INTERNATIONAL FRANCHISE ASSOCIATION | FRANCHISING
Building local businesses, one opportunity at a time.

September 9, 2021

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington DC 20515

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
Washington DC 20515

Dear Speaker Pelosi and Republican Leader McCarthy:

On behalf of the International Franchise Association (IFA), the world's oldest and largest organization representing franchising worldwide, I write on behalf of the nation's franchising community, which is comprised of over 780,000 establishments that employ over 8.3 million individuals and contribute $780 billion of economic output to the U.S. economy. Given the continued dislocation of the economy and the uneven recovery, we strongly urge you to provide a maximum degree of certainty and clarity in all small business, tax, and labor policies, as we promote an equitable recovery. Unfortunately, due to the legislation's large tax increases on small businesses and burdensome workforce policies during a time of unprecedented labor shortages, we strongly oppose the *Build Back Better Act* (BBBA) currently being considered through budget reconciliation.

Franchising is a business growth model used in nearly every industry. Franchise brands offer a huge range of services from lodging to fitness, home services to health care, plumbing, pest control, security, and lawn care. More than 230 different sectors that are represented in franchising. There are far more local (50% of all franchised brands) and regional brands (34% of all franchised brands) whose names are not as easily recognizable as the national brands. According to industry research firm FRANdata, 75% of all franchise owners have fewer than 20 employees. Franchising is also more diverse than non-franchise businesses: nearly 30% of franchises are minority-owned, compared to 18% of non-franchised businesses.

IFA strongly opposes the proposed increases in tax rates for small businesses, many of which are still mightily struggling during the economic recovery. Franchises are locally owned businesses, and an estimated 480,000 franchised businesses are organized as pass-throughs, which represents nearly 80 percent of all franchises and roughly 10% of the total number of S corporations in the U.S. Raising the top marginal tax rate to 39.6% will penalize franchise businesses who choose to file their taxes at the individual level, and ultimately, higher taxes will be borne by workers through lost job opportunities and consumers through higher prices and less access to the brands they enjoy. The damage from a higher tax rate would be exacerbated by the proposed sunset of Section 199A and almost doubling the tax rate on capital gains to 43.4%.

In addition, we are deeply concerned with the proposed elimination of the "step-up in basis" tax treatment. The current tax treatment of appreciated assets prevent family-owned franchise businesses from being hit with two significant and damaging tax bills when a family member passes away—the capital gains tax on any appreciated assets and the estate tax on whatever is left. However, a recent Ernst & Young report forecasts that 40,000 jobs would be lost each year in the first 10 years after enactment and GDP would decrease by $50 billion over 10 years if stepped-up basis were repealed. We appreciate the strong bipartisan opposition to ending step-up basis tax treatment and urge Congress to abandon this harmful proposal altogether, including efforts to create carve-outs/exemptions that will undoubtedly create more complexity for small businesses.

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We also oppose the potential repeal of the foreign-derived intangible income (FDII) incentive. This policy encourages companies to keep research and development, production, ownership and commercialization of intellectual property ("IP") and the associated jobs here in the United States. The FDII is critical to more than 250 U.S.-based franchise brands that have an international presence, and the possible elimination of the FDII incentive would discourage these businesses' efforts to keep their innovation and IP development here in the United States.

Finally, IFA also has strong objections to the House Education and Labor's reconciliation bill. The IFA believes the National Labor Relations Board has become increasingly partisan over the years and unfairly targeted many different business models for misguided, ideological reasons. Thus, it is inappropriate in our view to grant the partisan NLRB with unprecedented authority to levy civil penalties over millions of locally owned businesses. We also oppose the inclusion of a sweeping provision to create personal liability for owners of the smallest businesses in America for alleged violations of the National Labor Relations Act.

IFA members understand the need for family and medical leave as it relates to the paid leave provisions in reconciliation. While we do appreciate that the proposal establishes no new employer or employee taxes, we are very concerned that a complex, involuntary leave regime would take away the autonomy of franchise business owners to tailor leave benefits to their employees that need it the most.

In sum, IFA stresses the need for Congress to keep legislative changes to a minimum as the small business community and the nation recovers from the pandemic. The franchise community consists of small businesses that typically are not in a position to hire expensive tax advisors and lawyers, and thus, legislation must provide a maximum degree of certainty and clarity – especially during this fragile time in the recovery. If the BBBA passes, business owners will be forced to reallocate capital to pay new taxes, instead of hiring new workers and expanding operations in their communities.

The BBBA contains numerous tax, labor, and workforce proposals that will harm franchise small businesses across the country at a time when they are seeking to help our economy rebuild. For these reasons, we strongly oppose the *Build Back Better Act*.

Sincerely,

Matt Haller
President & CEO
International Franchise Association

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