



November 9, 2021

Chairman Ron Wyden
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

Chairman Richard Neal
House Ways and Means Committee
1102 Longworth House Office Building
Washington, DC 20515

cc: Ranking Members Mike Crapo and Kevin Brady

Dear Chairmen Wyden and Neal,

Family owned and operated businesses face a number of challenges when transitioning to the next generation of ownership, including navigating the tax code. As recent jobs reports indicate, the economy remains on delicate footing, and at a time when many family businesses are still struggling to stay afloat, several proposals put forth this Congress have the potential to make operating and passing on a family business, farm, or ranch even more difficult.

Earlier this year, both the small business and agriculture communities identified taxing unrealized capital gains at death—a kind of "double death tax"—as an unworkable policy for family businesses. Multiple Senate votes and its exclusion from the House Ways and Means Committee draft might have led one to believe the threat was over, only to see a similar concept resurrected in Chairman Wyden's "mark-to-market" bill. Taxing phantom gains in any form, whether through unrealized gains at death or through the recently released mark-to-market approach has the potential to create serious liquidity issues for privately held businesses.

Family businesses across a wide number of industries tend to operate on small margins with their value almost entirely tied up in equipment, machinery, land, buildings, and other non-cash assets. That makes paying taxes on imaginary gains problematic. It also creates difficulties when attempting to pay estate taxes when no profitable sale has occurred, only the death of a business owner. Family businesses without sufficient liquid reserves to pay new taxes on capital and a more aggressive estate tax will be forced to fire workers, close branches, or shut down the businesses altogether. No family business should be forced into losing their business, employees, and their legacy in order to pay multiple layers of tax on the same dollar.

One disappointing feature of the Ways and Means passed language was the inclusion of indirect death tax hikes in the form of severe restrictions on legitimate grantor trusts and on common-sense family business valuation rules. While these may seem obscure or minor, the language reported out of committee has the potential to be the biggest death tax hike in over a decade. Grantor trusts are used in succession planning to help pass family businesses from one generation to the next. The estate valuation rules would require families to pay death tax on assets which are appraised at a theoretically high, as opposed to fair market, value. If a business owner dies, the value of the business likely declines--it's unfair to value the business as if nothing has changed.

Another threat to the death tax is more straightforward--halving the exemption. The Tax Cuts and Jobs Act doubled the unified credit for estate, gift, and generation skipping taxes to roughly \$12 million in 2021--twice that for surviving spouses. Rolling back the clock on this progress could result in 50 to 100 percent more families paying the estate tax every year.

Congress should be single-mindedly focused on helping small businesses keep their doors open and their workers employed. Taxing unrealized gains in any form, subjecting more families to the estate tax by cutting the current exemption in half, removing important tools that family businesses use for succession planning, and changing longstanding rules on valuing family businesses are not ideas that are likely to help spur job creation and economic recovery. While the recently released “framework” contains several concerning tax hikes, it wisely abandoned these aforementioned provisions. On behalf of family businesses across the country, the undersigned organizations urge you to keep these harmful policies off the table as negotiations continue.

Signed,



AMT – The Association For Manufacturing Technology



FOOD MARKETING INSTITUTE
FMI - the Food Industry Association



Center for a Free Economy



Heating, Air-conditioning, & Refrigeration Distributors International



National Association of Electrical Distributors



National Lumber & Building Material Dealers Association



America's Business Benefit Association



American Supply Association



National Cotton Council of America



International Franchise Association



National Grocers Association



Associated Equipment Distributors



American Society of Appraisers



Hardwood Federation



North American Die Casting Association



Natural. Crafted. Responsible.
Formerly HPVA®

Decorative Hardwoods
Association



Foodservice Equipment
Distributors Association



Institute For Liberty



AMAC Action



Air Conditioning Contractors of
America



Americans for Tax Reform



Forest Landowners Association



Associated Builders and
Contractors, Inc.



National Association of Home
Builders



Consumer Action for a Strong
Economy



Energy Marketers of America



North American Meat Institute



American Mold Builders
Association



Truck Renting and Leasing
Association



Council for Citizens Against
Government Waste



AmericanHort



Mason Contractors Association
of America



Coalition of Franchisee
Associations



Industrial Minerals Association - North America



National Taxpayers Union



Gases and Welding Distributors Association



Western Growers



American Bus Association



Plumbing-Heating-Cooling Contractors—National Association



NAHAD – The Association for Hose and Accessories Distribution



American Sheep Industry Association



Wine & Spirits Wholesalers of America



National Ground Water Association



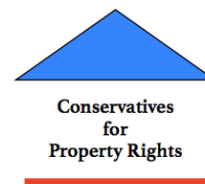
Associated Wire Rope Fabricators



National Industrial Sand Association



National Association for the Self-Employed



Conservatives for Property Rights



Auto Care Association



National Black Chamber of Commerce



National Small Business Association



National Funeral Directors Association



American Foundry Society



National Christmas Tree Association



American Business Defense Council



Communicating for America, Inc.



Frontiers of Freedom



NORTH AMERICAN RENDERERS ASSOCIATION

North American Renderers Association



NATE: The Communications Infrastructure Contractors Association



National Marine Distributors Association



International Association of Plastics Distribution (IAPD)



United States Cattlemen's Association



INTERNATIONAL SIGN ASSOCIATION
International Sign Association



Small Business & Entrepreneurship Council



Family Business Association of California



American Beverage Licensees



Precision Metalforming Association



American Horse Council



Center for Freedom and Prosperity



Professional Beauty Association



Material Handling Equipment Distributors Association



Printing United Alliance



Outdoor Power Equipment and Engine Service Association



Kentucky Forest Industries Association



National Wooden Pallet & Container Association



Maryland State Pest Control Association



Kitchen Cabinet Manufacturers Association



Funeral Directors Services Association of Greater Chicago



Franchise Business Services (representing Buffalo Wild Wings franchisees)



Tire Industry Association



American Pipeline Contractors Association



Rural & Agriculture Council of America



Retail Packaging Association



American Rental Association



Independent Electrical Contractors

Independent Electrical Contractors



National Association of RV Parks & Campgrounds (ARVC)



National Franchisee Association (representing Burger King franchisee)



Precision Machined Products Association



Equipment Dealers Association



Window and Door Manufacturers Association



NATSO, Representing America's Travel Plazas and Truckstops



WF&FSA, The Wholesale Florist and Florist Supplier Association



Southeastern Lumber Manufacturers Association



Taxpayers Protection Alliance



Equipment Services Association



Sazerac



Service Station Dealers of America and Allied Trades (SSDA-AT)



National Utility Contractors Association



National Community Pharmacists Association



Less Government



60 Plus Association



Center for Individual Freedom



Appalachian Hardwood
Manufacturers Inc.



WMDA Service Station &
Automotive Repair Association



American Values



DISTRIBUTION CONTRACTORS ASSOCIATION
Distribution Contractors
Association



National Tax Limitation
Committee



Power and Communication
Contractors Association



Family Business Coalition