FAMILY BUSINESS COALITION

March 28, 2022

President Joe Biden
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear President Biden,

The administration's proposed FY2023 budget contains a number of concerning policies for family businesses, including taxing unrealized capital gains. Last year, both the small business and agriculture communities identified taxing unrealized capital gains at death—a kind of "double death tax"—as an unworkable policy for family businesses. Multiple Senate votes and its exclusion from the House Ways and Means Committee draft might have led one to believe the threat was over, only to see a similar concept resurrected now in the administration's FY2023 budget.

Taxing phantom gains in any form has the potential to create serious liquidity issues for privately held businesses. At a time when many family businesses are still struggling to recover from the pandemic and retain workers, levying a new tax on unrealized capital gains is inconsistent with the goal of helping businesses lead the country towards recovery. Under this budget, business owners would be taxed on asset growth derived solely from rapidly rising inflation and on assets that are never actually sold. This amounts to an inflation tax on family businesses.

While the tax is being dubbed as a "billionaires tax," historically taxes enacted under the guise of only affecting the wealthy, like the Alternative Minimum Tax, inevitably end up hitting the middle class. The proposed exemptions are unimportant considering the long term threat this form of taxation poses to family owned and operated businesses.

This administration and Congress should be focused on creating certainly for America's small businesses as many are still struggling just to stay afloat and millions of others have closed their doors permanently. Taxing unrealized gains in any form, subjecting more families to the estate tax, changing step-up in basis, and removing important tools that family businesses use for succession planning are not ideas that are likely to help spur job creation and economic recovery.

Earlier this year, 112 small business groups joined a letter strongly opposing many of these policies. That letter is attached here for your reference. FBC respectfully urges your administration return to the drawing board to develop a budget more likely to help family businesses and their workers succeed.

Regards,

Palmer Schoening
Chairman
Family Business Coalition

November 9, 2021

Chairman Ron Wyden
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

Chairman Richard Neal
House Ways and Means Committee
1102 Longworth House Office Building
Washington, DC 20515

cc: Ranking Members Mike Crapo and Kevin Brady

Dear Chairmen Wyden and Neal,

Family owned and operated businesses face a number of challenges when transitioning to the next generation of ownership, including navigating the tax code. As recent jobs reports indicate, the economy remains on delicate footing, and at a time when many family businesses are still struggling to stay afloat, several proposals put forth this Congress have the potential to make operating and passing on a family business, farm, or ranch even more difficult.

Earlier this year, both the small business and agriculture communities identified taxing unrealized capital gains at death--a kind of "double death tax"—as an unworkable policy for family businesses. Multiple Senate votes and its exclusion from the House Ways and Means Committee draft might have led one to believe the threat was over, only to see a similar concept resurrected in Chairman Wyden's "mark-to-market" bill. Taxing phantom gains in any form, whether through unrealized gains at death or through the recently released mark-to-market approach has the potential to create serious liquidity issues for privately held businesses.

Family businesses across a wide number of industries tend to operate on small margins with their value almost entirely tied up in equipment, machinery, land, buildings, and other non-cash assets. That makes paying taxes on imaginary gains problematic. It also creates difficulties when attempting to pay estate taxes when no profitable sale has occurred, only the death of a business owner. Family businesses without sufficient liquid reserves to pay new taxes on capital and a more aggressive estate tax will be forced to fire workers, close branches, or shut down the businesses altogether. No family business should be forced into losing their business, employees, and their legacy in order to pay multiple layers of tax on the same dollar.

One disappointing feature of the Ways and Means passed language was the inclusion of indirect death tax hikes in the form of severe restrictions on legitimate grantor trusts and on common-sense family business valuation rules. While these may seem obscure or minor, the language reported out of committee has the potential to be the biggest death tax hike in over a decade. Grantor trusts are used in succession planning to help pass family businesses from one generation to the next. The estate valuation rules would require families to pay death tax on assets which are appraised at a theoretically high, as opposed to fair market, value. If a business owner dies, the value of the business likely declines--it's unfair to value the business as if nothing has changed.

Another threat to the death tax is more straightforward--halving the exemption. The Tax Cuts and Jobs Act doubled the unified credit for estate, gift, and generation skipping taxes to roughly $12 million in 2021--twice that for surviving spouses. Rolling back the clock on this progress could result in 50 to 100 percent more families paying the estate tax every year.

