U.S. Chamber of Commerce

1615 H Street, NW
Washington, DC 20062-2000
uschamber.com

October 15, 2024

The Honorable Jason T. Smith
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Mike Kelly
Chairman, Subcommittee on Tax Policy
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Re: Growing America's Future – Fundamental Tax Policy Priorities for 2025

Dear Chairmen Smith and Kelly:

The U.S. Chamber of Commerce ("Chamber") applauds your leadership in forming ten Committee Tax Teams to study the key pro-growth reforms from the 2017 Tax Cuts and Jobs Act ("TCJA") and chart a course for their future ahead of 2025. As the most comprehensive tax reform legislation to be enacted since 1986, the TCJA effected a substantial and long-sought modernization of the United States' approach to taxing business income, both domestically and for cross-border transactions. Among other business tax reforms, the TCJA lowered the federal corporate tax rate from 35% to 21%, introduced a new 20% deduction for pass-through business income, and substantially reformed the U.S. international tax system. To satisfy certain reconciliation instructions, however, many of the TCJA's pro-growth reforms were enacted on a temporary basis and are scheduled to expire at the end of 2025. The time is ripe, therefore, for the Committee on Ways and Means ("Committee") to be undertaking this important effort to contemplate the future course of tax policy ahead of 2025 and how best to preserve—and improve on—the TCJA's most impactful business tax reforms.

At the end of next year, Congress will face the scheduled expiration of over $4.5 trillion (net) in temporary individual, business, and estate tax provisions,[1] along with the initial impacts of the Organisation for Economic Co-operation and Development-brokered global minimum tax (Pillar Two) regime. And while business tax provisions account for only about $1.2 trillion of this estimate,[2] the sheer scale of

[1] *See* Cong. Budget Off., *Budgetary Outcomes Under Alternative Assumptions About Spending and Revenues, Supplemental Data* (May 8, 2024), https://www.cbo.gov/system/files/2024-05/60114-Data.xlsx.

[2] *See id.*

the approaching "tax cliff" may prompt some lawmakers to contemplate novel or more broad-based tax law changes beyond the extension of current policy. As a result, the Chamber respectfully urges the Committee to observe the following tenets of pro-growth tax policy as paramount when considering any post-2025 tax reform legislation. In summary, it is imperative that the next Congress:

- preserve our competitive business tax rates (i.e., the 21% corporate income tax rate and the 20% pass-through deduction for qualified business income);

- restore our competitive business tax base (e.g., one that allows a deduction for research expenses, full capital expensing for certain business assets, a pro-growth interest deductibility limitation); and

- maintain the competitiveness of the U.S. international tax system—for both U.S. companies operating abroad and foreign companies investing in the United States—while preserving our corporate tax base.

The following discussion expands on each of these fundamental imperatives.

Preserving Our Competitive Business Tax Rates

Low marginal tax rates promote capital formation and minimize the effects of other distortions in the tax code, all of which contribute to economic growth. The Chamber believes that any viable legislative solution to the 2025 tax cliff must maintain U.S. companies' ability to compete successfully in the global economy, attract foreign investment to the United States, increase capital for investment, and drive more domestic job and wage growth, all while minimizing any negative impact to consumer prices.

Importance of a Competitive Corporate Tax Rate

Before the TCJA's enactment, the United States had earned the dubious distinction of being home to the highest statutory corporate tax rate in the industrialized world, which harmed our economy and pushed investment and jobs overseas.

To help restore the global competitiveness of U.S. companies and attract foreign investment to the United States, the TCJA permanently lowered the corporate tax rate by 14 percentage points, from 35% to 21%. In conjunction with the TCJA's other pro-growth reforms, reducing the corporate income tax significantly boosted domestic investment while increasing economic growth and workers' wages. A 2024 study from economists associated with the National Bureau of Economic Research

and the Department of the Treasury analyzed the activities of approximately 12,000 different businesses. The researchers found that the TCJA increased domestic investment in the short run by about 20% for a firm with an average-sized tax change.[3] Investment in the United States was even larger for multinational firms, indicating that both the domestic and international changes worked together to increase capital investment in the United States. Over 15 years, the researchers estimate that the increased investment spurred by the TCJA (assuming its policies are continued) will increase the capital stock by 7.2%.[4] This more efficient and productive economy will, in turn, increase workers' wages by an additional 0.9%.[5]

