September 25, 2018

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
H-232, U.S. Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
H-204, U.S. Capitol
Washington, DC 20515

RE: Tax Reform 2.0

Dear Speaker Ryan and Minority Leader Pelosi:

The American Institute of CPAs (AICPA) appreciates the United States (U.S.) House of Representatives' efforts to consider tax reform issues outstanding after the *Tax Cuts and Jobs Act (TCJA)*. The AICPA is a long-time advocate for an efficient and pro-growth tax system based on principles of good tax policy. We need a tax system that is fair, stimulates economic growth, and has minimal compliance costs. In this regard, we urge Congress to move us closer to a fairer Tax Code that drives economic opportunities for individuals and families, while leveling the playing field for American businesses in the U.S. and abroad.

In this letter, we highlight a few of the key issues we have identified for consideration to promote fairness, administrability and the needs of both taxpayers and tax practitioners.

Section 199A Deduction

Under TCJA, section 199A generally provides non-corporate taxpayers with a 20% deduction for qualified business income related to a qualified trade or business (subject to limitations). A qualified trade or business is defined as a trade or business other than a specified service trade or business, or the trade or business of performing services as an employee. Despite the statutory definition, the operation of the rule allows a section 199A deduction to individuals with income from a specified service trade or business if the individual's income is below specified taxable income thresholds. If taxable income is above the thresholds, no section 199A deduction is allowed for that specified service trade or business.

The AICPA urges Congress to reconsider the exclusion of "specified service businesses" from the lower effective tax rates allowed for individuals operating other types of businesses. Professional services firms, such as accounting firms, are an important sector in our economy and heavily contribute to the nation's goals of creating jobs and better wages. Without the benefit of a fair and consistent rate reduction for all individual business owners, the incentive to start or grow a business is diminished, with a corresponding loss of jobs and reduction in wages.

Excluding professional services reflects a view of the industry that may have applied in the 1950s, but certainly does not represent the current integrated global environment. In today's economy, professional service pass-throughs are increasingly competing on an international level with businesses organized as corporations, require a significant investment in tangible and intangible assets, and rely on the contribution of salaried, non-equity professionals to generate a significant portion of the revenue. Restricting the section 199A deduction to individual business owners of specified service businesses above specified income thresholds creates an inequity and ignores the reality that these businesses hire employees and operate in a global business environment.

In the interest of fairness, the AICPA urges Congress to permit all non-corporate business owners to avail themselves of the qualified business income deduction provided under the TCJA.

Deduction for State and Local Taxes

One of the provisions of the TCJA was a substantive amendment to section 164. Congress imposed limits on the amount of state and local taxes an individual could deduct for regular federal income tax purposes, imposing a $10,000 limit for most individuals and a $5,000 limit on married individuals filing separately. There were no changes to the provision in section 164 that allows for the deduction for taxes paid by a trade or business that are imposed on the business directly, such as property taxes.

The new limit on the deduction for state and local taxes has a disproportionately negative impact on business owners who are operating as sole proprietorships, disregarded entities, or pass-through entities. Under TCJA, C Corporations may continue to deduct state and local income taxes in determining their taxable income.

The AICPA recommends that Congress preserve the full deduction for all state and local taxes paid or accrued in carrying on a trade or business, whether paid at the entity level or by a partner/owner.

Disaster Relief

The AICPA has long supported a set of permanent disaster relief tax provisions[1] that would take effect immediately when a triggering event[2] occurs. Implementing permanent provisions will provide taxpayers certainty, fairness, and the ability to timely receive the relief they need after a natural disaster, while significantly reducing the administrative burdens on the Internal Revenue Service (IRS) to react to unexpected disasters.

Specifically, the AICPA urges Congress to consider the following permanent disaster relief tax provisions: (1) waive individual casualty loss limitations; (2) extend net operating loss carryback to five years; (3) increase section 179 expense limitations; (4) increase property replacement period to five years; (5) waive the penalty for early retirement withdrawal; (6) allow a housing exemption for displaced individuals; (7) allow discharge of indebtedness; (8) employee retention credit for affected

[1] AICPA comment letter "Request for Permanent Tax Provisions Related to Disaster Relief," dated November 22, 2013. AICPA written statement on Senate Committee on Small Business & Entrepreneurship hearing on "Targeted Tax Reform: Solutions to Relieve the Tax Compliance Burden(s) for America's Small Businesses," dated July 22, 2015.
[2] AICPA recommends the trigger occurs when a taxpayer resides, or has a principal place of business located, in a Federal Emergency Management Agency's (FEMA) "Disaster Declaration" area for which "Disaster Assistance" is available.

employers; (9) permit the use of prior year's income to calculate the Earned Income Tax Credit, Child Tax Credit, and Premium Tax Credit; and (10) increase the medical expense deduction.

To provide more timely assistance, we also recommend that Congress allow the IRS to postpone certain deadlines in response to state-declared disasters or state of emergencies.[3] Currently, the IRS's authority to grant deadline extensions is limited to taxpayers affected by federal-declared disasters. Similar to what occurred in North and South Carolina during the wake of Hurricane Florence, state governors will issue official disaster declarations promptly but often, presidential disaster declarations in those same regions are not declared for days, or sometimes weeks after the state declaration. This process delays the IRS's ability to provide federal tax relief to impacted businesses and disaster victims. Granting the IRS specific authority to quickly postpone certain deadlines in response to state-declared disasters allows the IRS to offer victims the certainty they need as soon as possible.

* * * * *

We look forward to working with Congress as continuing reform efforts move forward to address these and other matters that will help our tax system to promote fairness, administrability and the needs of both taxpayers and tax practitioners.

The AICPA is the world's largest member association representing the accounting profession, with more than 431,000 members in 137 countries and territories, and a history of serving the public interest since 1887. 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 consideration of our issues. Please contact Melissa Labant, Director – AICPA Tax Policy & Advocacy, at (202) 434-9234 or Melissa.Labant@aicpa-cima.com; Lakecia Foster, Director – AICPA Congressional & Political Affairs, at (202) 434-9208, or Lakecia.Foster@aicpa-cima.com; or me at (408) 924-3508 or annette.nellen@sjsu.edu if you would like to discuss.

Respectfully submitted,

Annette Nellen, CPA, CGMA, Esq.
Chair, AICPA Tax Executive Committee

cc: Members of the U.S. House of Representatives
Mr. Thomas A. Barthold, Chief of Staff, Joint Committee on Taxation

[3] AICPA written statement on Senate Committee on Small Business & Entrepreneurship hearing on "Tax Reform: Removing Barriers to Small Business Growth," dated June 14, 2017.