

July 11, 2022

The Honorable Nancy Pelosi  
Speaker of the House  
U.S. House of Representatives  
H-232 U.S. Capitol  
Washington, DC 20515

The Honorable Charles Schumer  
Senate Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Kevin McCarthy  
House Minority Leader  
U.S. House of Representatives  
H-204 U.S. Capitol  
Washington, DC 20515

The Honorable Mitch McConnell  
Senate Minority Leader  
United States Senate  
Washington, DC 20510

Dear Speaker Pelosi, Leader McCarthy, Leader Schumer, and Leader McConnell:

We, the undersigned organizations representing millions of Main Street businesses and employing tens of millions of American workers, urge you not to raise taxes on small, individually, and family-owned businesses as part of any effort to enact a reconciliation bill this year. In the face of a possible recession, 40-year high inflation, unprecedented supply-chain challenges, and chronic labor shortages, raising taxes on small, individually, and family-owned businesses is the wrong approach and should be rejected.

According to recent media reports, two tax increases under consideration would fall entirely on small, individually, and family-owned, closely-held businesses: 1) expanding the 3.8 percent Net Investment Income Tax (NIIT) to individuals and families who actively participate in their business, and 2) limiting the ability of small, individually, and family-owned businesses to fully deduct their losses during an economic downturn by expanding and extending the so-called “excess business loss limitation” for “noncorporate taxpayers.” Combined, these would increase revenues by more than \$400 billion over ten years, shouldered entirely on the backs of small, individually, and family-owned businesses.

While expanding the NIIT is sometimes characterized as closing a tax loophole and that it would increase Medicare funding, neither of these claims are true. When the NIIT was created as part of the Affordable Care Act, it was meant to apply to investment income only. The business income of small, individually, and family-owned firms where the owners ran the business was specifically exempted. This exemption was intentional and in no way constitutes a loophole.

Moreover, the revenue raised by the NIIT does not fund Medicare. As the NIIT initially was adopted as part of a reconciliation bill, attributing the funds of this new tax to the Hospital Insurance trust fund would have violated the Byrd Rule. That is why the NIIT did not fund Medicare when it was adopted in 2010, and why attributing the revenues raised by its expansion to Medicare likely violates the Byrd Rule too.

Expanding the 3.8 percent NIIT represents nothing more than an eleven percent increase in the rates imposed on family-owned businesses. Based on Treasury data, we estimate up to 1 million small and family-owned businesses, representing over half of all pass-through business activity, would be at risk of having their rates increased under this policy. This small business tax hike would hurt the ability of businesses that survived the worst global pandemic in a century to remain viable in the coming months.

Expanding the NIIT would raise taxes on small and family-owned businesses when they are profitable, while extending and expanding the “excess loss limitation” rules would hurt them in the next downturn. During the Great Recession, many businesses were able to survive, in part, due to policies that allowed them to offset their current losses against taxes they had previously paid. These refunds were particularly important for cyclical industries such as construction, manufacturing, and travel and tourism. Extending and expanding the “excess loss limitation” rules into the future would prevent pass-through businesses from having this relief in the next recession, increasing the odds that they don’t survive.

This is ill-advised tax policy and it is being considered at a moment when the economy is no longer growing. First quarter gross domestic product (GDP) fell by 1.6 percent and many economists and forecasters predict that the second quarter GDP will also be negative. Meanwhile, the small business sector may already be in recession, as those businesses have lost employment in three out of the last four months.

Raising taxes on small and family-owned businesses with the economy on the brink of a recession, a situation which is compounded by the other post-pandemic challenges they face, harms not only the businesses but the families and communities who rely on them. We ask you to reject these or any tax hikes on America’s small and family-owned businesses in any legislation considered this year.

Sincerely,

Agricultural Retailers Association  
AICC, The Independent Packaging Association  
Air Conditioning Contractors of America (ACCA)  
Alabama Cattlemen's Association  
American Bakers Association  
American Bankers Association  
American Building Materials Alliance  
American Cotton Producers  
American Council of Engineering Companies  
American Council of Independent Laboratories  
American Farm Bureau Federation  
American Financial Services Association  
American Foundry Society  
American Hotel & Lodging Association (AHLA)  
American International Automobile Dealers Association  
American Lighting Association  
American Mold Builders Association

American Rental Association  
American Society for Surgery of the Hand  
American Subcontractors Association  
American Supply Association  
American Trucking Associations  
American Veterinary Medical Association  
Arizona Farm Bureau Federation  
Arkansas Cattlemen's Association  
Asian American Hotel Owners Association (AAHOA)  
Associated Builders & Contractors  
Associated Equipment Distributors  
Associated General Contractors of America  
Auto Care Association  
Beer Institute  
California Association of Winegrape Growers  
California Cattlemen's Association  
CCIM Institute  
Ceramic Tile Distributors Association  
Coalition of Franchisee Associations  
Colorado Cattlemen's Association  
Construction Industry Round Table  
Convenience Distribution Association  
Education Market Association  
Energy Equipment and Infrastructure Alliance  
Energy Marketers of America  
Equipment Marketing & Distribution Association (EMDA)  
Family Business Coalition  
FCA International  
Florida Cattlemen's Association  
FMI - the Food Industry Association  
Foodservice Equipment Distributors Association  
Forest Resources Association  
Forging Industry Association  
Foundry Association of Michigan  
Franchise Business Services  
Gases and Welding Distributors Association  
Georgia Cattlemen's Association  
Glass Packaging Institute (GPI)  
Global Cold Chain Alliance  
Heating, Air-conditioning, & Refrigeration Distributors International  
Hedgeapple Farm Market  
ICSC  
Idaho Farm Bureau Federation  
Illinois Farm Bureau  
Independent Community Bankers of America  
Independent Electrical Contractors

