

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2561 Rayburn House Office Building
Washington, DC 20515-6515

The Honorable Joseph R. Biden, Jr.
President of the United States
1600 Pennsylvania Avenue, NW
Washington, DC 20500

The Honorable Nancy Pelosi
Speaker of the House
H-232 of The Capitol
Washington, DC 20515

August 23, 2021

Dear President Biden and Speaker Pelosi:

We can all agree that small business owners have been hit hard by the COVID-19 pandemic as they are still reeling from mandatory state and local shutdowns and the economic downturn. At a time when Main Street USA is focused on recovering from the health and economic effects of the pandemic, the last thing they need is the devastating tax increases that you have proposed to fund your profligate spending.

Make no mistake: these tax hikes will negatively impact all types of small businesses. A new survey by the Small Business and Entrepreneurship Council found a majority of small business owners believe these new taxes will significantly hurt their ability to recover from the pandemic.¹ This is unacceptable and is not appropriate or economically advisable to saddle small businesses with increased tax burdens.

First, your proposals slash the 20 percent small business deduction, enacted by the Tax Cuts and Jobs Act of 2017.² Fortunately, Senator Steve Daines' (R-MT) amendment during the Senate's consideration of the budget resolution preserves this deduction and demonstrates its bipartisan support. According to Internal Revenue Service data, more than 21 million small business owners claimed the 20 percent deduction on qualified business income, also called the small business deduction, during the 2020 tax filing season. This provision created more than

¹ SMALL BUSINESS AND ENTREPRENEURSHIP COUNCIL, SMALL BUSINESS RESEARCH (Aug. 11, 2021), available at <https://sbecouncil.org/wp-content/uploads/2021/08/SBE-Council-Small-Business-Research-Technometrica-Aug-2021.pdf>.

² Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97, 131 Stat. 2054 (codified in scattered sections of 26 U.S.C.).

\$66 billion in savings for small business owners in 2019.³ The benefit allows owners of “pass through” businesses, such as sole proprietors, subchapter S corporations and partnerships, to claim up to 20 percent of their business income from taxes. As a result, small businesses can now reinvest in their businesses by purchasing new equipment, enlarging their buildings, and hiring more employees, which benefits their employees, their communities, and our nation’s economy. More than 80 percent of National Federation of Independent Business’s (NFIB) members say this deduction is important to their business, and more than 90 percent would like it to be made permanent.⁴

Second, your proposals nearly double the long-term capital gains rate from 23.8 percent to the top ordinary capital gains rate of 39.6 percent. In an August 2021 Small Business and Entrepreneurship Council survey, 60 percent of small business owners opposed this sharp increase.⁵ In fact, the top rate high-earning Americans pay on dividends, and the sale of appreciated assets would jump to nearly 49 percent when combining all federal and state taxes.⁶ Eliminating the current long-term rate would have enormous implications for any sale of a small business.⁷ According to U.S. Census Bureau data cited by the Small Business Administration’s Office of Advocacy, two-thirds of small business owners plan to sell their business.⁸

Third, your proposals repeal the step-up in basis of an inherited asset at death, the “stepping up” the value of the asset and taxing it at its current market value. This means the asset will be retroactively taxed on the investment’s gain when transferred at the owner’s death. Current law allows for stepping up the basis to the asset’s value at the time of the original owner’s death, so those inheriting the investment are not hit by both the capital gains tax and the death tax.⁹ Your proposal will re-impose both.¹⁰ A study released by the Committee to Unleash

³ Brad Close, Don’t Gut the Small Business Deduction, THE HILL, *available at* <https://thehill.com/opinion/finance/560630-dont-gut-the-small-business-deduction>.

⁴ *Id.*

⁵ SMALL BUSINESS AND ENTREPRENEURSHIP COUNCIL, SMALL BUSINESS RESEARCH (Aug. 11, 2021), *available at* <https://sbecouncil.org/wp-content/uploads/2021/08/SBE-Council-Small-Business-Research-Technometrica-Aug-2021.pdf>.

