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MINORITY CHIEF OF STAFF

November 9, 2017

The Honorable Earl Blumenauer
1111 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Blumenauer:

I am writing in regards to your request during the November 8th Committee mark-up on H.R. 1, the *Tax Cuts and Jobs Act*, for clarification with respect to the ability of individual owners of pass-through businesses (e.g., subchapter S corporations and partnerships) to claim a deduction for state and local taxes.

Under current law, individuals are permitted a deduction for certain taxes paid or accrued, such as real property taxes, personal property taxes, and State, local, and foreign income taxes as an itemized deduction. As part of H.R. 1's repeal of most itemized deductions, the bill would repeal an individual's itemized deduction for State and local taxes, except in the case of a limited amount of property taxes.

The policy of H.R. 1, and the policy that was used by the Joint Committee on Taxation (JCT) to calculate the estimated revenue effects of the *Tax Cuts and Jobs Act*, is that individual owners of pass-through businesses can no longer take a deduction, on IRS Form 1040, Schedule A, for State and local income taxes on their individual returns. That is to say, H.R. 1 was estimated under the assumption that only those deductions for State, local and foreign property taxes, and sales taxes, that are presently deductible in computing income on an individual's Schedule C, Schedule E, or Schedule F on such individual's tax return would be allowable.

JCT's publication, JCX-50-17, provides that (emphasis added):

State, local and foreign taxes paid or accrued in carrying on a trade or business or an activity described in section 212 (relating to expenses for the production of income) remain deductible as under present law. In the case of other State and local real property taxes, the proposal limits the deduction to \$10,000 (\$5,000 in the case of a married person filing a separate return). Other foreign real property taxes and state and local personal property taxes are no longer allowed as a deduction.

State and local income, war profits, and excess profits taxes paid or accrued, *other than those paid or accrued in carrying on a trade or business or an activity described in section 212*, are no longer allowed as an itemized deduction. The election to deduct State and local sales tax in lieu of State and local income taxes is repealed.

We have discussed the italicized language with the JCT staff, and they have confirmed that this language was an error. We intend to correct this mistake in the Committee Report.

In summary, taxes imposed on and paid by a pass-through business, such as sales taxes and certain property taxes, would continue to be deductible by the business, to the extent related to business property. State and local income taxes paid by an individual owner of such a business would not be deductible on the individual's tax return.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Brady', is written over a horizontal dotted line. The signature is stylized and cursive.

Kevin Brady
Chairman