Yet even with the TCJA's historic reforms, U.S. corporations remain subject to an average combined federal–state statutory tax rate of 25.77%—higher than the current Organisation for Economic Co-operation and Development ("OECD") average rate of 23.73%.[6] It is critical, therefore, for policymakers to understand that *any* proposal to raise the current corporate tax rate would put U.S.-based companies at a disadvantage relative to their foreign-based competitors and increase the relative cost of business investment in America. But the harm would not stop there. Studies have shown that raising the corporate income tax would not only reduce economic output and wage growth but also increase consumer prices.[7] It is for these reasons that public- and private-sector economists alike have consistently characterized raising the corporate income tax as one of the most detrimental and inefficient ways to fund government priorities.[8]

Recently, some policymakers have expressed support for raising the corporate income tax to offset the cost of other priorities, with some proposing to raise the

---

[3] Gabriel Chodorow-Reich et al., *Tax Policy and Investment in a Global Economy*, NBER Working Paper No. 32180 at 1 (Mar. 2024), https://conference.nber.org/conf_papers/f191672.pdf.

[4] *Id.*

[5] *Id.*

[6] Christina Enache, Tax Found., *Corporate Tax Rates around the World, 2023* (Dec. 12, 2023), https://taxfoundation.org/data/all/global/corporate-tax-rates-by-country-2023/. According to OECD data for 2023, the U.S. federal corporate income tax rate *less deductions for state and local taxes* was estimated to be 19.73% and the average state corporate income tax rate was estimated to be 6.04%, which produces a combined corporate income tax rate of 25.77%.

[7] Recent economic research shows that just over half (52%) of the cost of higher corporate taxes is borne by consumers in the form of higher prices, with another 28% borne by workers in the form of lower wages and the remaining 20% borne by shareholders (including retirement savings accounts) in the form of lower returns. Scott R. Baker et al., *Corporate Taxes and Retail Prices*, NBER Working Paper No. 27058 (rev. March 2023), https://www.nber.org/system/files/working_papers/w27058/w27058.pdf.

[8] *See, e.g.*, Scott Hodge, Tax Found., *The Corporate Income Tax is Most Harmful for Growth and Wages* (Aug. 15, 2016), https://taxfoundation.org/blog/corporate-income-tax-most-harmful-growth-and-wages/.

corporate rate by as much as seven percentage points, from 21% to 28%. The damage such an increase would do to America's global competitiveness is clear: with an average combined federal–state corporate tax rate of 32.77%, the United States would become the second highest-taxed country in the OECD—second only to Colombia. This would effectively reverse the critical, pro-growth reforms of 2017 and contravene fundamental principles of sound tax policy. Policymakers must therefore resist any invitation to raise the corporate tax rate as part of any legislative effort to address the 2025 tax cliff.

Ensuring Tax Parity for Pass-through Businesses

To ensure that pass-through businesses like sole proprietorships, partnerships, and S corporations, including the vast majority of U.S. small businesses, would not be placed at a major tax disadvantage relative to C corporations, the TCJA added a new 20% deduction for qualified business income in section 199A of the Internal Revenue Code ("Code"). The deduction effectively operates as a rate reduction for pass-through businesses, which currently make up over 95% of all U.S. businesses. If a business owner's income exceeds a certain threshold ($383,900 for joint filers and $191,950 for other filers in 2024), however, the benefit of the 20% deduction may be limited based on the amount of wages paid to non-owner employees (W-2 wages). Generally speaking, therefore, the more W-2 wages a business pays, the greater the deduction that business's owner(s) can claim.

Coupled with TCJA's reduction of the top marginal individual income tax rate from 39.6% to 37%, the 20% pass-through deduction results in a top marginal rate of 29.6% for most pass-through businesses. Since it took effect in 2018 the deduction has increased the after-tax return on capital investments in pass-through businesses and boosted the amount of revenue accruing to workers through higher wages. This year alone, the total U.S. economic activity supported by the 20% pass-through deduction is estimated to be 2.6 million workers earning $161 billion and generating $325 billion of gross domestic product ("GDP").[9]

Unlike the TCJA's permanent statutory rate reduction for C corporations, discussed above, however, the new 20% deduction for pass-through businesses is scheduled to expire at the end of 2025. Absent congressional action, the top marginal tax rate on pass-through businesses would jump by 10 percentage points—from 29.6% to 39.6%—on January 1, 2026. This would deliver a massive blow to the more than 95% of American businesses that are currently classified as pass-through entities and employ 58% of all U.S. private-sector workers. It is incumbent on the next

---

[9] Ernst & Young LLP, *Economic Activity Supported by the Section 199A Deduction* (Aug. 2024), https://s-corp.org/wp-content/uploads/2024/09/EY-SCA-Economic-activity-supported-by-Section-199A-deduction-August-2024-FINAL.pdf.

Congress, therefore, to prioritize the permanent extension of the 20% pass-through deduction as an essential element of maintaining a competitive, pro-growth tax system for businesses of all sizes and entity classifications.