⁶ TAX FOUNDATION, DOUBLE TAXATION OF CORPORATE INCOME, *available at* <https://taxfoundation.org/double-taxation-of-corporate-income/>.

⁷ ERIC ROSEMBAUM, SMALL BUSINESS PLAYBOOK, CNBC (May 1, 2021), *available at* <https://www.cnbc.com/2021/05/01/biden-taxes-target-big-companies-so-why-is-small-business-worried.html>.

⁸ OFFICE OF ADVOCACY, U.S. SMALL BUSINESS ADMINISTRATION, PATHS TO BUSINESS OWNERSHIP (March 23, 2021), *available at* <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/03/23095429/Paths-to-Business-Ownership-fact-sheet.pdf>.

⁹ Raymond J. Keating, SBE Council, Five Reasons Why Terminating Stepped Up Basis Would be Very, Very Bad for Family Businesses, Entrepreneurship, and the Economy (Aug. 9, 2021), *available at* https://sbecouncil.org/2021/08/09/5-key-reasons-why-terminating-stepped-up-basis-would-be-bad-for-family-businesses-entrepreneurship-and-the-economy/?utm_source=rss&utm_medium=rss&utm_campaign=5-key-reasons-why-terminating-stepped-up-basis-would-be-bad-for-family-businesses-entrepreneurship-and-the-economy.

¹⁰ *Id.*

Prosperity found that eliminating the stepped up basis would sharply increase the tax liability of small business owners and family-owned farms and ranches.¹¹

Fourth, your proposal eliminates 100 percent bonus depreciation on most investments immediately, rather than phasing it out.¹² Bonus depreciation allows small businesses to deduct the cost of certain business purchases, such as new equipment or machinery, in the year it is purchased and placed into service rather than over a period of several years.¹³ This provision was enacted to encourage investments by small businesses and boost the economy. For many years, small business owners have testified before the House Small Business Committee reaffirming that expensing is critically important to them.¹⁴ Eliminating this provision simply means small businesses will have less capital with which to operate.

Fifth, your proposals hike the corporate tax rate from 21 percent to 25 percent, or even 28 percent. Despite the Democrat rhetoric to the contrary, increasing the corporate tax burden would negatively impact many small businesses. A recent analysis of Internal Revenue Service and U.S. Census Bureau data found 1.4 million small businesses organized as C corporations in every sector of the economy will be negatively impacted by corporate tax rate increases.¹⁵ Although many small businesses are organized as “pass-through” entities, many are in fact organized as C corporations. They, too, will be negatively impacted by a corporate tax rate increase. According to a study by the non-partisan Tax Foundation, nearly one quarter of small businesses are structured as C corporations,¹⁶ including those in manufacturing, utilities,

¹¹ COMMITTEE TO UNLEASH PROSPERITY, NATIONAL ECONOMIC IMPACTS OF CURRENT LEGISLATIVE PROPOSALS TO CHANGE THE CAPITAL GAINS TAX (Jul. 2021), *available at* <https://committeetounleashprosperity.com/wp-content/uploads/2021/07/The-National-Economic-Impacts-of-Current-Legislative-Proposals-to-Change-the-Capital-Gains-Tax.pdf>.

¹² J. DIAMOND & G. ZODROW, TAX POLICY ADVISERS LLC, DYNAMIC ESTIMATES OF THE MACROECONOMIC EFFECTS OF TAX RATE INCREASES AND OTHER TAX POLICY CHANGES, *available at* <https://www.nam.org/wp-content/uploads/2021/04/NAM-Tax-Study-2021.pdf>.

¹³ INTERNAL REVENUE SERVICE, NEW TAX LAW ALLOWS SMALL BUSINESSES TO EXPENSE MORE, EXPANDS BONUS DEPRECIATION (Nov. 15, 2018), *available at* <https://www.irs.gov/newsroom/new-tax-law-allows-small-businesses-to-expense-more-expands-bonus-depreciation>.

