January 14, 2025

The Honorable Jason Smith
Chairman
U.S. Ways and Means Committee
1139 Longworth House Office Building
Washington D.C. 20515

The Honorable Richard Neal
Ranking Member
U.S. Ways and Means Committee
1139 Longworth House Office Building
Washington D.C. 20515

Chairman Smith and Ranking Member Neal:

NATSO, Representing America's Travel Centers and Truckstops, and SIGMA: America's Leading Fuel Marketers (together, the "Associations") represent more than 80 percent of retail sales of motor fuel in the United States.[1] On behalf of the retail fuel industry, a sector comprised overwhelmingly of small, main street businesses, we are grateful that the Ways and Means Committee (the "Committee") has convened a hearing on extending the tax provisions enacted under the Tax Cuts and Jobs Act of 2017 ("TCJA"). The Associations are eager to work with the Committee to extend many of the provisions enacted under the TCJA.

Travel centers and fuel retailers are an economic engine for communities throughout the country. In 2023, the travel center and convenience industry paid or collected $208.3 billion in taxes.[2] The industry employed more than 2.44 million employees, generated $859.8 billion in sales (including $533 billion in fuels sales), and processed approximately 165 million transactions per day in 2023. In all, approximately 93 percent of Americans live within 10 minutes of a convenience store – and this includes 86 percent of those who live in rural areas. Single store operators account for more than 60 percent of the stores in the convenience and fuel retailing industry; 75 percent of the industry is comprised of companies with ten or fewer locations.[3] In many instances, they are the largest employers and largest taxpayers in their communities and the only 24-hour location where local residents can buy basic groceries. If TCJA tax policies are not extended, many of the Associations' members will struggle to reinvest in their respective businesses, and in some circumstances, may be unable to continue to operate.

The Associations believe it is best for the American consumer and America's industrial position in the world marketplace to have low and stable energy prices. The retail fuels market is the most transparent, competitive commodities market in the United States. As every American knows, drivers can see gasoline retailers' price signs from blocks away, or compare prices on their mobile devices. These signs represent more than just pricing information; they are a value

[1] NATSO currently represents approximately 5,000 travel plazas and truckstops nationwide, comprising both national chains and small, independent locations. SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel. The retail fuels and convenience industry provide 2.38 million jobs at approximately 120,000 retail establishments across the country.

[2] See NACS, State of the Industry (2023).

[3] *Id.*

proposition to potential customers, not only with respect to fuel, but also food and other convenience items and amenities that are offered at specific facilities.[4]

Fuel retailers identify the most reliable, lowest cost transportation energy available, and efficiently deliver that energy to every community in the country. In so doing, they compete with one another on price, speed, and quality of facilities and service. If the TCJA provisions are allowed to expire, it will limit the investments these companies make in their operations to deliver competitively priced fuel to consumers; because America remains a petroleum-based economy, this would have a tangible inflationary impact that all Americans would absorb.

When the underlying tax environment is sufficiently favorable to engender new investment, fuel retailers have proven they will return those benefits to consumers and the local community. This includes investments in alternative fuel technologies, including biofuels, hydrogen, electricity, and other alternative fuels.

The Committee has an opportunity to (i) ensure business tax laws promote market-oriented, consumer-focused fuel supply chains, and (ii) advance policies that allow fuel retailers to invest in a wide variety of refueling technologies that lower prices for consumers.

I. Business Tax Policies of Importance to the Fuel Retail Industry.

a. Section 199A Qualified Business Income Deduction.

The Associations strongly urge the Committee to make permanent the Section 199A deduction for Qualified Business Income of pass-through businesses. Much of our membership is organized and operated through pass-through businesses, and Section 199A appropriately promotes parity between the tax treatment of different businesses based on their organization and form.

Were Section 199A to expire as scheduled, alongside scheduled shifts in individual income tax rates applying to pass-through income, the top marginal rate that many of these businesses would be forced to pay would spike sharply, rising to 39.6 percent essentially overnight – nearly double the 21-percent corporate rate. This abrupt shift would have a deeply adverse impact on our members and affect their ability to invest in communities throughout the country. Section 199A was designed solely to avoid that perverse outcome, and to allow small mom-and-pop businesses to pay a comparable tax rate as larger corporations.

Section 199A has allowed our members to invest in retail fuel infrastructure and operations throughout the United States. We strongly encourage the Committee to make the Section 199A deduction permanent.

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[4] The retail diesel market is even more competitive and transparent as many travel centers' customers—truck drivers and trucking fleets—are more savvy and price-conscious than typical American motorists. (Fuel generally amounts to 30-40% of a motor carrier's overall costs.) Truck drivers are often aware of retail fuel prices when they are 100 miles away from potential refueling sites, and fleet managers use this information to direct drivers to specific retail locations in order to purchase the lowest-priced fuel available. This imposes strong downward pressure on retail diesel prices.

b. Bonus Depreciation.

The Associations thank Chairman Smith and the Committee for their work last Congress on H.R. 7024, the Tax Relief for American Families and Workers Act of 2024. The Associations support the permanent extension of full expensing or "bonus depreciation" under Section 168(k) and the increased expensing limits under Section 179. Current law allows fuel retailers, for Federal income tax purposes, to recover the costs of certain capital assets through annual depreciation deductions. The 15-year recovery period, set by a combination of federal law and administrative guidance, is intended to mirror the economic reality of an asset's useful life.

