

August 6, 2024

The Honorable Lloyd Smucker  
Chairman, Main Street Tax Team  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Greg Steube  
Vice Chairman, Main Street Tax Team  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Vern Buchanan  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Adrian Smith  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Jodey Arrington  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Beth Van Duyne  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, D.C. 20515

## **Re: Community Bank Perspective on 2025 Tax Legislation**

Dear Chairman Smucker and Members of the Main Street Tax Team:

On behalf of ICBA and the nearly 50,000 community bank locations we represent, I write to thank you for the work you are doing today to craft priorities for tax legislation in 2025. Our tax laws exercise a powerful influence over the prosperity of small businesses, farms, households, and other aspects of American life. The pending expiration of key provisions of the 2017 Tax Cuts and Jobs Act (TCJA) represents an inflection point. We appreciate your commitment to charting a course forward through an open and collaborative process and hope to continue to engage with you as legislation takes shape.

The views and recommendations described in this letter were developed with input from community bankers nationwide. They center on strengthening the community bank-small business partnership, which is the foundation of local economic prosperity. **In summary, our recommendations are:**

- **Permanently extend key expiring provisions of the Tax Cuts and Jobs Act**
- **Maintain low corporate rate**
- **Enact Access to Credit for Our Rural Economy (ACRE) Act to strengthen rural America**
- **Review credit union tax exemption**

A unique feature of the American economy, community banks have deep roots in the communities they serve, often for many generations, which are too often overlooked by larger banks and non-bank lenders. Community banks are stable and sound institutions, providing customized financial products and services

and reinvesting deposits into local credit. They are, according to the FDIC, the only physical banking presence in one in three U.S. counties. Specializing in small business and agricultural lending, community banks are responsible for the majority of Main Street small business loans and 70 percent of bank agricultural loans. ICBA advocates for tax policy that will promote a vibrant community banking sector to support the prosperity of local communities.

Below we address not only the extension of expiring provisions but additional tax code changes for which we advocate or caution against.

## **Extension of Expiring Tax Provisions**

ICBA urges permanent extension of the expiring provisions of the TCJA to create certainty for American taxpayers, including passthrough businesses taxed through the individual tax code. Provisions of particular relevance to community banks include:

### *Section 199A and Subchapter S Banks*

ICBA and community banks are grateful to Chairman Smucker for introducing the Main Street Tax Certainty Act (H.R. 4721), which would permanently extend Section 199A. H.R. 4721 has been cosponsored by over 180 members of the House, including all Republican members of the Ways and Means Committee.

Many community banks have chosen the Subchapter S model which provides that income and losses of the bank are not taxed at the entity level but rather on the returns of the individual shareholders. While Subchapter S was created in 1958, it was first made an option for banks in 1996 in legislation promoted by ICBA. Since that time, Subchapter S has helped promote the viability and independence of thousands of community banks. Because they are limited to no more than 100 shareholders, the expiration of Section 199A would disproportionately harm smaller banks. In an era of consolidation in the financial services industry, Subchapter S has helped promote a competitive industry to the benefit of consumers, small businesses, and local communities.

TCJA created Section 199A, which provides for a 20 percent deduction of the income of certain passthrough businesses, including Subchapter S banks. The intention of Section 199A was to hold the taxation of qualifying passthroughs in “rough parity” with C corporations, whose tax rate was lowered from 35 percent to 21 percent. The expiration of Section 199A would increase the effective tax rate of qualifying businesses, thereby eliminating parity and putting these businesses at a significant disadvantage relative to C corporations.

To make matters worse, TCJA included base broadening measures, such as curbing or eliminating deductions, to offset the revenue lost by a lower corporate rate and the 199A deduction. If the 199A deduction is allowed to expire, S corporations will be taxed on a broader base, creating a higher effective tax rate than existed before TCJA. The expiration of TCJA would also restore higher individual rates and lower bracket thresholds, with a top rate of 39.6 percent, exacerbating the loss of the 199A deduction.

The confluence of these adverse changes would be a severe blow for S corporation community banks and would likely drive further consolidation, reduce competition in financial services, and harm to communities.

We urge you to support Section 199A permanence in any 2025 tax legislation.

### *Estate Tax*

As you know, TCJA doubled the estate tax exemption from \$5.5 million to 11.4 million, per individual, adjusted for inflation. (In 2024, it stands at \$13.61, per individual.)

The estate tax is a threat to the intergenerational transfer of many community banks and small businesses served by community banks. Many community banks have been held and operated within families for as many as five generations. This close family and cross-generational association is critical to the identity, the business model and the competitive advantage of community banks in an evolving financial system in which it is becoming more challenging for them to preserve their independence.

The estate tax jeopardizes the succession of community banks from generation to generation, much as it jeopardizes survival of small family farms served by community banks across generations. A family estate should never be forced to sell its interest in a community bank to pay a transfer tax. Forced sales of family-owned community banks coupled with a recent surge in regulatory burden and tax-advantaged competitors accelerate the current trend toward consolidation in the banking sector. Consolidation reduces competition and results in fewer product offerings, lower rates on deposits, higher rates on loans and higher fees and harms consumers and local businesses.