Restoring Our Competitive Business Tax Base

Equally as important as the competitiveness of a jurisdiction's tax rates is the composition of its tax base to which those rates are applied. In addition to lowering business tax rates, the TCJA temporarily enhanced cost recovery under the Code by introducing full expensing for certain capital investments through 2022. But the law also introduced two counterproductive policies that took effect in 2022: mandatory amortization of research and development (R&D) expenses and an unduly restrictive limitation on the deduction for business interest expenses.

Since the TCJA's passage in 2017 through 2022, businesses were allowed to immediately and fully deduct their costs associated with the purchase of certain capital assets, including equipment, machinery, and other qualified property under a policy known as "full expensing" or "100% bonus depreciation." This change was heralded by economists as a powerful pro-growth tax policy that eliminated a tax bias against capital investment and would help businesses invest, create jobs, and lift the economy while simplifying the tax system.[10] And recent research has confirmed 100% bonus depreciation as one of the most impactful for business investment.[11] Starting in 2023, however, bonus depreciation has declined by 20 percentage points each year, increasing the after-tax cost of purchasing new machinery and equipment. It is currently scheduled to phase out completely after 2026, which will lead to less investment, fewer jobs, lower wages, and slower economic growth.

For nearly 70 years, U.S. businesses had been allowed to immediately deduct 100% of their R&D expenses, which include costs associated with the development, testing, and improvement of products and services. As of January 2022, however, businesses have been required to amortize (deduct ratably) their domestic R&D expenses over five years and their foreign R&D expenses over 15 years, reducing the real value of those deductions due to inflation and the time vale of money.[12] Unlike R&D expensing, R&D amortization reduces economic growth, penalizes investments

---

[10] *See, e.g.*, Alex Muresianu & Erica York, Tax Found., *How Did the Tax Cuts and Jobs Act Change Cost Recovery* (May 20, 2024), https://taxfoundation.org/blog/tax-cuts-and-jobs-act-expensing/.

[11] *See* Gabriel Chodorow-Reich et al., *Lessons from the Biggest Business Tax Cut in U.S. History*, NBER Working Paper No. 326272 (July 2024), https://www.nber.org/papers/w32672.

[12] Through the combination of inflation and the opportunity cost of delaying the deduction (i.e., what the money could have otherwise earned), businesses cannot fully recover the cost of their R&D investments.

by companies in R&D-intensive industries—with a disproportionate effect on smaller manufacturing and technology businesses—and threatens the competitiveness of the United States on a global scale.

Also beginning in 2022, American businesses have been subject to a new, stricter limitation on their ability to deduct interest expense based on an earnings-before-interest-and-taxes ("EBIT") standard. This new EBIT-based business interest expense limitation has increased the after-tax cost of capital, which reduces investment in the U.S. economy and adversely affects jobs, employee compensation, and GDP.[13] A significant portion of the stricter business interest expense limitation is estimated to fall on workers through reduced labor productivity, wages, and employment portion.[14] And of the 35 countries with earnings-based business interest expense limitations, all but the United States still use the more competitive earnings-before-interest-taxes-depreciation-and-amortization ("EBITDA") standard.

As the Committee and Congress contemplate legislative solutions to address the 2025 tax cliff, the Chamber urges you to prioritize reforms that would restore the competitiveness of our business tax base by allowing companies to fully recover the cost of their capital and R&D investments, and reinstating the EBITDA-based limitation on the deduction for business interest expense. Failure to include these reforms, even while otherwise preserving our lower business tax rates, would permit the Code to continue to inhibit U.S. economic growth and job creation.

Maintaining the Competitiveness of the U.S. International Tax System

The third fundamental tax policy imperative for the next Congress will be to maintain the competitiveness of our international tax system for both U.S. companies operating abroad and foreign companies investing in the United States while also preserving our tax base. Absent congressional intervention, each of the TCJA's three new international tax regimes is scheduled to become more restrictive—and therefore less competitive—after 2025.

For multinational employers, the effective U.S. tax rates on foreign-derived intangible income ("FDII") and global intangible low-taxed income ("GILTI") will increase from 13.125% to 16.406%—a 25% increase. The base erosion and anti-abuse tax ("BEAT") rate will also increase from 10% to 12.5%—also a 25% increase.

---

[13] Ernst & Young LLP, *Economic Impacts of a Stricter 163(j) Interest Expense Limitation* (Oct. 2023), https://documents.nam.org/COMM/EY_NAM_Economic_Analysis_163j_Limitation_FINAL_10_06_2023.pdf.

