



July 11, 2024

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

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

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

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

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

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

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

On behalf of its member organizations, the Main Street Employers Coalition appreciates the opportunity to submit the following comments in support of the Main Street Tax Certainty Act and a permanent Section 199A pass-through deduction.

The Main Street Employers Coalition (MSEC) is comprised of dozens of trade associations representing businesses operating in virtually every industry and community across the country. The vast majority of these businesses are structured as pass-throughs – S corporations, partnerships, and sole proprietorships – and they rely on the Section 199A pass-through deduction to help them grow, create jobs, and remain competitive.

Individually- and family-owned businesses organized as pass-throughs are the backbone of the American economy. They comprise 95 percent of all businesses, they employ the majority of private sector workers, and they do so literally everywhere. They are the foundation upon which communities across this country are built.

Recent analysis<sup>1</sup> by EY shows just how many Americans are employed by these businesses:

- Pass-through businesses, including S corporations, partnerships, and sole proprietorships, employ 62 percent of the American workforce;
- Private companies of all types employ 80 percent of workers;
- Of the 435 total Congressional districts in America, private companies are responsible for 80 percent or more of total employment in 316 of them.

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<sup>1</sup> Carroll, Robert (EY Quantitative Economics and Statistics Group). *Relative Tax Treatment of Pass-Throughs and C Corporations*. June 6, 2023. <https://s-corp.org/wp-content/uploads/2023/06/EY-S-Corporation-Association-Pass-through-C-corp-parity-analysis-June-2023.pdf>



Why does this matter? The expiration of Section 199A would harm private businesses, putting those jobs at risk.

The Main Street Tax Certainty Act<sup>2</sup> introduced by Representative Lloyd Smucker and Senator Steve Daines would make 199A a permanent fixture of the code, staving off a massive tax hike and providing these businesses with much needed certainty. It is supported<sup>3</sup> by over 160 national trade associations and is cosponsored by more than 180 representatives and 30 senators.

### The Importance of 199A

Last year's EY study clearly demonstrates how vital the 199A deduction is to Main Street parity. The 2017 Tax Cuts and Jobs Act (TCJA)<sup>4</sup> established rough parity between public corporations and pass-through businesses, but only as long as Section 199A is in place. Absent 199A, pass-throughs lose out to large, public corporations regardless of the assumptions made:

Effective tax rates	Pre-TCJA (2016)	Post-TCJA (2019)	Post-TCJA (2026)
Large S corporations	41.2%	34.0%	41.2%
Pass-through businesses	32.9%	27.4%	32.9%
C corporations:			
Closely-held, fully taxable shareholders	43.7%	32.0%	31.6%
38% of corporate shareholders nontaxable (CBO)	42.5%	30.5%	30.1%
75% of corporate shareholders nontaxable (TPC)	38.0%	24.8%	24.7%

EY's numbers are not an aberration. Numerous studies conducted by the nation's top economists from the CBO<sup>5</sup>, Treasury<sup>6</sup>, and the private sector<sup>7</sup> all come to a similar conclusion -- the effective marginal rates faced by corporations and pass-through businesses post-TCJA are roughly equivalent, but only with Section 199A in place.

<sup>2</sup> H.R. 4721, S. 1706

<sup>3</sup> <https://s-corp.org/wp-content/uploads/2023/07/Joint-Trades-Letter-199A-Main-Street-Tax-Certainty-Act-7-6-23.pdf>

<sup>4</sup> P.L. 115-97

<sup>5</sup> Congressional Budget Office. *The Budget and Economic Outlook: 2024 to 2034*. February 7, 2024. <https://www.cbo.gov/publication/59710>

<sup>6</sup> Department of Treasury. *Effective Marginal Tax Rates and Effective Average Tax Rates Under Current Law and Policy for FY2022*. November 2021. <https://home.treasury.gov/system/files/131/EMTRs-and-EATRs-Under-CL-and-Policy-FY22.pdf>

<sup>7</sup> DeBacker, Jason; Kasher, Roy. *Effective Tax Rates on Business Investment Under the Tax Cuts and Jobs Act*. May 2018. <https://www.aei.org/wp-content/uploads/2018/05/tcja20investment.pdf>



