



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 and the Administration](#) to protect small businesses from the “Small Business Surtax.”

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