September 14, 2021

The Honorable Richard Neal	The Honorable Kevin Brady
Chairman	Ranking Member
Committee on Ways & Means	Committee on Ways & Means
U.S. House of Representatives	U.S. House of Representatives
1102 Longworth House Office Building	1139 Longworth House Office Building
Washington D.C. 20515	Washington D.C. 20515

Dear Chairman Neal and Ranking Member Brady:

The National Association of Convenience Stores (NACS) has concerns with the recently released tax provisions of the reconciliation package as it is currently drafted. Some of the tax changes being considered by the House of Representatives may cripple the ability of many businesses, particularly small businesses, to fully recover from the economic storm attributable to the ongoing COVID-19 pandemic. NACS represents the more than 150,000 convenience stores across the nation and their 2.4 million employees. More than 60% of those stores are single store operators and the vast majority operate as pass-through entities. In addition, the convenience and fuel retailing industry sells over 80% of the motor fuels in the United States and are located in each city, county and state.

Small Businesses Should Not Bear Unfair Cost Burdens

Convenience operators are very concerned with the cumulative effect that the various tax increases included in the package will have on their businesses. Considering most convenience retailers operate as pass-through entities, the increase in the top individual rates constitutes a significant tax increase on small businesses. In an industry that sells more than 80% of the retail fuel in the United States it does not take an enormous volume of sales to reach the $400,000 threshold envisioned in the bill for the point where the rate increases.

The cap on the 199A deduction is particularly concerning for many of our members. The purpose of the deduction was to bring the overall tax burden faced by small businesses which operate as pass through entities more in line with the tax burden felt by businesses organized as corporations. By raising the top tax bracket and limiting the 199A deduction this proposal will do the opposite. It will expand the disadvantage small businesses find themselves in compared to some of their corporate competitors. That is the wrong direction for tax policy to move.

Tobacco Taxes Should Not Be So Large They Spur the Illicit Market

Convenience retailers take the responsibility of selling age-restricted products very seriously, investing millions of dollars in compliance, training and technology. Our industry does not typically take a position on increases to the federal excise tax (FET) on tobacco. The proposal under consideration, however, would double the FET for cigarettes and apply tax parity to all other tobacco and nicotine products. An increase of such magnitude will not dissuade users of the product or raise revenue as intended, but rather push many current users of tobacco and nicotine products to the illicit market. In the illicit market, products are unregulated, sellers do not verify age, and taxes are not collected and remitted. This undermines health and revenue policy as well as the efforts of responsible retailers who comply with the law. For this reason, we oppose the proposed increase in the FET.

Alternative Fuel Vehicle Refueling Property Tax Credit Should Be Improved

With over 150,000 locations along roads that are traveled by Americans each and every day, our members want the opportunity to compete and offer electric charging to electric vehicle (EV) drivers and thus support a robust and effective update to the alternative fuel vehicle refueling property tax credit (26 USC §30C) in the budget reconciliation package. Specifically, we urge you to add direct payment to the credit, increase its value, and extend its term, consistent with the president's Fiscal Year 2022 Revenue Proposal, to promote the large-scale investment in clean transportation technology. An updated tax credit will help leverage private sector investment to meet the president's goal of deploying 500,000 charging stations across the United States by 2030. NACS appreciates the efforts of Congress to speed the build out of charging infrastructure, including legislation such as the Securing America's Clean Fuels Infrastructure Act (S. 975), which would replace the §30C tax credit's $30,000 cap per location with a $200,000 cap per EV charger. That would bring it in line with the large capital costs of the fast chargers that the industry is deploying today.

As Congress considers the option for direct payment for critical clean energy incentives, we urge you to similarly add a direct payment option to the alternative fuel vehicle refueling property tax credit. The nascent electric transportation infrastructure industry, as well as potential station site host owner-operators, such as convenience and fuel retailers, sometimes lack the tax liability necessary to monetize the §30C tax incentive, and often are not able to access tax equity markets. Thus, NACS strongly supports updating the §30C tax credit to accelerate deployment of EV chargers and hydrogen fueling in the coming years.

On behalf of the more than 150,000 convenience stores we encourage you to reject the tax increases on small businesses as proposed and make the credit for alternative fuel vehicle refueling property credit workable so that the bill will promote the growth of small businesses and allow them to continue to compete on a level playing field with others.

Sincerely,

Lyle Beckwith

Lyle Beckwith
Sr. Vice President Government Relations
National Association of Convenience Stores

CC: All Members of the U.S. House of Representatives