



## Small Business Surtax

### Issue

The *Build Back Better Act* imposes a 3.8% “Small Business Surtax” on business income earned by pass-through businesses, those organized as S corporations, LLCs, Sole Proprietorships, and Partnerships.

- The tax applies to business income above \$400,000 (\$500,000 for joint returns).
- The threshold is even lower for family businesses held in trusts above \$13,000.
- These thresholds are not indexed for inflation, so the “Small Business Surtax” will hit an increasing number of businesses and an increasing percentage of small business income.

### Small Business Data

- Three-quarters of small employers are organized as pass-through businesses.
- Over 750,000 pass-through businesses have business income above the thresholds.
- More than half of pass-through business income is above the thresholds.
- As NFIB’s *Small Business Problems and Priorities* surveys have noted repeatedly throughout the decades, taxes remain a top concern for small business owners.

### History

- Originally a “Net Investment Income Tax” (“NIIT”), the “Small Business Surtax” was inserted at the last-minute to the Affordable Care Act. Active business income was deliberately excluded from the tax.
- The tax became effective in 2013 and applied a 3.8% surtax to “investment income,” including interest, dividends, annuities, royalties, rents, passive income, and net gain from the disposition of nonbusiness property.
- Contrary to proponents’ assertions, the tax **was not intended** to apply to active business income. The tax **does not fund** Medicare, but rather revenues go into Treasury’s general fund.
- The “Small Business Surtax” **does not close** a loophole.

### Take Action

- The small business economy’s recovery is fragile; Congress should not break it with tax increases and mandates. [Tell Congress](#) to protect small businesses from the “Small Business Surtax.”

## Small Business Impact

"As a small business owner who made a little more than \$400,000 in 2020, my husband and I strongly oppose the proposed tax hike on small businesses. We are currently struggling to keep our business open as we are in the electronic industry and the supply chain disruption is making it very hard to make consistent sales. The cost of components has more than doubled and tripled, and our net profit has significantly gone down. We expect this to extend until the early months of 2023. Now is not the time to tax business owners making \$400,000 as we need the cash flow to pay our current employees and keep the business doors open. Please kindly oppose the new tax hike!" Nouhad H., Chandler, AZ

"My business is an S-corp. As a pass-through entity, we pass through a million dollars – but that doesn't mean we keep it for ourselves. We still pay out of that long-term debt, mortgages, truck leases, etc. We don't take it home. When it is all said and done, we take home far less than \$400,000. By taxing on us on everything over \$400,000 assumes we are keeping that money for personal consumption and that is just not true. You need to rethink this 3.8% Small Business Surtax on small business who are hanging on with all the issues we have had to deal with over the past 18 months. Whenever a politician says they are not going to tax small business, it feels like they always do. Great way to really hurt us even more." John S., Westford, MA

"As an S-corp. business owner, I am more and more discouraged every day by the thought that small business owners are part of the "rich", and therefore, easy picking for tax money for government usage. Our business income puts us already in a higher tax bracket. Most of that business income is used to carry the company through rough spots, such as the recession of 2008, a flood in our building, new roofs, new delivery vehicles, etc. And most importantly – being able to pay our employees well. It doesn't matter what the government says minimum wage is as we already pay well above that rate. As owners of a small business, we put in more hours, more effort, and more care into our business and employees. We provide health insurance to employees that need it – paying a portion of the premium for them. We offer a retirement plan with matching company contributions. We do not deduct for disability insurance or paid family leave insurance; however, we take care of our employees so they can take care of their families. If the government starts taking more in taxes, we will have to re-think those benefits. I am also frustrated and disheartened that the government wants to take another 3.8% from our company. If it weren't for the fact that our son is running the business for the future, we would close it." Bonnie, M., Camillus, NY

"The *Build Back Better Act* would be very harmful to our industry. Our fuel costs have increased 31.5% for this year. Equipment replacement cost will increase a minimum 5.8%. Our repair costs have increased 18% to 35% over last year. We cannot pass this cost along. Our industry simply does not work that way. Adding another 3.8% or anything of that matter is simply beating us smaller businesses further into the ground." Shayne P., Lingleville, TX

Take Action [here](#) and Learn More at [NFIB.com/SmallBizSurvival](https://NFIB.com/SmallBizSurvival).