

July 29, 2022

The Honorable Charles Schumer
Democrat Leader
United States Senate
S-221, The Capitol
Washington, DC 20510

The Honorable Mitch McConnell
Republican Leader
United States Senate
S-230, The Capitol
Washington, DC 20510

Dear Leaders Schumer and McConnell:

We write to express our utmost concern about Senate Democrats' efforts to raise taxes and tax compliance costs for American small businesses, farmers, and ranchers to pay for the cost of reconciliation legislation. In particular we are concerned about the proposed 3.8% surtax on small businesses and about efforts to raise more than \$120 billion in new tax revenue by targeting family businesses with audits utilizing \$45.6 billion in new spending for Internal Revenue Service enforcement activities. While we agree judicious enforcement of our tax laws is vital to ensuring trust in our voluntary system of tax compliance, targeting law-abiding U.S. small businesses as our economy nears the brink of a recession is the wrong approach at the wrong time.

As you know, America's farmers, ranchers, and small businesses are facing generational challenges. Gasoline, diesel, and fertilizer remain near all-time highs. According to the National Federation of Independent Business (NFIB), 51% of small business owners report they are unable to fill job openings, 77% reported higher prices, and 39% reported supply chain disruptions. NFIB also reports business owners expecting better business conditions is the lowest in their survey's 48-year history. Inflicting new taxes and new tax compliance costs on small businesses would only exacerbate their ongoing problems

Subchapter S of the Internal Revenue Code was enacted in 1958 and has become a widely used tool for ensuring small businesses can incorporate and pay business taxes, without adding the additional layer of administrative and tax costs required of C corporations. In exchange for the decreased administrative burden and cost of filing under Subchapter S, these companies pay taxes on business income at higher individual rates, at the ownership level, rather than at typically lower C corporation rates. To be eligible for this treatment, S corporations must also meet stricter limits on ownership structures and qualify under state franchise laws.

We share your concerns S corporations could be abused by high-net-worth individuals acting without a legitimate business purpose to avoid Medicare taxes on royalties, honoraria, and professional services compensation. For example, according to the Congressional Research Service, President and Mrs. Biden utilized S corporations to avoid paying the 3.8% Medicare and Net Investment Income Tax (NIIT) on more than \$12 million in book royalties and speaking fees, costing the Treasury more than \$500,000. Existing rules require S corporations to reasonably allocate earnings between shareholder wages and earned profits. If the Internal

Revenue Service (IRS) is not appropriately using internal metrics to quickly and accurately screen for abuse of S corporations to avoid Medicare and NIIT taxes, while limiting the audit burden on legitimate small businesses, we will gladly engage with you in a bipartisan fashion.

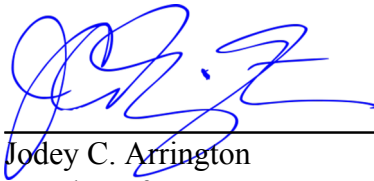
Likewise, the \$45.6 billion in IRS enforcement funding included in draft legislation released by Senate Democrats this week, which proponents claim will create more than \$120 billion in new revenue from so-called tax enforcement, threatens family farms and small businesses with expensive and time-consuming audits. According to IRS estimates, more than four out of five taxpayers pay their taxes accurately and on time. Because the Treasury Inspector General for Tax Administration has repeatedly found IRS audit plans ineffective and the minimum estimated cost of an audit to a small business is \$10,000, this plan would create expensive new tax compliance costs for law-abiding small businesses at the worst possible time. This draft legislation lacks any guardrails to protect families, farmers, and small businesses from aggressive and costly IRS audits.

We opposed these tax proposals when reconciliation passed in the House last fall. Since then, inflation and economic growth have worsened, making these proposals even more untenable for America's small businesses. Rather than raising taxes on the smallest businesses at the worst possible time, we should work together to make permanent the tax policies they need to reinvest, hire, and unclog our supply chains. We should act to make lower rates and the 20% small business deduction, as well as full expensing, permanent, repeal research and development amortization, and fix Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA) to ensure full interest deductibility. Thank you for your attention to this matter.

Sincerely,



Adrian Smith
Member of Congress



Jodey C. Arrington
Member of Congress



Michelle Fischbach
Member of Congress



A. Drew Ferguson IV
Member of Congress



Kevin Hern
Member of Congress



Carol D. Miller
Member of Congress



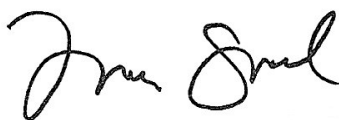
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Member of Congress



Vicky Hartzler
Member of Congress



Austin Scott
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Michelle Steel
Member of Congress



Peter Meijer M.C.
Member of Congress



David Schweikert
Member of Congress



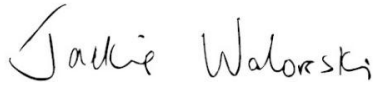
James R. Baird
Member of Congress



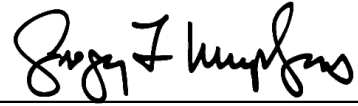
David Rouzer
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Mike Carey
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Jackie Walorski
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Gregory F. Murphy, M.D.
Member of Congress



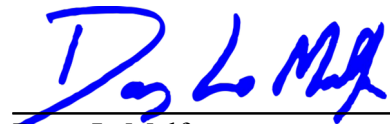
Byron Donalds
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Kat Cammack
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John R. Moolenaar
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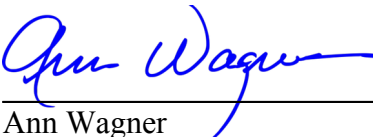
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Beth Van Duyne
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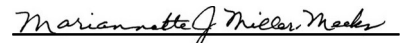
Jake Ellzey
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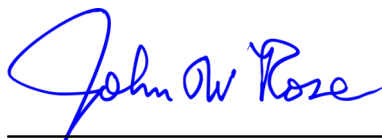
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/s/

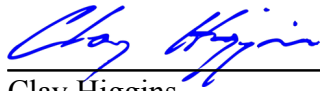
Mayra Flores
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Markwayne Mullin
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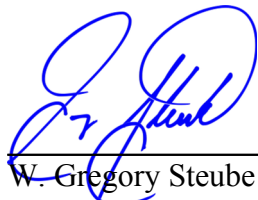
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Fleischmann
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Ron Estes
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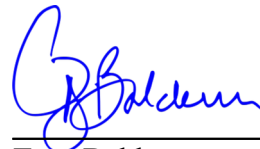
Richard Hudson
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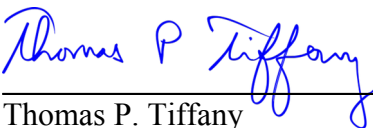
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Young Kim
Member of Congress



Troy Balderson
Member of Congress



Thomas P. Tiffany
Member of Congress



Alex X. Mooney
Member of Congress



Cliff Bentz
Member of Congress

CC: Sen. Ron Wyden, Chair, U.S. Senate Committee on Finance
Sen. Mike Crapo, Ranking Member, U.S. Senate Committee on Finance