	With 199A Deduction		Without 199A Deduction	
	C Corporation	Pass-Through	C Corporation	Pass-Through
<a href="#">DeBacker &amp; Kasher -- Market Returns (AEI)</a>	19.0%	20.0%	19.0%	27.0%
<a href="#">DeBacker &amp; Kasher -- Above Market Returns (AEI)</a>	16.0%	21.0%	16.0%	30.0%
<a href="#">Barro &amp; Furman (Brookings)</a>	26.0%	31.1%	26.0%	35.5%
<a href="#">Treasury (2021)</a>	18.9%	24.2%	23.2%	26.4%
<a href="#">EY (2023)</a>	24.8%	27.4%	24.7%	32.9%
<a href="#">CBO (2024)</a>	17.0%	21.0%		

### 199A Essential for Economic Growth

Given their importance to jobs and the economy, any increase in pass-through taxes would have broad negative effects on the economy. The Brookings Institution paper<sup>8</sup> authored by Robert Barro and Jason Furman cited above isolates the economic impact of the sunseting TCJA provisions, including the 199A deduction, the lower individual rates, and expensing:

**Table 1**  
Summary of the Major Macroeconomic Results for Featured Parameters  
(percent change)

	Law as written	Provisions permanent
<b>Long Run Results</b>		
Corporate productivity	2.5%	4.7%
Pass-through productivity	-0.8%	3.1%
GDP per capita	0.9%	3.1%
<b>10-year Results</b>		
Level of output after 10 years	0.4%	1.2%
Change in annual growth rate	0.04 p.p.	0.13 p.p.
<b>Financing Assumptions, 2018-2027</b>		
Cost assuming JCT scoring and our dynamic feedback	\$1.2 trillion	\$1.7 trillion
Annual lump sum cost per household	\$900	\$1,400

The “law as written” column shows the long-term productivity of the pass-through sector under the TCJA is negative. This result is due to the sunsets starting in 2026 coupled with the TCJA’s permanent base broadening provisions, including the cap on interest deductions, forced amortization of R&E expenses, and the repeal of the manufacturing deduction. These provisions apply to pass-through businesses as well as corporations and they would result in a broad tax hike on pass-throughs starting in 2026.

Making Section 199A permanent would prevent this tax hike and the negative impact it would have on jobs and growth.

<sup>8</sup> Barro, Robert; Furman, Jason. *The Macroeconomic Effects of the 2017 Tax Reform*. March 8, 2018. <https://s-corp.org/wp-content/uploads/2023/06/barrofurman.pdf>



## **Avoiding a Main Street Tax Hike**

Some argue making Section 199A permanent is too expensive, but these concerns ignore the fact that the 199A deduction wasn't adopted in a vacuum. It was paired with numerous offsetting provisions that apply to pass-through businesses, including:

- SALT Cap
- Section 461(l) Excess Loss Limitation Rules
- Section 174 R&E Amortization
- Section 199 Manufacturing Deduction Repeal
- Section 163(j) Interest Deduction Cap
- Section 212 Deduction Limitations

As noted above, many of these provisions are permanent and will stay in the Tax Code even as 199A expires, resulting in a significant tax hike on pass-through businesses post-2025. That tax hike is not relative to the TCJA, but rather the Tax Code that preceded it. If Congress wants to avoid raising taxes on millions of Main Street businesses next year, step one is to make the Section 199A pass-through deduction permanent by passing the Smucker-Daines bill.

## **The Double Corporate Tax**

On paper, C corporations face steep tax rates due to the so-called double tax – the initial 21 percent tax on corporate profits plus a second 23.8 percent tax applied to dividends and capital gains. This theoretical double tax has fooled many observers<sup>9</sup> into believing that public corporations face effective tax rates approaching 40 percent.

The reality, however, is that most shareholders of public corporations today pay little to no tax, thus largely eliminating the burden of the second layer of tax. The Tax Policy Center has the latest data<sup>10</sup> on this progression, finding the percentage of taxable shareholders has declined from around four in five back in 1965 to just one in four today. This decline means the overall effective rate paid by public corporations today is significantly lower than the advertised rate.

