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March 17, 2022

The Honorable Bill Pascrell, Jr.  
Chairman  
Oversight Subcommittee  
Committee on Ways & Means  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Tom Rice  
Ranking Member  
Oversight Subcommittee  
Committee on Ways & Means  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Pascrell and Ranking Member Rice,

On behalf of NFIB, the nation's leading small business advocacy organization, I write concerning today's hearing entitled, "Hearing with IRS Commissioner Rettig on the 2022 Filing Season."

Tax administration remains a top concern for small business owners. Last August, the NFIB Research Center published its latest survey focusing on tax issues.<sup>1</sup> This survey was designed to gauge the small business tax burden across a series of the most common taxes owners face. Unsurprisingly, federal business income taxes were the most burdensome tax on both a financial and administrative basis according to survey respondents.

These findings are consistent with previous surveys. The NFIB Research Center's most recent *Small Business Problems & Priorities* survey notes that the most severely ranked tax problem for small business owners is "Federal Taxes on Business Income;" this topic ranks third out of 75 policy concerns. In fact, the top 10 most severe problems for small business owners are populated with four tax-related small business issues.<sup>2</sup>

Coupling these going concerns with the health and economic crises related to the pandemic, small business owners are deeply concerned by the backlog at the Internal Revenue Service (IRS) and how that is affecting their interactions with the IRS. In NFIB Research Center's March COVID-19 survey, 22 percent of members surveyed have attempted to contact the IRS for information related to their businesses in the last 12 months. Of those who attempted to

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<sup>1</sup> Holly Wade, *NFIB 2021 Tax Survey*, NFIB Research Center, 2021, <https://assets.nfib.com/nfibcom/NFIB-Tax-Survey-Full-Report.pdf>.

<sup>2</sup> Holly Wade, *Small Business Problems & Priorities: Tenth Edition*, NFIB Research Center, 2020, <https://assets.nfib.com/nfibcom/NFIB-Problems-and-Priorities-2020.pdf>.

contact the IRS, 64 percent responded that experience was not helpful at all.<sup>3</sup> Understanding small business owners reported federal business income taxes had the highest administrative burden in last year's tax survey, this lack of helpful interaction is discouraging.<sup>4</sup>

This absence of quality communication is further exacerbated by the IRS's backlog. NFIB continues to hear from small business owners frustrated by the IRS's delay in processing the Employee Retention Tax Credit (ERTC). The intent of the ERTC was to help business owners keep employees on the payroll. To qualify for this credit, business owners must demonstrate at least a 20 percent decline in gross receipts. To ensure these qualifying businesses receive assistance, NFIB requests the IRS accelerate the processing of Forms 941, Employer's Quarterly Federal Tax Return, and Forms 941-X, Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund. Many Forms 941-X have been filed to claim the ERTC, and a Form 941-X cannot be processed until the original Form 941 has been processed.

Further, NFIB has heard from members who received IRS penalty notices for withholding payroll taxes to claim the ERTC in the fourth quarter of 2021. These penalty notices are especially problematic because the ERTC was retroactively ended in the middle of the fourth quarter with the enactment of the Infrastructure Investment and Jobs Act, and these businesses were relying on the ERTC for the entire calendar year 2021.

NFIB is concerned that the backlog will continue to grow due to Congress's recent policies and proposals, which add to the administrative burden of small business owners. Specifically, Section 9674 of the American Rescue Plan Act of 2021 (ARPA), requires Third-Party Settlement Organizations (TPSOs), such as PayPal, Venmo, and online marketplaces that connect buyers and sellers, to collect sensitive taxpayer information and issue a 1099-K for goods and services transactions made by customers with \$600 or more in annual gross sales beginning this year. Previously, TPSOs were only required to issue a 1099-K for users with \$20,000 in transactions and more than 200 transactions in a calendar year. Small business owners could receive 1099-K for transactions where they have no tax liability, such as reimbursements, gifts, or the selling of property at a loss. This increased reporting will further confuse and complicate the already difficult tax compliance burden small businesses face, especially because the requirement was added extremely late in the process in a Manager's Amendment.

Section 9674 continues a troubling trend of some in Congress seeking to single out the smallest of small businesses for additional IRS scrutiny. Shortly after the enactment of ARPA, the Department of Treasury proposed a new tax reporting regime. This proposal would require information on the gross annual inflows and outflows of all types of financial accounts in the United States to be submitted to the IRS annually.<sup>5</sup> Congress and the Administration have also

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<sup>3</sup> Holly Wade, *COVID-19 Small Business Survey Part 22*, NFIB Research Center, 2022, <https://assets.nfib.com/nfibcom/Covid-19-22-Questionnaire.pdf>.

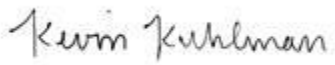
<sup>4</sup> Holly Wade, *NFIB 2021 Tax Survey*, NFIB Research Center, 2021, <https://assets.nfib.com/nfibcom/NFIB-Tax-Survey-Full-Report.pdf>.

<sup>5</sup> Department of Treasury, *General Explanations of the Administration's Fiscal Year 2022 Revenue Proposals*, May 2021, <https://home.treasury.gov/system/files/131/General-Explanations-FY2022.pdf>.

proposed substantially expanding enforcement budgets without investments in compliance assistance. Beyond the substantial administrative and privacy concerns for small business owners, this proposal would potentially add to the IRS's backlog and worsen the agency's ability to serve taxpayers.

As this subcommittee considers avenues to help the IRS better communicate and handle processing delays, please be mindful of the administrative burden taxes place on small business owners and try to help them navigate this challenging time. We urge Congress and the IRS to focus on tax compliance assistance and processing rather than focusing on enforcement and penalties.

Sincerely,

A handwritten signature in dark ink that reads "Kevin Kuhlman". The signature is written in a cursive, slightly slanted style.

Kevin Kuhlman  
Vice President, Federal Government Relations  
NFIB