[14] The scale of U.S. economic activity disrupted by the stricter EBIT-based interest expense limitation, before market adjustment, is estimated to be 867,000 workers earning $58 billion of compensation and generating $108 billion in GDP. *Id.*

Collectively, these tax increases would reduce the incentives for multinational companies to maintain their headquarters and intellectual property in the United States while decreasing America's attractiveness as a destination for inbound business investment. But unlike some of the legislative solutions discussed above, simply preventing these scheduled tax increases from taking effect would ultimately do little to fulfill Congress's imperative in this case. This is partially due to certain structural flaws inherent in each regime's design that currently result in excessive or double taxation.[15] But the increasing adoption by other countries of the OECD-brokered global minimum tax regime (Pillar Two) will pose an even greater challenge to U.S. policymakers in the years ahead.

As the Chamber and others have previously warned, a global minimum tax based on the Pillar Two model rules will hinder the competitiveness of U.S. companies in global markets and subject them to unmitigated double taxation of U.S.-source income by foreign governments. Repeated concerns have been raised about the prejudicial treatment of nonrefundable tax credits relative to refundable tax credits under the Pillar Two model rules, considering that U.S. business tax credits are traditionally nonrefundable. In this regard, application of the Pillar Two model rules will directly contravene well-established, bipartisan U.S. public policy to incentivize productive investments in areas such as domestic research and experimentation or affordable housing construction via nonrefundable tax credits. And because of an equally prejudicial ordering rule, a foreign source country's qualified domestic minimum top-up tax ("QDMTT") will take priority over any U.S. GILTI taxes allocated thereto for Pillar Two purposes, which will encourage other countries to enact QDMTTs and collectively "soak up" the U.S. GILTI tax base. The only way to avoid this result under the model rules would be to deny U.S. taxpayers foreign tax credits for their QDMTT liabilities, which would subject many to unmitigated double taxation—an equally untenable result.

The Chamber believes that federal tax policy must neither impede nor reduce the productive capacity of the U.S. economy, nor should it pose a competitive disadvantage for U.S.-headquartered companies relative to their foreign-headquartered competitors. The next Congress must pursue comprehensive, industry-neutral solutions to maintain a pro-growth and globally competitive U.S. business tax system. And as policymakers begin to contemplate potential reforms to the post-2025

---

[15] For instance, the requirement to allocate U.S. expenses to foreign-source income in the GILTI foreign tax credit limitation basket can result in the imposition of substantial residual U.S. tax in cases where the U.S. shareholder's foreign effective tax rate exceeds 13.125%, in direct contravention of Congress's intent to ensure a global minimum effective tax rate on GILTI in the range of 10.5% to 13.125%. And practitioners have called the 20% GILTI foreign tax credit "haircut" an example of "structural double taxation" that is without precedent either in the United Staes or globally. *See* UF Tax Incubator, *FTC Proposals, Part I: Creditable Foreign Taxes*, 115 Tax Notes Int'l 1233, 1247 (Aug. 19, 2024).

U.S. international tax system, the Chamber urges renewed vigilance in shielding American companies from increased incidence of unrelieved double taxation.[16]

Conclusion

The next Congress must pursue comprehensive, industry-neutral solutions to maintain a pro-growth and globally competitive U.S. business tax system. Thoughtful tax policy can drive economic growth while improving fiscal responsibility. Policymakers must weigh the trade-offs and make informed choices to effectively shape our nation's tax system for 2026 and beyond. We therefore applaud the Committee for beginning this important work this year and look forward to your continued engagement with the business community in the months ahead.

Sincerely,

Watson M. McLeish
Senior Vice President, Tax Policy
U.S. Chamber of Commerce

cc: The Honorable Richard E. Neal, Ranking Member, House Committee on Ways and Means
The Honorable Mike Thompson, Ranking Member, Subcommittee on Tax Policy, House Committee on Ways and Means
Members of the House Committee on Ways and Means
Members of the Senate Committee on Finance

---

[16] Double taxation—when the same item is subject to income tax under the rules of two or more jurisdictions—has harmful effects on the international exchange of goods and services, as well as on cross-border movements of capital, technology, and persons. OECD, *Addressing the Tax Challenges of the Digital Economy, Action 1: 2014 Deliverable* 36 (2014). Since 1918, Congress has repeatedly recognized the perils of double taxation in enacting and amending the foreign tax credit—a cornerstone of the U.S. international tax system. The legislative history of the foreign tax credit affirms Congress's belief not only that American prosperity depends on the competitiveness of U.S. companies operating abroad but also that double taxation would unfairly impede this competitiveness. *See* H.R. Rep. No. 65-767, at 91 (1918), *reprinted in* 1939-1 C.B. (pt. 2) 86, 93; S. Rep. No. 94-938, at 233 (1976).