optt Llc, San Jose, CA
Outseta LLC, Boston, MA
P23 Technologies Inc, Evergreen, CO
Pad39 LLC, Boulder, CO
Patdmission LLC, Saint Peters, MO
PageDNA Inc, Dallas, TX
PASS Training & Compliance, Muncie, IN
Pathfinder SEO, Aspen, CO
Pavonis Interactive Inc, Louisville, CO
Perfect Space Inc, Livingston, TX
Pharos Enterprise Intelligence LLC, New York, NY
Phase2 Technology, Arlington, VA
Pixel & Tonic Inc, Bend, OR
PixelPass, Scottsdale, AZ
PlaneLogs LLC, Plano, TX
Planet Argon LLC, Portland, OR
Plutomi Inc, Bronx, NY
PowerChurch Software, Asheville, NC
Prefinery, Memphis, TN
Premier Business Mechanics, Las Vegas, NV
Prepri Inc, Los Angeles, CA
Prismatext Inc, Anchorage, AK
ProductiveRecruit LLC, Chicago, IL
Projection Genie Inc, Santa Monica, CA
PromoPulse, Gardner, KS
Protopia Technology Inc, Raleigh, NC
ProTrainings LLC, Ada, MI
QBench, Weehawken, NJ
QT9 Software, Aurora, IL
QuantFu Inc, Boston, MA
Quantworks Inc, Carrboro, NC
Que Viva LLC, Vero Beach, FL
Quorus Inc, Fairfield, CT
Rapchat, Columbus, OH
Real World React LLC, Pleasant Hill, CA
Reboot Motion, Los Angeles, CA
Red Madrone Solutions, Nevada City, CA
Redlist LLC, Pleasant Grove, UT
Referral Rock Inc, Alexandria, VA
Reflective, Bala Cynwyd, PA
Reforge, San Francisco, CA
Reichert Brothers LLC, Houston, TX
Rejoiner Inc, Newport, RI
Resonant Cavity LLC, Minneapolis, MN
Return Early LLC, Seven Hills, OH
Reveal Technology, Bozeman, MT
Rigbooks LLC, Saint Charles, MO
Ristretto Group LC, Payson, AZ
Rocicorp LLC, Kailua, HI
Rock It Relationships Inc, Denver, CO
Rock Kick Co, Norcross, GA
Rocket Clicks, Menomonee Falls, WI
Rocket Whale Products LLC, Atlanta, GA
Root System, Berkeley, CA
RTC Inc, San Diego, CA
Rubber Tree Systems LLC, Cleveland, OH
Running Writings LLC, Bloomington, IN
SaaS Advisor Ltd, Cincinnati, OH
Sales Key LLC, West Palm Beach, FL
SalesMessage Inc, Delray Beach, FL
SalesNv, Sarasota, FL
Salo Sciences Inc, San Francisco, CA
Sapere Marketing, Cary, NC
Savology Inc, Orem, UT
Savvy Software LLC, Stevens Point, WI
SavvyCal Inc, Minneapolis, MN
Sayla LLC, Houston, TX
SBMSR Software Solutions LLC, Miami, FL
Sched, Atlanta, GA
Schepsoft, Portland, OR
School of Motion Inc, Frewsburg, NY
School Twist Inc, Boston, MA
Scoreboard Acquisition Inc, Bentonville, AR
Scribbi, Andover, MA
Segue Inc, Fort Worth, TX
Selda Inc, Carlsbad, CA
Servant Ventures, Saint Paul, MN
ServMask Inc, Claymont, DE
SetHero LLC, Seattle, WA
Seven Marches, Gilbert, AZ
Shamley Incorporated, Loveland, CO
Ship Shape Consulting LLC, Middleburg, VA
Shopify Apps Inc, Arlington, WA
ShopWP, Austin, TX
Showit Inc, Gilbert, AZ
ShowSubmit, Denver, CO
Shrpa LLC, Rochester, MN
SigParser, San Marcos, CA
Silverpine Software, Portland, OR
Simple Copy LLC, El Dorado Hills, CA
Simple Integrations LLC, Grand Rapids, MI
SimpleTiger LLC, Sarasota, FL
SimplyCubed LLC, Detroit, MI
Slash7 LLC, Tucson, AZ
SmartPrompt Inc, Denver, CO
Smith Maslott LLC, Portland, OR
Smmall Inc, Knoxville, TN
Social Snowball Holdings Inc, Miami, FL
Solon Media Group LLC, San Antonio, TX