Congress should be single-mindedly focused on helping small businesses keep their doors open and their workers employed. Taxing unrealized gains in any form, subjecting more families to the estate tax by cutting the current exemption in half, removing important tools that family businesses use for succession planning, and changing longstanding rules on valuing family businesses are not ideas that are likely to help spur job creation and economic recovery. While the recently released "framework" contains several concerning tax hikes, it wisely abandoned these aforementioned provisions. On behalf of family businesses across the country, the undersigned organizations urge you to keep these harmful policies off the table as negotiations continue.

Signed,

AMT – The Association For Manufacturing Technology	FMI - the Food Industry Association	Center for a Free Economy
Heating, Air-conditioning, & Refrigeration Distributors International	National Association of Electrical Distributors	National Lumber & Building Material Dealers Association
America's Business Benefit Association	American Supply Association	National Cotton Council of America
International Franchise Association	National Grocers Association	Associated Equipment Distributors
American Society of Appraisers	Hardwood Federation	North American Die Casting Association

Decorative Hardwoods Association

Foodservice Equipment Distributors Association

Institute For Liberty

AMAC Action

Air Conditioning Contractors of America

Americans for Tax Reform

Forest Landowners Association

Associated Builders and Contractors, Inc.

National Association of Home Builders

Consumer Action for a Strong Economy

Energy Marketers of America

North American Meat Institute

American Mold Builders Association

Truck Renting and Leasing Association

Council for Citizens Against Government Waste

AmericanHort

Mason Contractors Association of America

Coalition of Franchisee Associations

Global Cold Chain Alliance

American Commitment

FreedomWorks

Industrial Minerals Association - North America

National Tooling and Machining Association

National Taxpayers Union

Gases and Welding Distributors Association

Western Growers

American Bus Association

Plumbing-Heating-Cooling Contractors—National Association

NAHAD – The Association for Hose and Accessories Distribution

American Sheep Industry Association

Wine & Spirits Wholesalers of America

National Ground Water Association

Associated Wire Rope Fabricators

National Industrial Sand Association

National Association for the Self-Employed

Conservatives for Property Rights

Auto Care Association

National Black Chamber of Commerce

National Small Business Association

National Funeral Directors Association

American Foundry Society

National Christmas Tree Association

American Business Defense Council

Communicating for America, Inc.

Frontiers of Freedom

North American Renderers Association

NATE: The Communications Infrastructure Contractors Association

National Marine Distributors Association

International Association of Plastics Distribution (IAPD)

United States Cattlemen's Association

International Sign Association

Small Business & Entrepreneurship Council

Family Business Association of California

American Beverage Licensees

Precision Metalforming Association

American Horse Council

Center for Freedom and Prosperity

Professional Beauty Association

Material Handling Equipment Distributors Association

Printing United Alliance

Outdoor Power Equipment and Engine Service Association

Kentucky Forest Industries Association

National Wooden Pallet & Container Association

Maryland State Pest Control Association

Kitchen Cabinet Manufacturers Association

Funeral Directors Services Association of Greater Chicago

Franchise Business Services (representing Buffalo Wild Wings franchisees)

Tire Industry Association

American Pipeline Contractors Association

Rural & Agriculture Council of America

Retail Packaging Association

American Rental Association

Independent Electrical Contractors

National Association of RV Parks & Campgrounds (ARVC)

National Franchisee Association (representing Burger King franchisee)

Precision Machined Products Association

Equipment Dealers Association

Window and Door Manufacturers Association

NATSO, Representing America's Travel Plazas and Truckstops

WF&FSA, The Wholesale Florist and Florist Supplier Association

Southeastern Lumber Manufacturers Association

Taxpayers Protection Alliance

Equipment Services Association

Sazerac

Service Station Dealers of America and Allied Trades (SSDA-AT)

National Utility Contractors Association

National Community Pharmacists Association

Less Government

60 Plus Association

Center for Individual Freedom

Appalachian Hardwood Manufacturers Inc.

WMDA Service Station & Automotive Repair Association

American Values

Distribution Contractors Association

National Tax Limitation Committee

Power and Communication Contractors Association

Family Business Coalition