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The Honorable Richard Neal
U.S. House of Representatives
Committee on Ways & Means
372 Cannon House Office Building
Washington, D.C. 20515

The Honorable Kevin Brady
U.S. House of Representatives
Committee on Ways & Means
1011 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Neal and Ranking Member Brady:

As you consider legislation to comply with reconciliation instructions outlined in S. Con. Res. 14, the *Fiscal Year 2022 Budget Resolution*, I strongly urge you to avoid imposing tax increases that could hamper the fragile small business recovery.

After surviving health and economic crises related to the pandemic over the last 18 months, wary small business owners are cautiously looking ahead. Increasing taxes now would endanger their hopes for a robust recovery. Even prior to the pandemic, small business owners grappled with tax concerns. NFIB Research Center's recent *Small Business Problems & Priorities* survey notes, 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, of the top 10 most severe problems for small business owners, four are tax-related small business issues.¹ Furthermore, in NFIB's latest tax survey, small business owners shared that federal business income taxes were the most burdensome tax on both a financial and administrative basis.² NFIB's August *Small Business Economic Trends* survey notes that "taxes" is the single most important problem facing small business owners after "quality of labor."³ In short, increasing taxes on small businesses now is the wrong move at the wrong time.

NFIB opposes efforts to raise taxes on small businesses. The Small Business Deduction (Section 199A) provides tax relief for small businesses organized as pass-through entities (S-corporations, sole proprietorships, LLCs, and partnerships). Since three-quarters of small businesses are organized as pass-throughs, it is unsurprising that 81% of small business owners say the Small Business Deduction was important for their business.⁴ In the Tax Cuts and Jobs Act, Congress placed guardrails, like the W-2 wage test, on the deduction. In essence, to receive the deduction above qualified business income (QBI) statutory threshold, one must be a job creator. By arbitrarily curtailing the deduction, Congress is punishing a growing business that has invested in employees.

¹ Holly Wade, *Small Business Problems & Priorities: Tenth Edition*, NFIB Research Center, 2020, <https://assets.nfib.com/nfibcom/NFIB-Problems-and-Priorities-2020.pdf>.

² William C. Dunkelberg and Holly Wade, *NFIB 2021 Tax Survey*, NFIB Research Center, August 2021, <https://assets.nfib.com/nfibcom/NFIB-Tax-Survey-Full-Report.pdf>.

³ William C. Dunkelberg and Holly Wade, *NFIB Small Business Economic Trends*, NFIB Research Center, August 2021, <https://assets.nfib.com/nfibcom/SBET-July-2021.pdf>.

⁴ Holly Wade, *The Tax Cuts and Jobs Act: One Year Later, Part II*, NFIB Research Center, September 2019, <https://strgnfibcom.blob.core.windows.net/nfibcom/2019-TCJA-One-Year-Later-final.pdf>.

Unfortunately, this Subtitle increases multiple taxes on pass-through business owners. The combination of (1) curtailing the Small Business Deduction, (2) increasing the top individual marginal tax rate from 37% to 39.6% and lowering the beginning of the top bracket from \$523,601 (individual) and \$628,301 (joint) to \$400,001 (individual) and \$450,001 (joint), (3) imposing a new 3% surtax that includes business income, and (4) imposing the 3.8% net investment income tax (NIIT) on pass-through business income earned amounts to a multi-prong tax blitz on small businesses. These tax changes provide a potential top 46.4% federal effective tax rate on pass-through business income before even considering state and local taxes. Cumulatively, these proposed changes present a disruptive combination for small businesses.

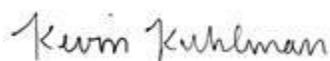
NFIB opposes increasing the top corporate tax rate from 21% to 26.5%. Such an increase will negatively impact a substantial number of businesses structured as C corporations (C-corps), affecting their ability to create jobs and invest in employees and communities. However, NFIB appreciates that the proposal restores a graduated corporate rate structure, which would effectively lower the corporate rate for the smallest C-corps (those earning less than \$400,000 in taxable income) and maintain the current 21% rate for many small businesses organized as C-corps (those earning taxable income between \$400,000 to \$5 million).

NFIB opposes changes to the estate tax and increasing the top capital gains tax rate. In NFIB's latest tax survey, one-third of small business owners plan to pass their business to a family member.⁵ While NFIB is appreciative Subtitle I keeps stepped-up basis intact, sunsetting the estate tax threshold prematurely increases complexity and uncertainty for small business owners. Nearly half of small business owners (48%) report the uncertainty of expiring tax provisions is impacting their current or future business plans, a dramatic increase from 16% of small business owners who reported the same in a 2019 NFIB tax survey.⁶

In considering the changes to the top capital gains rate, this will also affect small business owners' retirement. Many small business owners have reinvested in their businesses and employees for years, even decades, with the intent to sell the business to finance their retirement. By increasing the top capital gains rate, the small business owners would lose significantly more of their hard-earned retirement. In NFIB's most recent tax survey, more than half of the owners surveyed (52%) plan to sell their business when it is time to move on.⁷

Should Congress impose additional taxes now, this would further encumber small business owners and increase uncertainty moving forward. Small businesses are struggling with labor shortages, rising inflation, supply chain disruptions, and increasing threats from COVID-19 variants.⁸ Congress should avoid tax increases and mandates that would compound these problems and harm the fragile small business recovery.

Sincerely,



Kevin Kuhlman
Vice President, Federal Government Relations
NFIB

⁵ William C. Dunkelberg and Holly Wade, *NFIB 2021 Tax Survey*, NFIB Research Center, August 2021, <https://assets.nfib.com/nfibcom/NFIB-Tax-Survey-Full-Report.pdf>.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *NFIB Small Business Jobs Report*, NFIB Research Center, September 2, 2021, <https://www.nfib.com/foundations/research-center/monthly-reports/jobs-report>.