¹⁴ See, e.g., *Bonus Depreciation: What it Means for Small Business: Hrg. Before the H. Comm. on Small Bus., 111th Cong. (2010)*, *available at* <https://www.govinfo.gov/content/pkg/CHRG-111hhrg57284/html/CHRG-111hhrg57284.htm>.

¹⁵ U.S. CHAMBER OF COMMERCE, IMPACT OF PROPOSED TAX INCREASES ON SMALL BUSINESSES 1, (Apr. 30, 2021), *available at* <https://www.uschamber.com/state-state-analysis-impact-of-proposed-tax-increases-small-businesses>.

¹⁶ A. DURANTE, MANY SMALL BUSINESSES COULD BE IMPACTED BY BIDEN CORPORATE TAX PROPOSALS (Jul. 7, 2021), *available at* [https://taxfoundation.org/biden-small-business-tax/#:~:text=Biden's%20Tax%20Proposals%20Could%20Impact%20Small%20Businesses%20Over%20Time&text=Raising%20the%20top%20marginal%20tax.%E2%80%9Cexcess%20losses%E2%80%9D%20permanent%3B%20and](https://taxfoundation.org/biden-small-business-tax/#:~:text=Biden's%20Tax%20Proposals%20Could%20Impact%20Small%20Businesses%20Over%20Time&text=Raising%20the%20top%20marginal%20tax.%E2%80%9Cexcess%20losses%E2%80%9D%20permanent%3B%20and.). See also G. WATSON, H. LI, A. DURANTE & E. YORK, TAX FOUNDATION, DETAILS AND ANALYSIS OF TAX PROPOSALS IN PRESIDENT BIDEN'S AMERICAN FAMILIES PLAN (May 2021), *available at* <https://taxfoundation.org/american-families-plan/#:~:text=The%20proposed%20American%20Families%20Plan,and%20%24509%2C300%20for%20joint%20filers>.

transportation, information technology, finance, wholesale and retail trade, and mining.¹⁷ These are companies that we hope will expand and become large businesses.¹⁸ They will not have that opportunity, or may be deterred from expanding, if they continue to be threatened with higher taxes. One study found that a decline in U.S. startups prior to 2017 tax reform could be explained by the higher corporate tax rate.¹⁹

Despite your pledges not to raise taxes on those earning less than \$400,000 per year, your proposal to raise the top marginal tax rate from 37 percent to 39.6 percent would adversely affect many small businesses.

Higher taxes are a constant concern for small business owners, as business decisions and planning are conducted on multiyear time frames, but that is not the only challenge they face. At a time when small businesses are trying to get back on their feet, they are also absorbing the impact of other economic damage. Inflation is at a twenty-year high and rising.²⁰ The cost of goods and services is skyrocketing,²¹ with prices increasing 5.4 percent in July compared to a year ago.²² Supply chains have been disrupted, evaporating revenue.²³ Small businesses still cannot find workers.²⁴ They need stability, and more uncertainty means they cannot plan.

According to the Tax Foundation, the tax provisions in the American Families Plan would reduce the overall economy by 0.4 percent in the long term, primarily by increasing marginal tax rates on labor and investment in the pass-through sector.²⁵ Wages would fall by 0.4

¹⁷ A. DURANTE, MANY SMALL BUSINESSES COULD BE IMPACTED BY BIDEN CORPORATE TAX PROPOSALS (Jul. 7, 2021), *available at* <https://taxfoundation.org/biden-small-business-tax/#:~:text=Biden's%20Tax%20Proposals%20Could%20Impact%20Small%20Businesses%20Over%20Time&text=Raising%20the%20top%20marginal%20tax,%E2%80%9Cexcess%20losses%E2%80%9D%20permanent%3B%20and>.

