



American Institute of CPAs
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1081

April 10, 2013

The Honorable Vern Buchanan
House Committee on Ways & Means
Tax Reform Working Group on
Small Business/Passthroughs
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Allyson Schwartz
House Committee on Ways & Means
Tax Reform Working Group on
Small Business/Passthroughs
1102 Longworth House Office Building
Washington, DC 20515

RE: Small Business/Passthroughs Tax Reform Working Group

Dear Congressman Buchanan and Congresswoman Schwartz:

The AICPA strongly supports the leadership taken by the House Committee on Ways & Means in studying a variety of topical areas as part of comprehensive tax reform. The proliferation of new income tax provisions since the 1986 tax reform effort has led to complex compliance hurdles for taxpayers, administrative complexity and enforcement challenges for the Internal Revenue Service. According to the National Taxpayer Advocate's 2012 Annual Report to Congress, "individuals and businesses spend about 6.1 billion hours a year complying with the filing requirements of the Internal Revenue Code."¹ It also noted "the costs of complying with the individual and corporate income tax requirements for 2010 amounted to \$168 billion – or a staggering 15 percent of aggregate income tax receipts."² We consistently have supported tax reform simplification efforts because we are convinced such actions will significantly reduce taxpayers' compliance costs, encourage voluntary compliance through an understanding of the rules, and facilitate enforcement actions.

We are available to assist you in this process, and will be providing comments to several of the working groups that have been established. This letter specifically provides comments on various provisions affecting small businesses, partnerships and S corporations which should be examined as part of tax reform. Specifically, we suggest Congress consider addressing the following areas: (1) parity for employees and self-employed individuals in regards to the tax treatment for health insurance costs under the Self-Employment Contributions Act; (2) transfers of partnership suspended losses between spouses and former spouses upon a section 1041(a) exchange; (3) ability of husband and wife partnerships that are recognized under state law to elect qualified joint venture status under section 761(f); (4) allowance of an offset to the built-in gains tax for

¹ [National Taxpayer Advocate's 2012 Annual Report to Congress](#), Volume One, MSP #1 "The Complexity of the Tax Code."

² *Id.*

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charitable contributions and foreign tax credit carryforwards from a C year; (5) a new 120-day post-termination transition period beginning on the date that a taxpayer files an amended Form 1120S, U.S. Income Tax Return for an S Corporation; (6) allowance of S corporations to have nonresident aliens as shareholders and potential current beneficiaries of electing small business trusts; and (7) repeal of Internal Revenue Code section 1362(d)(3), which terminates an S election due to passive investment income that exceeds a certain threshold, or increase the passive investment income threshold of S corporations under section 1375(a)(2) from 25 percent to 60 percent.

A brief summary of our analyses and recommendations on the topics listed above is enclosed for your consideration. We also suggest that you review the [AICPA's Tax Policy Concept Statement #1: Guiding Principles for Good Tax Policy](#) to assist you in identifying problems in the Code as well as analyzing any new proposals against the principles of good tax policy. A copy of that concept statement is also enclosed.

The AICPA is the world's largest member association representing the accounting profession with nearly 386,000 members in 128 countries and a 125-year heritage of serving the public interest. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

We appreciate your attention to this important matter. If you have any questions, please contact me at (304) 522-2553, or jporter@portercpa.com; or Melissa M. Labant, AICPA Director – Tax Advocacy & Professional Standards, at (202) 434-9234, or mlabant@aicpa.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Porter". The signature is fluid and cursive, with a large initial "J" and "P".

Jeffrey A. Porter, CPA
Chair, Tax Executive Committee