

August 22, 2018

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Mnuchin:

The undersigned organizations urge the Treasury Department to issue interim guidance with respect to drafting errors that were made to the Tax Cuts and Jobs Act (“Act”) -- provisions dealing with qualified improvement property (“QIP”) and net operating losses (“NOL”). The signatories to this letter may have an interest in one but not necessarily both of the provisions but recognize the need to have them both resolved on an expeditious basis. The delay in correcting these provisions has caused economic hardship for some retailers, restaurants, members of the real estate industry, and suppliers of building products, and is also delaying investments across the economy that impact the communities in which these companies are doing business. This also results in safety concerns because, in some cases, it is causing a delay in upgrading existing sprinkler systems, creating a more perilous situation for our nation’s firefighters.

At the outset, it is important to note that it is widely acknowledged that both the QIP and NOL provisions contain unintended drafting errors such that the provisions do not currently operate consistent with Congressional intent – there are no policy or technical objections suggesting that these drafting errors should not be corrected.

The drafting error in the QIP provision causes improvements to buildings to be written off over 39 years instead of one year as contemplated under the Act. As a result, a taxpayer gets to write off only 2.5% of their improvement costs in the year the expenditures are made, and 97.5% over the remaining 38 years, instead of writing off 100% of the cost in the year the expenditures are made. This very large difference in the after-tax cost of making improvements is causing a delay in some store and restaurant remodeling projects, as well as causing some retailers to decline opportunities to purchase or lease new store locations that would require substantial improvements. These decisions not only deny communities the jobs associated with substantial construction projects, but also deny our communities the opportunity to bring new, permanent jobs to an otherwise abandoned store or to revitalize a declining mall. The delayed investment in remodeling projects is also causing a decline in sales by manufacturers that supply products used in remodels, like energy-efficient lighting and plumbing supplies.

The drafting error in the NOL provision imposes a retroactive tax increase on businesses that are in loss positions and already facing liquidity issues. The error in the effective date of the provision that eliminates NOL carrybacks means that businesses that were expecting a carryback for their tax years that began in 2017, before it was known if tax reform would pass and which tax code provisions would be modified by tax reform, will not be receiving the cash that is owed them until some time in the future. This timing difference is critical to cash-strapped businesses that were counting on the carryback to finance continuing operations, as well as investments needed to revitalize their businesses.

We urge the Treasury Department to issue guidance that will assure that these provisions are administered as intended by Congress, avoiding the need for amended returns and releasing associated economic activity. At a minimum, such guidance should provide that the Internal

Revenue Service will not challenge taxpayers who take positions with respect to the QIP and NOL provisions that are consistent with Congressional intent. If guidance is not issued by November 15, 2018, the extended due date for FY 2017 tax returns for most retailers, the retail signatories on this letter will have to file thousands of amended federal, state and local income tax returns when the provision is later clarified. They will also need to re-book the qualified improvement property assets in their Fixed Asset Management Systems, which may require hundreds of additional man hours of work for each business. The additional regulatory burdens associated with further delay of guidance with respect to these provisions are antithetical to the policy behind Executive Order 13789, requesting the Treasury Department to reduce tax regulatory burdens.

We urge you to issue guidance that will facilitate the intent of the law and eliminate the imposition of large additional tax compliance and accounting burdens on taxpayers, as well as associated tax enforcement burdens on the Internal Revenue Service.

Sincerely,

Aaron's
Abercrombie & Fitch Co.
Acuity Brands Lighting Inc.
Advanced Auto Parts, Inc.
Ahold Delhaize USA
Air-Conditioning, Heating and Refrigeration Institute
Alabama Grocers Association
Alabama Grocers Association
Alabama Retail Association
Algoma Piggly Wiggly
Alliance Data
Alliance to Save Energy
American Eagle Outfitters, Inc.
American Institute of Architects (AIA)
American Sale
Arizona Food Marketing Alliance
Arizona Retailers Association
Arkansas Grocers and Retail Association
Arnav Enterprises, LLC
Associated Builders & Contractors
Associated General Contractors of America
Association of Kentucky Fried Chicken Franchisees
B & R Stores, Inc.
B. Green & Co., Inc.