¹⁸ *Id.*

¹⁹ J. NEIRA & R. SINGHANIA, IDEAS, THE ROLE OF CORPORATE TAXES IN THE DECLINE OF THE STARTUP RATE (2018), *available at* <https://ideas.repec.org/p/red/sed018/472.html>.

²⁰ Gwynn Guilford and Anthony DeBarros, *Economists Say Inflation Here to Stay for Years*, Jul. 11, 2021, WALL ST. J., *available at* <https://www.wsj.com/articles/higher-inflation-is-here-to-stay-for-years-economists-forecast-11626008400>.

²¹ ALIGNABLE POLL, 67% OF SMALL BUSINESS OWNERS FEAR INFLATION WILL HURT THEIR RECOVERY (May 6, 2021), *available at* https://www.alignable.com/forum/alignable-67-fear-inflation-will-hurt-their-business-recovery?utm_campaign=May&utm_medium=Press&utm_source=Press.

²² BUREAU OF LABOR STATISTICS, U.S. DEPARTMENT OF LABOR, CONSUMER PRICE INDEX (Jul. 2021), *available at* <https://www.bls.gov/news.release/pdf/cpi.pdf>.

²³ JULIANN DUNN, COVID-19 AND SUPPLY CHAINS: A YEAR OF EVOLVING DISRUPTION, FEDERAL RESERVE BANK OF CLEVELAND (2021), *available at* <https://www.clevelandfed.org/en/newsroom-and-events/publications/cfed-district-data-briefs/cfddb-20210226-covid-19-and-supply-chains.aspx>.

²⁴ NFIB, SMALL BUSINESSES LABOR SHORTAGE HITS NEW RECORD IN JULY (Jul. 1, 2021), *available at* <https://www.nfib.com/foundations/research-center/monthly-reports/jobs-report/>.

²⁵ G. WATSON, H. LI, A. DURANTE & E. YORK, TAX FOUNDATION, DETAILS AND ANALYSIS OF TAX PROPOSALS IN PRESIDENT BIDEN'S AMERICAN FAMILIES PLAN (May 6, 2021), *available at* <https://taxfoundation.org/american-families-plan/#:~:text=The%20proposed%20American%20Families%20Plan,and%20%24509%2C300%20for%20joint%20filers>.

percent and employment by 64,000 full-time jobs.²⁶ Reducing the size of our nation's economy will be detrimental to all businesses, families, and communities.

Collectively, the impact of this bad economic news is clear. It means existing small businesses will be forced to cut jobs, downsize, or close. Higher costs will be passed on to suppliers or consumers. Research and development plans may be scrapped. Overall, communities will not benefit from small businesses that cannot hire; are unable to purchase goods and services; or close their doors forever.

We strongly urge you to rethink your costly and unwise proposals to drastically increase taxes on small businesses. These are the Americans that are trying to lead us out of the pandemic and toward recovery. They do not deserve yet another debilitating attack on their families, livelihoods, and communities.

Sincerely,



Blaine Luetkemeyer (MO-3)
Ranking Member
Committee on Small Business



Jim Hagedorn (MN-1)
Member of Congress



Dan Meuser (PA-9)
Member of Congress



Andrew Garbarino (NY-2)
Member of Congress



Beth Van Duyne (TX-24)
Member of Congress



Roger Williams (TX-25)
Vice Ranking Member
Committee on Small Business



Pete Stauber (MN-8)
Member of Congress



Claudia Tenney (NY-22)
Member of Congress



Young Kim (CA-39)
Member of Congress



Byron Donalds (FL-19)
Member of Congress

²⁶ *Id.*

A handwritten signature in blue ink, appearing to read 'Maria Salazar', with a stylized, flowing script.

Maria Salazar (FL-27)
Member of Congress

A handwritten signature in blue ink, appearing to read 'Scott Fitzgerald', with a stylized, flowing script.

Scott Fitzgerald (WI-5)
Member of Congress