Somnio Technology Solutions LLC, Ponchatoula, LA
Spin Group Inc, Milwaukee, WI
Spindle Health PLLC, Alexandria, VA
Spiral Learning LLC, Foster City, CA
Spraygenix LLC, Chester, AR
Spring Point Solutions, Portland, ME
SquadCast Studios Inc, Emeryville, CA
Stadia Maps Inc, Keego Harbor, MI
Stallion Software LLC, Rochester, MI
Stanford University, Stanford, CA
Stat Telecommunication Services, Westborough, MA
Statamic LLC, Ormond Beach, FL
Stately Software Inc, Orlando, FL
Steadfast Innovation LLC, San Luis Obispo, CA
Stirling Brandworks, Lowell, MA
Stocked Robotics Inc, Austin, TX
Stranger Studios LLC, Reading, PA
Strategic Life Tools LLC, Asheville, NC
Strategy Pi Inc, Austin, TX
Streak, San Francisco, CA
Strike Advisory LLC, Boise ID
Structurally, Ames, IA
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Tomatic LLC, Baraboo, WI
Toniq, Lehi, UT
Top Cheddar LLC, Santa Monica, CA
Transistor Inc, Chicago, IL
Trillo Inc, Charlotte, VT
tripleNERDscore, Pittsburgh, PA
Trisignia LLC, Washington, D.C.
Trusted Inc, Dearborn, MI
Trym Inc, Novato, CA
Tuple LLC, Somerville, MA
Ultorg Inc, Washington, D.C.
Unabated Sports Inc, Beverly, MA
Unlisted Mobile Inc, Santa Barbara, CA
Unstack Software LLC, Omaha, NE
Unstoppable Software Inc, Cincinnati, OH
Upfront Books LLC, Miami Beach, FL
Upsolver, San Francisco, CA
URComped LLC, Dallas, TX
Userflow Inc, San Francisco, CA
UserScape Inc, Poughkeepsie, NY
Vayabuzz, Duluth, GA
VCARVE Constructions, Dayton, OH
Vendorhook, Burlington, VT
Vendr Inc, Boston, MA
Vennive, San Francisco, CA
Ventive, Boise, ID
VeraChem LLC, Germantown, MD
Verdict LLC, Lakewood OH
Verifax LLC, Elm Grove, WI
vGenerator LLC, Piedmont, CA
Vidalytics, Austin, TX
Vita Rara DBA Enable Labs, Troy, NY
Vocational Instruction and Software Inc, Orinda, CA
Vower, Atlanta, GA
VOXIMETRY, Madison, WI
VTT Red LLC, Hillsdale, NJ
We Are Modus LLC, New York, NY
We The Incubator, Los Angeles, CA
WeAreNoCode, Torrance, CA
Web Boyz Ltd, Colorado Springs, CO
Website Pipeline Inc, Greenville, SC
Wenco Cloud Inc, Seattle, WA
Wicked Reports, Marblehead, MA
Wistia Inc, Cambridge MA
Wild Moon Corp, Plano, TX
Cherry Picking Enterprises LLC, Seattle, WA
WishTender, Chicago, IL
WordMint LLC, Boston, MA
Worktern LLC, Overland Park, KS
WP4 LLC, Irvine, CA
Wrangle, Durham, NC

WunderGraph, Miami, FL
xCheck, Long Beach, CA
Xperiencify Inc, Austin, TX
Yapp, New York, NY
Yes Period LLC, Middletown, PA
Zao Web Design LLC, Newberg, OR
Zapa Client Portal, Towson, MD
ZenMaid Inc, Palo Alto, CA
zeroK NanoTech Corporation, Gaithersburg, MD
ZipMessage Inc, Orange, CT
Zom Labs LLC, Horsham, PA
zvelo, Greenwood Village, CO

CC:
Speaker Kevin McCarthy
House Minority Leader Hakeem Jeffries
Senate Majority Leader Chuck Schumer
Senate Minority Leader Mitch McConnell
Representative Roger Williams
Representative Nydia Velazquez
Senator Ben Cardin
Senator Jodi Ernst
Members of the House Ways and Means Committee
Members of the Senate Committee on Finance