Bailey's General Store
Baker's Management, Inc.
Beall's, Inc.
Bed Bath & Beyond Inc.
Belk, Inc.
Best Buy Co., Inc.
Big Lots
Big Y Foods, Inc.
BKT Enterprises Inc
Blackford Foods
Brea Bead Works
Buehlers Fresh Foods
Building Owners and Managers Association (BOMA) International
Casler, Inc.
Charming Charlie
Church's Chicken
Collins Family Markets Inc
Columbiana Foods Inc.
Completely Kentucky, Inc.
Congressional Fire Service Institute
Connecticut Food Association
Cookies Food Products
Corning Mini Mart
Cox's Foodarama Inc.
Cranfords Fresh
Crate & Barrel Holdings Inc.
Cumberland Farms Inc.
CVS Health
Daniels Foods, Inc.
Dan's Food Center
Darden Restaurants, Inc.
Dave's Supermarket, Inc.
Denny's
Dick's Sporting Goods
Dierbergs Markets, Inc.
Dillard's, Inc.
Doc's Foods Stores
Don's Food Center
Dorothy Lane Market, Inc.
Dover
Dunkin' Brands
Dunkin' Donuts Independent Franchise Owners Association
Eaton
Eickhoff's ShopRite Supermarkets
El Rio Grande Latin Market
Express Inc.
Fareway Stores Inc.

Fiesta Foods
Firehouse Subs
Fitzgerald's Foods
Food Giant
Food Marketing Institute
Food Parade inc.
Franchise Business Services
G.E. Foodland, Inc.
Garafalo Markets
GE Foodland, Inc
Geissler's Super Market
Georgia Food Industry Association
GF Buche Co.
Glass Gardens
Godin's Piggly Wiggly
Gongco Foods
Gooseberries Fresh Food Market
Grolmus Enterprises
Gymboree Group
Hansen's IGA
Harps Food Stores, Inc.
Healthy's, Inc.
Heating Air-conditioning & Refrigeration Distributors International (HARDI)
Henderson's IGA, Inc.
Hi Nabor Supermarket, LLC
Highland Park Market
Hill Phoenix
Hobby Lobby Stores, Inc.
Home Furnishings Association
Hoyt Lakes IGA
Hy-Vee
Idaho Lodging & Restaurant Association
Idaho Retailers Association
Idyllwild Village Market
IKEA North America Services, LLC
Illinois Food Retailers Association
Illuminating Engineering Society
Independent Organization of Little Caesar Franchises
Indiana Grocery Group, LLC
Inspire Brands
International Association of Fire Chiefs
International Association of Kumon Franchisees
International Council of Shopping Centers
Iowa Grocery Industry Association
Island Market, Inc.
J.C. Penney Company, Inc.

Jack In the Box, Inc.
Janssen's Market LLC
Jerry's Enterprises, Inc.
John Brooks Supermarkets
JW's Foods, Inc
Kaune's Neighborhood Market
Keith's Foods Inc.
Kellogg Co.
Kentucky Grocers & Convenience Store Assoc.
Knowlan's Super Markets, Inc.
Kocian's Family Market
Kramer Foods
LaBonne's Markets
Lamb's Fresh Market
Legrand, North America
Levi Strauss & Co.
Limited Brands, Inc.
Lisbon Foods, Inc.
Lomira Piggly Wiggly
Louisiana Retailers Association
Lowe's Market
Lund Food Holdings, Inc.
Mackenthun's Fine Foods
Macy's, Inc.
Maine Franchise Owners Association
Maryland Retailers Association
Massachusetts Food Association
Maurer's Market
McDonald's Corporation
McKinnon's Supermarkets
Midwest Independent Retailers Association
Miner's Inc.
Minnesota Grocers Association
Mississippi Retail & Grocers Association
Misslers IGA
Missouri Grocers Association
Missouri Retailers Association
Monnats Country Store
Mt. Plymouth IGA Fresh Market
NAIOP, the Commercial Real Estate Development Association
National Association of Convenience Stores (NACS)
National Association of Electrical Distributors (NAED)
National Association of Theater Owners
National Council of Chain Restaurants
National Electrical Manufactureres Association
National Federation of Independent Business (NFIB)

