April 9, 2020

The Honorable Mike Pence
Vice President of the United States
The White House
Washington, D.C. 20501

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

The Honorable Russell T. Vought
Acting Director
Office of Management and Budget
725 17th Street NW
Washington, D.C. 20503

Dear Vice President Pence, Secretary Mnuchin, and Acting Director Vought:

We write to request communications and other information pertaining to the Trump administration's advocacy for two tax provisions included in the Coronavirus Aid, Relief, and Economic Security Act (PL 116-136). These provisions are Title 2, Subtitle C:

> SEC. 2303. MODIFICATIONS FOR NET OPERATING LOSSES; and
>
> SEC. 2304. MODIFICATION OF LIMITATION ON LOSSES FOR TAXPAYERS OTHER THAN CORPORATIONS.

As you know, the 2017 tax law (PL 115-97) changed the way non-corporate taxpayers can carry losses from a given year to minimize their tax bills in other years. Beginning in tax year 2018, taxpayers filing jointly could only use $500,000 in losses from actively-managed investments, like pass-through income from businesses, to offset wage or capital gains income. For example, if one spouse owns a company that had a $5 million loss in 2018 and the other spouse made $5 million from stock market investments, this limitation meant that the couple's taxable income was $4.5 million (not zero, if the loss were allowed to fully cancel out the income). The other $4.5 million in losses, however, could be carried forward to use in future years.

PL 115-97 included another change that prohibits corporate and non-corporate taxpayers from carrying losses back in time. Before this change, a taxpayer that incurred a big loss in a given year could retroactively amend prior tax returns (going back up to five years) to use the losses to cancel out income, and thus to receive tax refunds. The 2017 law allowed losses to be carried forward indefinitely to future years but also limited the amount of income losses can offset to 80% of taxable income in a given year. Thus, a taxpayer with $10 million in income would still have at least $2 million in taxable income, regardless of losses.

Sections 2303 and 2304 effectively suspend these changes for tax years 2018 through 2020. Following passage of this legislation, the Joint Committee on Taxation estimated the provisions together would reduce revenue by $195 billion over ten years, together, among the costliest provisions in the bill.

So that Congress and the American public can better understand the provenance of these tax law changes, and assess whether any individuals within the Administration who stand to gain from these provisions were involved in their development, we request you provide the following information within 15 days of the date of this letter:

- All communications from January 1, 2020 to the present between the White House, Department of Treasury, or the Office of Management and Budget and any non-government person or entity related to sections 2303 or 2304, or the policies modified by those sections.
- All communications between the Department of Treasury and the White House, and between the Department of Treasury and the Office of Management and Budget, related to sections 2303 or 2304, or the policies modified by those sections, in the development of the Coronavirus Aid, Relief, and Economic Security Act.
- All studies, analyses, proposals, cost estimates, or other information considered by the White House, the Department of Treasury, or the Office of Management and Budget related to sections 2303 or 2304, or the policies modified by those sections, in the development of the Coronavirus Aid, Relief, and Economic Security Act.

Thank you for your prompt attention to this request.

Sincerely,

Sheldon Whitehouse
United States Senator

Lloyd Doggett
Member of Congress