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<sup>9</sup> <https://s-corp.org/2024/06/the-experts-get-199a-wrong-part-2/>

<sup>10</sup> Rosenthal, Steven; Mucciolo, Livia; *Who's Left to Tax? Grappling with a Dwindling Shareholder Tax Base*. April 1, 2024. <https://www.taxpolicycenter.org/publications/whos-left-tax-grappling-dwindling-shareholder-tax-base>



It's also far below what comparably sized pass-throughs face. In an excellent defense of the 199A deduction, former JCT head Ken Kies addressed<sup>11</sup> these issues back in 2021:

*...In the United States it's common to talk about the double tax on corporate earnings. As a general proposition, it's not fake news: A corporation pays tax on its earnings and the owners of corporations — that is, the shareholders — generally also pay tax on any remaining earnings that are distributed to them.*

*Based on the best available data, it's estimated that no more than 9 percent of annual corporate profits are subject to tax a second time, and no more than 14 percent will eventually be taxed upon later distribution (that is, as taxable pension or retirement account distributions). That means that only around a maximum of 23 percent of U.S. corporate earnings ever face a second layer of taxation.*

As our EY study shows, the net result is that today's public corporation pays an effective tax rate of between 25 and 30 percent, or 10 to 15 percentage points less than the advertised rate.

### Why Can't They Just Convert

The Brookings analysis also explains why private companies, particularly S corporations, have a hard time competing with public companies under the traditional corporate tax structure. While most public company shareholders are tax advantaged, all S corporation shareholders are, by definition, fully taxable individuals.

**Private companies pay higher rates either way**

Effective tax rates	Pre-TCJA (2016)	Post-TCJA (2021)	Post-TCJA (2026)
Large S corporations	41.2%	34.0%	41.2%
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C corporations:			
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38% of corporate shareholders nontaxable (CBO)	42.5%	30.5%	30.1%
75% of corporate shareholders nontaxable (TPC)	38.0%	24.8%	24.7%

That means the double tax public companies largely avoid applies fully to converted private companies. Converting to C corporation status may be an option for some pass-through companies in theory, but in practice the private company will pay higher rates either way.

<sup>11</sup> Kies, Kenneth. *The Ryder Cup and Section 199A — Really!*. October 12, 2021 (Tax Notes). <https://www.taxnotes.com/tax-notes-today-federal/partnerships-and-other-passthrough-entities/ryder-cup-and-section-199a-really/2021/10/12>



## Geographic Implications

Rate parity has geographic implications. As this heatmap<sup>12</sup> from EY shows, public company employment tends to be concentrated in city centers and the coasts while private company employment, including pass-throughs, is spread more evenly across the country.



By further distorting the Tax Code in favor of public companies, the sunset of Section 199A would fall hardest on those parts of the country that rely on pass-through businesses for their jobs.

## Section 199A is Progressively Neutral

Another criticism of Section 199A is that it benefits high-income taxpayers. While large pass-through businesses do get the 199A deduction, they only do so when they employ lots of people or make significant investments.

That's because Section 199A imposes so-called guardrails that limit the ability of large pass-through businesses to qualify for the deduction. For example, a large pass-through only gets the 199A deduction up to 50 percent of its W-2 wages, while a similar cap limits the deduction based on both wages and capital investments. This Treasury study<sup>13</sup> shows how these and other guardrails exclude about 40 percent of pass-through income from the 199A benefit.

<sup>12</sup> Carroll, Robert (EY Quantitative Economics and Statistics Group). *Distribution of Private and Public Company Employment Across the United States*. [https://s-corp.org/wp-content/uploads/2021/09/S-Corp-Association-Slide-deck-Public-Employment-Analysis\\_.pdf](https://s-corp.org/wp-content/uploads/2021/09/S-Corp-Association-Slide-deck-Public-Employment-Analysis_.pdf)

<sup>13</sup> Goodman, Lucas; et al. *Simulating the 199A Deduction for Pass-Through Owners*. May 2019 (Department of Treasury). <https://home.treasury.gov/system/files/131/WP-118.pdf>



Table 2: Estimates of hypothetical 2016 static tax savings under different provisions of Section 199A

	2016 Static Deduction (1)	2016 Static Tax Savings (2)	Loss Carryforwards Generated (3)
No limitations:	\$261.29 billion	\$62.85 billion	\$273.24 billion
Add ordinary income limit:	\$221.00 billion	\$57.38 billion	\$273.24 billion
<i>Guardrails:</i>			
Add service restriction:	\$162.76 billion	\$40.05 billion	\$257.72 billion
Add income exception:	\$183.46 billion	\$44.02 billion	\$272.90 billion
Add wage limitation:	\$153.18 billion	\$33.36 billion	\$272.90 billion
<b>Baseline:</b> Add capital exception:	\$156.47 billion	\$34.50 billion	\$272.90 billion
Allow aggregation (upper bound):	\$164.00 billion	\$37.18 billion	\$272.92 billion

