INDEPENDENT COMMUNITY
BANKERS *of* AMERICA®

October 28, 2021

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate
Washington, D.C. 20510

The Honorable Richard Neal
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

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

On behalf of the Independent Community Bankers of America, representing community banks across the nation with nearly 50,000 locations, I write to express our opposition to certain tax provisions being considered as part of the Build Back Better reconciliation bill. This is not the time to hike taxes on community banks, small businesses, family farms, and individuals. These ill-advised tax increases come at the expense of community bank capital needed for local lending, business investment and expansion, and most importantly, hiring. As a package, the impact of these deeply troubling tax changes will be devastating to the continued independence of American small businesses.

As you know, the economy has not fully emerged from the pandemic. Economic gains made in the spring and early summer could evaporate in the coming fall and winter with the very real possibility of another spike in COVID caseloads. Unemployment has remained stubbornly high. This is clearly the wrong time for tax increases on small businesses that have not regained their footing. I ask you to keep your focus on the economic recovery.

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ICBA strongly opposes:

- New requirements that banks and other financial institutions transfer customer financial data to the IRS. This broad, invasive, and indiscriminate proposal would sweep up the personal data of millions of compliant taxpayers and foster distrust in the IRS and government in general. The proposal would undermine critical efforts to bring more of the unbanked population into the banking system. Efforts to accommodate the proposal by raising the applicability threshold or carving out certain inflows would only add to its complexity. **No version of this proposal is workable.**
- The imposition of a 3.8 percent net investment income tax (NIIT) on the income of Subchapter S shareholders. This tax would apply not only to funds distributed from a bank but to funds held within the bank to meet capital requirements and fund vital lending.
- Any increase in the corporate tax rate. Corporate income is already double taxed at the corporate and shareholder levels in the form of dividends and capital gains taxes.
- Any increase in the taxation of capital gains. Raising capital gains tax rates will discourage badly needed new investment to promote business expansion and hiring.
- Any increase in individual tax rates. In particular, income earned by America's Subchapter S corporations and other passthrough businesses, which employ most American private sector workers, is taxed at the individual rate, even when that income is kept in the business to fund investment. Any increase in the individual rate would have a direct, negative impact on these businesses.
- Any cap or phaseout of the deduction under Tax Code Section 199A for shareholders in Subchapter S community banks and other pass-through small businesses. Section 199A helps maintain relative parity in the taxation of Subchapter S corporations and C corporations.
- Taxation at death, or removal of "stepped-up basis." Such proposals would be a sharp departure from current law, which rightly shields these gains from taxation, and would create a punitive effective tax rate that could exceed 60 percent. It would result in the forced sale of small businesses and farms to pay the tax. Proposals for "carry-over basis" would only delay the impact of taxing gains, effectively placing a tax lien on the business. We urge you to retain the current exemption for estates.
- New restrictions on Individual Retirement Account (IRA) investments. Proposals that would prohibit IRA investments in unregistered shares or prohibit officers and directors from holding IRA shares in a non-publicly traded company would remove an important source of capital for community banks at a time when they are under pressure from regulators to increase capital. What's more, new IRA restrictions would result in forced sales of small company shares, depressing their value and liquidity. Community banks typically serve as the primary source of liquidity and repurchase their own shares. This would further depress

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community bank capital. Finally, when an ESOP shareholder leaves a company, their shares are typically transferred to an IRA. New IRA restrictions would compromise the viability of employee ownership models which promote American productivity.

- Limitations on Section 1031 exchanges. Current law allows a farmer or other business to swap land tax-free if the proceeds are invested in new land. This provision is widely used not only in rural areas but in all parts of the country. Proposals to limit this benefit to $500,000 and impose capital gains tax on amounts above that threshold would have a large, negative impact on the market for farmland and other commercial land.

To conclude, America's community banks and small businesses cannot absorb the tax increases currently before your committee without devastating effect on investment, employment, and ongoing independence. I urge you to oppose these punitive tax increases.

Thank you for your consideration.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Members of the United States Senate
Members of the United States House of Representatives

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