

October 28, 2021

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

The Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
1139 Longworth House Office Building
Washington, DC 20515

Dear Chairman Neal and Ranking Member Brady:

The undersigned organizations, representing millions of individually- and family-owned businesses, strongly urge you to reject the proposed changes to the grantor trust and valuation rules in H.R. 5376, the Build Back Better Act.

Individually- and family-owned businesses are the cornerstone of the American economy. They represent nearly all businesses, they employ the vast majority of private sector workers, and they are the building block upon which innumerable communities across this country are built. Many individual and family business owners, including family businesses with ownership shares held in trust, will be directly harmed by the tax increases resulting from these proposals.

The changes related to the taxation of grantor trusts would eliminate the usefulness of the grantor trust for normal and legitimate business (non-tax) purposes, such as facilitating the transfer of business ownership between generations and protecting assets from liability or creditor claims of a trust beneficiary.

Worse, these new rules would unfairly punish taxpayers who relied on decades-old laws and Internal Revenue Service guidance to establish estate plans to transfer family businesses to future generations, threatening the viability of thousands of family businesses across the country. In some cases, these plans have been in place for decades, and it is simply unfair for Congress to step in and retroactively change them now, just when they are to be called upon to help with the transfer of a family business from one generation to the next.

In a similar vein, the changes related to the valuation of interests in entities holding so-called “passive assets” (including real estate) are unnecessarily overbroad. They undermine the settled principle that property is valued for transfer tax purposes at its “fair market value” by imposing tax based on a value greater than fair market value when non-controlling or non-marketable interests are transferred.

The changes broadly apply to all interests in any entity holding “passive assets,” whether or not the interest owner can actually access a proportionate share of those assets, whether or not the amount paid by the interest owner to acquire the interest was significantly less than a proportionate share of the assets of the entity, and whether or not the transferor or transferee has any control over the entity. As such, the changes unfairly impose transfer taxes on “phantom

assets” and “phantom value” that an owner of the interest often has no ability to access. If enacted as drafted, family farms, ranches, and operating businesses across the country would be harmed.

In sum, we strongly believe that the proposed changes to the grantor trust and valuation rules are overbroad and produce unfair and unreasonable results, and we urge Congress to reject them.

Sincerely,

AICC, The Independent Packaging Association
American Building Materials Alliance
American Farm Bureau Federation
American Foundry Society
American Horse Council
American Lighting Association
American Mold Builders Association
American Sheep Industry Association
American Subcontractors Association
American Supply Association
AmericanHort
Associated Builders and Contractors
Associated Equipment Distributors
Associated General Contractors of America
Auto Care Association
California Association of Winegrape Growers
Construction Industry Round Table
Decorative Hardwoods Association
Family Business Coalition
Financial Executives International
FMI - the Food Industry Association
Forest Resources Association
Hardwood Federation
Heating, Air-conditioning, & Refrigeration Distributors International
ICSC
Independent Community Bankers of America
Independent Electrical Contractors
Independent Insurance Agents and Brokers of America
Industrial Fasteners Institute
International Dairy Foods Association
International Foodservice Distributors Association
International Franchise Association
International Warehouse Logistics Association
Main Street Employers Coalition
Manufactured Housing Institute
Metals Service Center Institute
Mortgage Bankers Association

NAHAD, The Association for Hose and Accessories Distribution
National Apartment Association
National Association of Home Builders
National Association of Insurance and Financial Advisors
National Association of Manufacturers
National Association of Professional Insurance Agents
National Association of RV Parks and Campgrounds (ARVC)
National Association of Women Business Owners (NAWBO)
National Beer Wholesalers Association
National Cattlemen's Beef Association
National Community Pharmacists Association
National Confectioners Association
National Corn Growers Association
National Cotton Council
National Council of Agricultural Employers
National Electrical Contractors Association
NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION (NEMRA)
National Federation of Independent Business
National Grocers Association
National Multifamily Housing Council
National Onion Association
National Peach Council
National Pork Producers Council
National Ready Mixed Concrete Association
National RV Dealers Assoc. (RVDA)
National Small Business Association
National Stone, Sand & Gravel Association
National Tooling and Machining Association
National Waste & Recycling Association
North American Association of Food Equipment Manufacturers (NAFEM)
North American Die Casting Association
North American Meat Institute
North Carolina Forestry Association
Ohio Corn & Wheat Growers Association
Plumbing-Heating-Cooling Contractors—National Association
Policy and Taxation Group
Precision Machined Products Association
Precision Metalforming Association
PRINTING United Alliance
Private Investor Coalition
The Real Estate Roundtable
S Corporation Association
Small Business & Entrepreneurship Council
Southeastern Lumber Manufacturers Association
Spray Polyurethane Foam Alliance
Tire Industry Association

Truck Renting and Leasing Association
U.S. Chamber of Commerce
US Rice Producers Association
US Sweet Potato Council
USA Rice
Western Equipment Dealers Association
Western Growers
WF&FSA, The Wholesale Florist and Florist Supplier Association
Wine & Spirits Wholesalers of America
Wine Institute