The result is that Section 199A is neutral regarding progressivity. As a recent Congressional Research Service report<sup>14</sup> observed: “The Section 199A deduction appears to have little effect on vertical equity, as it does not appear to diminish the progressivity of the federal income tax.” Put differently, the guardrails are functioning as intended while encouraging larger pass-through businesses to invest in their workers and communities.

## Conclusion

Main Street businesses organized as pass-throughs represent more than 95 percent of all businesses, employ the majority of private-sector workers, and are a staple of virtually every community in the United States.

As members of the Main Street Tax Team continue their important work, we ask that you protect these businesses by making permanent the Section 199A pass-through deduction. We thank you for your consideration and stand ready to work with you to advance this critical policy.

Sincerely,

The Main Street Employers Coalition  
[www.MainStreetEmployers.org](http://www.MainStreetEmployers.org)

<sup>14</sup> Guenther, Gary. *Section 199A Deduction: Economic Effects and Policy Issues*. February 28, 2024 (Congressional Research Service). <https://crsreports.congress.gov/product/pdf/R/R46650>



The Honorable Steve Daines  
320 Hart Senate Office Building  
Washington, DC 20510

The Honorable Lloyd Smucker  
302 Cannon House Office Building  
Washington, DC 20515

July 6, 2023

Dear Senator Daines and Congressman Smucker:

The undersigned business groups strongly support the introduction of your Main Street Tax Certainty Act of 2023, legislation to make permanent the 20-percent deduction for small- and individually-owned businesses (Section 199A).

Your legislation would provide certainty to the millions of S corporations, partnerships and sole proprietorships that rely on the Section 199A deduction to remain competitive both here and overseas.

Individually- and family-owned businesses organized as pass-throughs are the backbone of the American economy. They employ the majority of private-sector workers and account for 95 percent of all businesses. They also make up the economic and social foundation for countless communities nationwide. Without these businesses and the jobs they provide, many communities would face a more uncertain future of lower growth, fewer jobs, and more boarded-up buildings.

Despite this, Section 199A is scheduled to sunset at the end of 2025, even as the businesses it supports continue to recover from the COVID-19 pandemic and the price hikes, labor shortages, and supply chain disruptions that followed.

Making the Section 199A deduction permanent will help Main Street during this very difficult time, leading to higher economic growth and more employment. Separate studies by economists Barro and Furman, the American Action Forum, and DeBacker and Kasher found that making the pass-through deduction permanent would result in significantly improved parity and lower rates for Main Street businesses.

The more quickly Congress acts to make Section 199A permanent, the sooner Main Street businesses will benefit. We appreciate your introduction of this important legislation and look forward to seeing it enacted.

Sincerely,

Agricultural Retailers Association  
AICC, The Independent Packaging Association  
Air Conditioning Contractors of America (ACCA)  
American Bakers Association  
American Building Materials Alliance (ABMA)  
American Council of Engineering Companies  
American Dental Association  
American Farm Bureau Federation



American Foundry Society  
American Hotel & Lodging Association  
American Lighting Association  
American Mold Builders Association  
American Petroleum Institute  
American Pipeline Contractors Association  
American Staffing Association  
American Subcontractors Association  
American Sugar Alliance  
American Sugarbeet Growers Association  
American Supply Association  
American Trucking Associations  
American Veterinary Medical Association  
Associated Builders and Contractors  
Associated Equipment Distributors  
Associated General Contractors of America  
Association of the Wall and Ceiling Industry  
Automotive Service Association  
CCIM Institute  
Construction Industry Round Table  
Convenience Distribution Association  
Distribution Contractors Association  
Education Market Association  
Energy Marketers of America  
Finseca  
FMI - the Food Industry Association  
Foodservice Equipment Distributors Association  
Forest Resources Association  
Forging Industry Association  
Georgia Agribusiness Council  
Glass Packaging Institute  
Global Cold Chain Alliance  
Hearth, Patio & Barbecue Association  
Heating, Air-conditioning, & Refrigeration Distributors International  
ICSC  
Illinois Farm Bureau  
Independent Bakers Association  
Independent Community Bankers of America  
Independent Electrical Contractors  
Independent Insurance Agents & Brokers of America (Big "I")  
Industrial Fasteners Institute  
Institute of Real Estate Management  
Institute of Scrap Recycling Industries Inc.  
International Foodservice Distributors Association  
International Franchise Association  
International Fresh Produce Association

