June 4, 2018

The Honorable David J. Kautter  
Assistant Secretary for Tax Policy  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20020

Mr. William M. Paul  
Principal Deputy Chief Counsel  
Internal Revenue Service  
Washington, DC 20224

Dear Messrs. Kautter and Paul:

As the Treasury Department and the Internal Revenue Service focus on drafting rules to address the implementation of the recently passed tax legislation, we are writing to raise an issue that has been brought to our attention by the many Main Street businesses that are structured as pass-throughs.

Subject to specific limitations and thresholds, an individual taxpayer, as you know, may now deduct 20% of qualified business income from an S corporation. However, the ability of those eligible businesses to fully realize the deduction depends on the rules addressing the way by which they will be allowed to calculate qualified business income.

Absent a logical approach to the rules related to calculating business income and the deduction allowance, similar businesses could end up being affected in significantly different ways. Eligible businesses that are maintained within a single entity – such as a single S corporation – will be allowed to receive the full 20% deduction. Alternatively, those otherwise eligible businesses that are organized as multiple entities – which is often the case in family-owned businesses – may not be allowed to receive the full deduction.

One solution that would help address this disparate outcome is to allow those businesses organized under multiple entities to aggregate or group legal business entities together for purposes of calculating their qualified business income and the application of the pass-through deduction. Providing clarity around the aggregation issue related to S corporations will help ensure that businesses that are often family-owned and family-operated are taxed appropriately.

Sincerely,

Mario Díaz-Balart  
Member of Congress

Kathleen Rice  
Member of Congress

Jimmy Gomez  
Member of Congress
Dina Titus  
Member of Congress

Nydia M. Velázquez  
Member of Congress

Donald Norcross  
Member of Congress

Marc A. Veasey  
Member of Congress

Filemon Vela  
Member of Congress

David Young  
Member of Congress

Rod Blum  
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Barbara Comstock  
Member of Congress

Ryan A. Costello  
Member of Congress

Mark DeSaulnier  
Member of Congress

Tom Emmer  
Member of Congress

Garret Graves  
Member of Congress

Ted W. Lieu  
Member of Congress

Tom MacArthur  
Member of Congress
John Moolenaar  
Member of Congress

David Rouzer  
Member of Congress

Elise M. Stefanik  
Member of Congress

James Comer  
Member of Congress

Don Bacon  
Member of Congress

Jim Banks  
Member of Congress

Andy Biggs  
Member of Congress

J. Luis Correa  
Member of Congress

Charlie Crist  
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Neal P. Dunn, M.D.  
Member of Congress

Mike Gallagher  
Member of Congress

Vicente Gonzalez  
Member of Congress

Trey Hollingsworth  
Member of Congress

John H. Rutherford  
Member of Congress
Lloyd K. Smucker  
Member of Congress

Claudia Tenney  
Member of Congress

Roger Marshall, M.D.  
Member of Congress

Jim Costa  
Member of Congress

Billy Long  
Member of Congress

Kyrsten Sinema  
Member of Congress