NATIONAL TAXPAYERS UNION

November 14, 2022

The Honorable Ron Wyden
Chair, Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Richard Neal
Chair, House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

The Honorable Mike Crapo
Ranking Member, Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

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

Dear Chair Wyden, Chair Neal, Ranking Member Crapo, and Ranking Member Brady:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, we write urging your support for enacting **five pro-taxpayer initiatives** into law before the adjournment of the 117th Congress. Though NTU has many tax policy priorities for Congress, the Treasury Department, and the Internal Revenue Service (IRS), we prioritize the following initiatives as necessary, urgent, and legislatively achievable in the final few weeks of the calendar year:

1. Permanently allowing businesses to fully and immediately expense their research and development (R&D) expenditures, reversing a switch to five-year amortization that took effect on January 1, 2022;
2. Increasing the $600 threshold for 1099-K information reporting, ideally to the $20,000 and 200-transaction thresholds in place before passage of the American Rescue Plan Act (ARPA);
3. Restoring full interest deductibility under Section 163(j) of the Internal Revenue Code to its pre-2022 definition of adjusted taxable income, based on earnings before interest, taxes, depreciation, and amortization (or EBITDA);
4. Permanently allowing businesses to fully and immediately expense investments in short-lived assets (100 percent bonus depreciation), passed in the 2017 Tax Cuts and Jobs Act (TCJA) on a temporary basis and scheduled to begin phasing out in 2023; and
5. Placing prudent guardrails and reporting requirements on the IRS as it begins to spend down an $80 billion investment required of taxpayers by the Inflation Reduction Act (IRA) of 2022.

Together, we believe these provisions could make it easier for businesses to invest in U.S. workers and in growth at a time of great economic uncertainty, reduce taxpayer burdens and confusion ahead of a busy 2023 filing season, and ensure new IRS resources are being devoted first and foremost to improving customer service and return processing at an agency that has failed at those core missions in recent years.

Three of the priorities outlined above – full R&D expensing, 163(j) interest deductibility, and 100 percent bonus depreciation – are sometimes referred to as TCJA extenders, since all three provisions were affected by the 2017 tax law. We believe this is something of a misnomer, given restoring R&D expensing and full 163(j) interest deductibility are strongly bipartisan policy proposals.

Seventy Democrats and 77 Republicans in Congress have sponsored or co-sponsored legislation in the 117th Congress to restore full and immediate expensing for R&D.[1] Just last month, 51 members of the New Democrat Coalition sent a letter to Congressional leadership asking them to prioritize restoring R&D expensing in the year-end session of Congress, writing that failing to do so would "hurt U.S. economic competitiveness" and "stifle the innovation that has powered our economy."[2] NTU previously led a coalition of 23 taxpayer, free-market, and consumer advocacy organizations in support of restoring R&D expensing,[3] and Tax Foundation has found that permanent R&D expensing would "boost long-run GDP … by about 0.1 percent, or about $27.5 billion each year."[4] It is difficult to find a policymaker or taxpayer advocate who does *not* support restoring full R&D expensing, and we urge you to put this reform front of mind in any year-end tax package.

Restoring full 163(j) interest deductibility is also broadly bipartisan. H.R. 5371, the Permanently Preserving America's Investment in Manufacturing Act, would restore 163(j) to its pre-2022 definition of adjusted taxable income – based on EBITDA, rather than earnings before interest and taxes (EBIT). The legislation is sponsored by Rep. Joe Morelle (D-NY) and cosponsored by five Democrats and six Republicans.[5] The same NTU-led coalition of 23 organizations noted above endorsed this proposal, noting that "tax revenue [collected by the IRS under the stricter 163(j) limitations] could be put to better use by these businesses investing in their workers, new equipment, R&D, and more."[6]

Bonus depreciation under TCJA unfortunately has not yet garnered the bipartisan support of restoring R&D expensing and full 163(j) interest deductibility, but we believe extending bonus depreciation has significant merit at a time of economic uncertainty for the country. NTU and a 23-organization coalition previously wrote that "small and medium-sized businesses reported $89 billion and $80 billion, respectively, in bonus depreciations in 2017, suggesting that the phase-out of this provision would harm these businesses too."[7] Tax Foundation recently wrote that extending bonus depreciation not only boosts jobs, income, and economic output, but does so at higher rates when inflation is running higher than expected in the economy.[8]

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[1] See: Congress.gov. "S. 749 - American Innovation and Jobs Act." Introduced March 15, 2021. Retrieved from: https://www.congress.gov/bill/117th-congress/senate-bill/749 (Accessed October 28, 2022); Congress.gov. "H.R. 1304 - American Innovation and R&D Competitiveness Act of 2021." Introduced February 24, 2021. Retrieved from: https://www.congress.gov/bill/117th-congress/house-bill/1304/ (Accessed October 28, 2022).