International Housewares Association  
International Sign Association  
Irrigation Association  
Job Creators Network  
Livestock Marketing Association  
Main Street Employers Coalition  
Manufactured Housing Institute  
Manufacturer & Business Association  
Mortgage Bankers Association  
NABIP  
NAIOP, the Commercial Real Estate Development Association  
Nareit  
National Apartment Association  
National Association of Benefits and Insurance Professionals  
National Association of Convenience Stores  
National Association of Electrical Distributors  
National Association of Home Builders  
National Association of Insurance and Financial Advisors  
National Association of Professional Insurance Agents  
NATIONAL ASSOCIATION OF REALTORS®  
National Association of Sporting Goods Wholesalers  
National Association of Wholesaler-Distributors  
National Automatic Merchandising Association (NAMA)  
National Automobile Dealers Association  
National Beer Wholesalers Association  
National Cattlemen's Beef Association  
National Council of Agricultural Employers  
National Council of Farmer Cooperatives  
National Electrical Contractors Association  
NATIONAL ELECTRICAL MANUFACTURERS REPRESENTATIVES ASSOCIATION  
(NEMRA)  
National Federation of Independent Business (NFIB)  
National Funeral Directors Association  
National Grain and Feed Association  
National Grange  
National Grocers Association  
National Insulation Association  
National Lumber & Building Material Dealers Association  
National Marine Distributors Association  
National Multifamily Housing Council  
National Onion Association  
National Pecan Federation  
National Pork Producers Council  
National Ready Mixed Concrete Association  
National Restaurant Association  
National Roofing Contractors Association

National RV Dealers Association (RVDA)  
National Small Business Association  
National Stone, Sand, & Gravel Association  
National Tooling and Machining Association  
National Utility Contractors Association  
National Waste & Recycling Association  
National Wooden Pallet & Container Association  
Nebraska Cooperative Council  
New York Farm Bureau  
New York State Agribusiness Association  
North American Association of Food Equipment Manufacturers (NAFEM)  
North American Die Casting Association  
North American Equipment Dealers Association  
North Dakota Grain Growers Association  
Ohio AgriBusiness Association  
Oregon Cattlemen's Association  
Outdoor Power Equipment and Engine Service Association  
Pennsylvania Farm Bureau  
Performance Racing Industry (PRI)  
Pet Industry Distributors Association  
Petroleum Equipment Institute  
Plastics Pipe Institute  
Plumbing-Heating-Cooling Contractors--National Association  
Power and Communication Contractors Association  
Precision Machined Products Association  
Precision Metalforming Association  
PRINTING United Alliance  
Professional Beauty Association  
Reserve Organization of America (ROA)  
Retail Bakers of America  
Rocky Mountain Agribusiness Association  
S Corporation Association  
Service Station Dealers of America and Allied Trades (SSDA-AT)  
Small Business & Entrepreneurship Council  
Society of American Florists  
Society of Collision Repair Specialists (SCRS)  
Specialty Equipment Market Association (SEMA)  
Structural Insulated Panel Assn. (SIPA)  
Subchapter S Bank Association  
Texas Ag Industries Association  
Texas Farm Bureau  
Texas Vegetation Management Association  
Textile Care Allied Trades Association  
The Association for Hose and Accessories Distribution  
The Council of Insurance Agents and Brokers  
The Hardwood Federation

The Midwest Council on Agriculture  
The Real Estate Roundtable  
Tile Roofing Industry Alliance  
Tire Industry Association (TIA)  
Truck Renting and Leasing Association  
U.S. Chamber of Commerce  
U.S. Peanut Federation  
USA Rice  
Water and Sewer Distributors of America (WASDA)  
Wholesale Florist & Florist Supplier Association  
Wine & Spirits Wholesalers of America  
Wine Institute  
Wisconsin Grocers Association  
Wood Machinery Manufacturers of America  
Wyoming Farm Bureau Federation  
Wyoming Stock Growers Association