ICBA urges full and permanent repeal of the estate tax. At a minimum, the current exemption level should be made permanent. Other proposals, such as the repeal of “step-up basis” and taxation of capital gains at death, which was considered in 2021, would amount to punitive taxation of estates, and result in all of the harmful consequences described above.

### **Low Corporate Tax Rate**

ICBA strongly supports the significant and permanent rate reduction for American corporations created by the TCJA, which has promoted business investment and hiring. The majority of community banks are C corporations and pay the corporate rate. Base broadening measures used to offset the lower corporate rate, some of which are permanent, would amplify the impact of any increase in the corporate rate.

The lower corporate tax rate has strengthened our nation’s international competitiveness. What’s more, the lower corporate rate, by itself, has mitigated a number of distortionary features of the tax code. For example, the double taxation of dividends and capital gains at both the corporate level and the shareholder level is mitigated by a reduction in the corporate rate as well as in the individual rate on dividends or capital gains. Rate reductions, in themselves, make the tax code more neutral and equitable.

ICBA would strongly oppose any increase in the corporate rate.

## **Promote Community Bank Lending in Rural America**

ICBA supports the bipartisan Access to Credit for our Rural Economy Act (H.R. 3139), introduced by Reps. Randy Feenstra and Wiley Nickel, which would make interest earned on loans secured by agricultural real estate tax exempt. This exemption would also apply to interest earned on mortgages secured by a single-family home that is the principal residence of the borrower, provided the home is in a rural area with a population of 2,500 or less and the principal value of the loan is \$750,000 or less. ACRE is bipartisan and bicameral legislation, with nearly 70 House cosponsors (20 Democrats), which will promote access to credit and reduce borrowing costs for rural citizens.

Agricultural production and the prosperity of farmers are critical to rural economies where thousands of jobs are connected to the farm sector. The ACRE Act would allow lenders to help farmers remain viable in an often-challenging environment. Lenders would have more flexibility to work with farmers, ranchers, and rural homeowners by providing them lower interest rates and better lending terms.

## **Outdated Credit Union Tax Exemption Is Ripe for Review**

ICBA is encouraged by the committee's scrutiny of tax-exempt institutions, including universities and non-profit hospitals. These institutions are entrusted with a public mission and must be held to account by Congress when they fail in that mission.

Comprehensive tax legislation should touch all aspects of the code and include a review of all tax-exempt institutions. Notably, today's multi-billion-dollar credit unions have outstripped their public mission and tax-exempt purpose and are now even leveraging their tax-exemption to purchase tax-paying community banks. The pace of these acquisitions in recent years is driving the consolidation of financial services across all markets, to the harm of consumers and small businesses.

As you grapple with the cost of extending expiring tax relief, every tax expenditure should be rigorously interrogated. Modern credit unions exploit a tax exemption created to "serve people of modest means" within defined fields of membership. The largest credit union today, Navy Federal, has assets of \$168 billion, dwarfing the size of a typical community bank with assets of less than \$1 billion. The credit union tax exemption subsidizes multi-million-dollar executive pay, outsized marketing budgets, sports stadium naming rights, lavish headquarters, and increasingly, acquisitions of community banks rooted in their communities for decades. Field-of-membership rules, once a check on credit union expansion, have been eroded by the National Credit Union Administration to the point of meaninglessness. Credit union practices include wealth management and financing of private aircraft. Pentagon Federal Credit Union recently has partnered with Goldman Sachs to finance luxury mixed-use developments in Washington, D.C. with an \$847 million loan to develop Phase II of the DC Wharf. This is not serving people of modest means.

As there is no longer any meaningful distinction between credit unions and commercial banks, we believe they should be taxed equivalently. ICBA has developed a menu of options for taxing credit unions and would appreciate the opportunity to discuss them with you.

## **Opposition to New Commercial Bank Taxes**

ICBA has consistently opposed new taxes, fees, or reporting obligations that specifically target the commercial banking sector or its customers. In recent years, Congress has considered proposals for asset-based taxes, curbing the deductibility of federal deposit insurance premiums, transactions-based taxes, and account reporting to the IRS, among others.

In our view, the tax code should never be used to punish a specific industry sector. Sector-specific taxes distort the market and generate counterproductive outcomes. Even when such taxes exempt community banks, they set a troubling precedent – once the tax code is opened up to target a specific sector, it is difficult to contain the size, scope and broader application of the tax.

### **Closing**

Thank you again for beginning the hard work of comprehensive tax legislation set in motion by the forthcoming expiration of critical TCJA provisions.

The tax policy recommendations outlined in this letter reflect the consensus views of thousands of community bankers, grounded in the real world of relationship lending and commercial analysis. These recommendations will grow local economies, promote local prosperity and unlock job creation for a generation. We would welcome the opportunity to discuss them with you in greater detail.

Thank you for your consideration.

Sincerely,

/s/

Rebeca Romero Rainey  
President & CEO