

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
Design-Build Institute of America
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