[2] New Democrat Coalition. "New Dems Call on House Leadership to Move Enhanced Child Tax Credit and R&D Tax Credit Fix in End-of-Year Package." October 27, 2022. Retrieved from: https://newdemocratcoalition.house.gov/media-center/press-releases/new-dems-call-on-house-leadership-to-move-enhanced-child-tax-credit-and-randd-tax-credit-fix-in-end-of-year-package (Accessed October 28, 2022.)

[3] Lautz, Andrew. "NTU Leads Coalition of 23 in Urging Pro-Growth Business Tax Policy." NTU, April 16, 2021. Retrieved from: https://www.ntu.org/publications/detail/ntu-leads-coalition-of-23-in-urging-pro-growth-business-tax-policy (Accessed October 28, 2022.)

[4] Muresianu, Alex and Watson, Garrett. "To Stimulate R&D Investment, Stop Penalizing it in the Tax Code." Tax Foundation, March 16, 2022. Retrieved from: https://taxfoundation.org/rd-expensing-tax-investment/ (Accessed October 28, 2022.)

[5] Congress.gov. "H.R.5371 - Permanently Preserving America's Investment in Manufacturing Act." Introduced September 24, 2021. Retrieved from: https://www.congress.gov/bill/117th-congress/house-bill/5371/cosponsors (Accessed October 28, 2022.)

[6] *Supra* footnote 3.

[7] *Ibid*.

[8] Watson, Garrett and Li, Huaqun. "Permanent 100 Percent Bonus Depreciation Even More Important When Inflation Is Elevated." Tax Foundation, October 27, 2022. Retrieved from: https://taxfoundation.org/permanent-bonus-depreciation-inflation/ (Accessed October 28, 2022.)

The new $600 1099-K information reporting threshold has not received as much attention in the press or on Capitol Hill as some of the provisions mentioned above, but we believe Congress must enact a bipartisan increase to the threshold before the start of 2023. There is support on both sides of the aisle to raise the threshold above $600. Sen. Maggie Hassan (D-NH) and Rep. Chris Pappas (D-NH) have proposed legislation to raise the threshold to $5,000. Several Republicans in Congress have proposed bills to restore the $20,000 and 200-transaction threshold from before ARPA. NTU would welcome restoration of these thresholds, but we believe above all that lawmakers must reach an agreement to significantly raise the threshold.[9] If Congress fails to act, it is likely that millions of taxpayers will receive 1099-K forms in the new year and many will be confused by the information being reported to them.[10] Many taxpayers will either over-report their taxable income or attempt to contact the IRS, further burdening an agency that struggles to deal with its existing customer service volume.

Finally, we believe lawmakers should place some prudent guardrails and reporting requirements on the IRS' use of $80 billion in new taxpayer funds before the 2023 filing season gets underway. We are under no illusions that a major IRS reform package can pass Congress in the short time remaining in the 2022 calendar year, but we believe many lawmakers are ready to pass some straightforward and responsible reporting requirements for the agency and its use of taxpayer funds that were sorely missing from the IRA. We are also aware of bipartisan efforts at more comprehensive IRS oversight reforms carrying into next year that could benefit from reaching agreement over less sweeping provisions this year.

We know the work will not stop with the year-end session, and that Congress will consider many important tax policy matters as soon as the 118th session gets underway in January. Our advocates and experts at NTU and our research arm NTU Foundation are at your service on any number of these pressing issues, including non-TCJA tax extenders, the OECD's "Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy," and more comprehensive IRS reform efforts. While the year-end session can and should be front of mind for Members, we are ready to work with you in 2023 and beyond to achieve sound, effective, and pro-growth policies for America's taxpayers.

As the nation's oldest taxpayer advocacy organization, founded 53 years ago and working with Members of Congress and their staff for just as long, we appreciate more than most that assembling a tax policy package during a year-end session is not an easy task. However, we strongly encourage you to negotiate such a package in the waning weeks of 2022, given many of the priorities outlined above are too important to leave on the table for 2023. Should you seek our assistance, we are at your service.

Sincerely,

Pete Sepp, President
Brandon Arnold, Executive Vice President
Andrew Lautz, Director of Federal Policy

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[9] Lautz, Andrew. "NTU's 12th Annual "No Brainers" List: The Top 10 Bipartisan Bills for Taxpayers in 2022." NTU, September 13, 2022. Retrieved from: https://www.ntu.org/publications/detail/ntus-12th-annual-no-brainers-list-the-top-10-bipartisan-bills-for-taxpayers-in-2022 (Accessed October 28, 2022.)

[10] For example, see: Carrns, Ann. "Did You Sell an Old Desk Online? You May Receive a Tax Form." *The New York Times*, September 30, 2022. Retrieved from: https://www.nytimes.com/2022/09/30/your-money/online-marketplaces-1099-k.html (Accessed October 28, 2022.)

CC: The Honorable Chuck Schumer, Majority Leader, U.S. Senate
The Honorable Nancy Pelosi, Speaker, U.S. House of Representatives
The Honorable Mitch McConnell, Minority Leader, U.S. Senate
The Honorable Kevin McCarthy, Minority Leader, U.S. House of Representatives
Members of the Senate Committee on Finance
Members of the House Committee on Ways and Means