National Fire Sprinkler Association
National Franchisee Association
National Grocers Association
National Restaurant Association
National Retail Federation
Nebraska Grocery Industry Association, Inc.
Nebraska Retail Federation
Neiman Marcus Group, Inc.
Nemenz Food Stores
New Hampshire Grocers Association
New Jersey Food Council
New Jersey Retail Merchants Association
NG Management Inc
Niemann Foods, Inc.
Nilssen's
Nordstrom, Inc.
North American Association of Subway Franchisees
North Carolina Retail Merchants Association
North Dakota Petroleum Marketers Association
North Dakota Propane Gas Association
North Dakota Retail Association
North Main IGA
North State Grocery, Inc.
Northwest Grocery Association
Nugget Market, LLC
Nutricion Fundametal, Inc.
Ochab Corporation
Ohio Council of Retail Merchants
Ohio Grocers Association
Oklahoma Grocers Association
Ozark Empire Grocers Association
Pennsylvania Food Merchants Association
Pennsylvania Retailers' Association
Petco Animal Supplies, Inc.
PetSmart, Inc.
Philbee Foods
Pier 1 Imports, Inc.
Planet Fitness Independent Franchisee Association
Pruett's Food
Puckett's Food Stores, Inc.
R & S Supermarket, LLC
Randys Neighborhood Markets
Real Estate Roundtable
Red Lobster Seafood Co.
Red Rock Resorts, Inc.
Rehkopf Enterprises, Inc.

REM Markets
Retail Association of Maine
Retail Association of Nevada
Retail Industry Leaders Association
Retailers Association of Massachusetts
RI Food Dealers Association
Ried's Markets, Inc.
Rite Aid
Rivers Marketplace, Inc.
Roselynn Inc
Ross Stores, Inc.
Roth's Fresh Markets
Roy's Hometown Grocery
Rush Foods, Inc.
S & R Quisberg Inc.
Save Mart Companies
Sendik's Food Markets
Shoppers Value Foods
ShopRite of Hunterdon County
ShopRite of New London
Shugar's
Signify
Snyder Foods, LLC
Sonic Corp.
South Dakota Retailers Association
South Florida Franchise Owners Association of 7-11
Southern California Local Bead Store Association
Stage Stores, Inc.
Stepherson, Inc.
Steve DeYoung's Big Top Market
Stormans, Inc.
Super One Foods
Superb Super Markets, Inc
Supermarket Operations Inc.
Taco John's International Inc.
Tarbell & Company
Teal's Market
Texas Retailers Association
Texas Roadhouse
The Cheesecake Factory, Incorporated
The Fresh Grocer
The Home Depot
The Kroger Co.
The Market of Madrid
The Michaels Companies
The National Coalition of Associations of 7-11 Franchisees

The Roberts Co., Inc.
The TJX Companies, Inc
The UPS Store Owners Franchisee Association
The Wendy's Company
The Willis Music Company
Thoman Brothers Super Market, Inc.
Thompson's IGA Foods
Tractor Supply Company
Treppendahl's Super Foods
Trig's
Unified Brands
URM Stores, Inc.
Utah Food Industry Association
Utah Retail Merchants Association
Vallarta Supermarkets
Viking Village Foods, Inc.
Virginia Retail Merchants Association
Waffle House Inc.
Wakefern Food Corp
Walla Walla Harvest Foods
Washington Food Industry Association
Wayne's Piggly Wiggly
Western Supermarkets
White Castle System, Inc
Windham IGA
Wisconsin Grocers Association
Witt's Piggly Wiggly
Wray's Incorporated
Wright's Jewelers, Inc.
Yum! Brands, Inc.