Independent Insurance Agents and Brokers of America  
Indiana Beef Cattle Association  
Indiana Cast Metals Association  
Industrial Fasteners Institute  
Institute of Real Estate Management  
International Association of Plastics Distribution (IAPD)  
International Foodservice Distributors Association  
International Franchise Association  
International Housewares Association  
International Warehouse Logistics Association  
Kansas Farm Bureau  
Kansas Livestock Association  
Kentucky Farm Bureau Federation  
Main Street Employers Coalition  
Manufactured Housing Institute  
Manufacturer & Business Association  
Maryland Cattlemen's Association, Inc.  
Material Handling Equipment Distributors Association  
Metalcasters of Minnesota  
Metals Service Center Institute  
Michigan Farm Bureau  
Minnesota Farm Bureau  
Mississippi Cattlemen's Association  
Montana Farm Bureau Federation  
Montana Stockgrowers Association  
Mortgage Bankers Association  
National Apartment Association  
National Association of Convenience Stores  
National Association of Electrical Distributors  
National Association of Home Builders  
National Association of Insurance and Financial Advisors  
National Association of Manufacturers  
National Association of Professional Insurance Agents  
NATIONAL ASSOCIATION OF REALTORS®  
National Association of Sporting Goods Wholesalers  
National Association of Truckstop Operators  
National Association of Wholesaler-Distributors  
National Association of Women Business Owners (NAWBO)  
National Beer Wholesalers Association  
National Cattlemen's Beef Association  
National Community Pharmacists Association  
National Cotton Council  
National Cotton Ginners Association  
National Council of Agricultural Employers  
National Council of Farmer Cooperatives  
National Electrical Contractors Association

National Electrical Manufacturers Representatives Association (NEMRA)  
National Federation of Independent Business (NFIB)  
National Franchisee Association  
National Grocers Association  
National Independent Automobile Dealers Association (NIADA)  
National Insulation Association  
National Marine Distributors Association  
National Mining Association  
National Multifamily Housing Council  
National Newspaper Association  
National Onion Association  
National Peach Council  
National Pecan Federation  
National Pork Producers Council  
National Potato Council  
National Ready Mixed Concrete Association  
National Restaurant Association  
National Retail Federation  
National Roofing Contractors Association  
National RV Dealers Association (RVDA)  
National Small Business Association  
National Stone, Sand & Gravel Association  
National Tooling and Machining Association  
National Waste & Recycling Association  
Nebraska Cattlemen  
New Jersey Farm Bureau  
New Mexico Cattle Growers' Assn.  
New Mexico Farm & Livestock Bureau  
New York Farm Bureau  
North American Association of Food Equipment Manufacturers (NAFEM)  
North American Die Casting Association  
North Carolina Cattlemen's Association  
North Dakota Grain Growers Association  
Ohio Cattlemen's Association  
Ohio Farm Bureau Federation  
Oklahoma Cattlemen's Association  
Oregon Cattlemen's Association  
Outdoor Power Equipment and Engine Service Association  
Pennsylvania Farm Bureau  
Pet Industry Distributors Association  
Petroleum Equipment Institute  
Plastics Industry Association  
Plumbing-Heating-Cooling Contractors—National Association  
Policy and Taxation Group  
Precision Machined Products Association  
Precision Metalforming Association

Public Lands Council  
Reserve Organization of America  
Retail Bakers of America (RBA)  
S Corporation Association  
SIGMA: America's Leading Fuel Marketers  
Small Business & Entrepreneurship Council  
Society of American Florists  
Society of Collision Repair Specialists (SCRS)  
Society of Industrial and Office REALTORS®  
Southeastern Lumber Manufacturers Association  
Southwest Council of Agribusiness  
Specialty Equipment Market Association  
Spray Polyurethane Foam Alliance  
Subchapter S Bank Association  
Texas Cattle Feeders Association  
Texas Farm Bureau  
The Hardwood Federation  
The National Grange  
Tile Roofing Industry Alliance  
Tire Industry Association  
Truck Renting and Leasing Association  
U.S. Apple Association  
U.S. Peanut Federation  
United Egg Producers  
US Sweet Potato Council  
USA Rice  
Virginia Cattlemen's Association  
Virginia Farm Bureau  
West Virginia Cattlemen's Association  
Western Growers  
Western States Roofing Contractors Association  
Wine and Spirits Wholesalers of America  
Wisconsin Cast Metals Association  
Wisconsin Cattlemen's Association  
Wood Machinery Manufacturers of America  
Wyoming Farm Bureau Federation  
Wyoming Stock Growers Association