Specifically, this schedule more accurately reflects the real-world decline in value of tangible assets and the time period in which those assets are likely to be replaced than does the schedule for "other commercial real estate." Shorter depreciation schedules generate capital that can be reinvested in a business. The Committee should pursue policies that produce such results. If the depreciation schedules were to be extended, businesses would not necessarily be able to recover their costs and replace their capital assets at the appropriate time. This decreases the likelihood that the business will be able to create jobs and succeed in the marketplace.

c. Estate Tax and Basis Calculation for Capital Gains.

The Associations have long supported estate tax relief, and urge the Committee to either maintain or increase the estate tax exemption threshold established under the TCJA. The estate tax discourages savings and investment, creates a disincentive to expand businesses, and requires the diversion of resources for costly estate planning. Many of the Associations' members operate small, family-owned businesses, and far too often the estate tax taxes family businesses right out of the family. The estate tax imposes a 40 percent tax on the taxable estate of any person at the time of death, subject to a certain exemption threshold. Additionally, when appreciated assets are bequeathed, the heir receives a basis in that asset equal to its fair market value, commonly referred to as a step-up in basis.

The Associations are particularly concerned with proposals that would modify current provisions on the step-up in basis. The Associations' members have invested decades of their lives in their businesses, often with the help of family members, and many would prefer to pass on their business to their heirs upon death. If Congress modifies current provisions related to the step-up in basis, these heirs may be unable to retain the family business due to potential tax liability. Such changes would impose new capital gains taxes and could create unintended illiquidity events. Furthermore, any attempt to properly value the original owner's basis would generate unnecessary logistical complexities. Combined with the estate tax, this change would further disincentivize small business owners from investing in their companies and could cause families to lose their family businesses.

d. Last-In, First-Out ("LIFO") Accounting.

As the Committee considers changes to the tax code, it is essential to maintain LIFO as an acceptable inventory accounting method. The Associations' members, including many pass-through entities, utilize LIFO as a more accurate accounting method for measuring operations' current economic performance. Repeal or modifications of LIFO would result in significant, unfunded tax liabilities for LIFO businesses when those businesses have no corresponding cash with which to satisfy the resulting liabilities. This will create illiquidity events, resulting in job

losses and business closures. In general, businesses must track and account for inventory to determine the cost of goods sold and to determine taxable income.

If Congress repeals LIFO, it will create a preference in the tax code favoring one type of business over another. Furthermore, subjecting LIFO reserves to a recapture tax is a breach of faith with taxpayers utilizing LIFO. These businesses have dutifully followed tax laws for decades, properly accounting for changes in their inventories and paying the required taxes on their reserves.

II. Tax Considerations for Fuel Supply Chains and Alternative Energy Sources.

Beyond many of the critical business tax provisions included in the TCJA, the Associations urge the Committee to advance ambitious, market-based, and consumer-oriented energy tax policies. Alternative fuels, for instance, diversify and lengthen the supply of transportation energy.

a. The Section 40A and Section 45Z Credits for Advanced Biofuels.

Many of the Associations' members buy and blend biofuels into the gasoline and diesel sold at their locations.[5] The "Section 40A" Biodiesel Tax Credit, an incentive for blending biodiesel and renewable diesel into petroleum-based diesel, has worked to successfully lower diesel prices for the trucking industry while also maximizing the environmental benefits of transportation fuels and extending fuel supply. The credit expired at the end of 2024 and was replaced by the Inflation Reduction Act's "Section 45Z" Clean Fuel Production Credit, a complex, untested new tax scheme.

After failing to meet a Congressionally-set deadline to issue guidance on the Section 45Z credit, President Biden issued last-minute, piecemeal regulations that failed to provide the market with the certainty needed to mobilize new capital. The expiration of the Section 40A credit, combined with insufficient, seemingly temporary Section 45Z guidance from the Biden Administration, is creating pervasive headwinds in the renewable fuels industry.

Biodiesel plants are idling or declaring bankruptcy; fuel retailers are unwilling to purchase biofuel gallons because the value of the incentive associated with those fuels is unknown. Many of these retailers are single-store operators that have invested millions in biodiesel blending infrastructure in response to Congressional policy signals. Congress should extend the Section 40A Biodiesel Tax Credit for at least one year to mitigate the damage the current uncertainty is inflicting upon the advanced biofuel industry.

In the longer term, the Committee should strongly consider *bifurcating* these incentive regimes, such that there is *one scheme* that incentivizes the production and consumption of fuels using feedstocks that currently make *diesel* substitutes (*i.e.*, vegetable oil, used cooking oil, animal fats, etc.), and *another provision* that incentivizes the production and consumption of fuels using feedstocks that currently make *gasoline* substitutes (*i.e.*, corn-based ethanol). Not only would this

[5] Biofuels are low-carbon fuels derived from materials such as agricultural crops or organic waste, which are utilized as an alternative to traditional petroleum-based fuels. Ethanol, for example, is generally made from corn feedstocks and blended into the gasoline supply across the nation today. Existing biofuel tax policies improve domestic energy security and lower prices for consumers at the pump.

result in a sound policy outcome, but it would also allow the stakeholder community to better coalesce around and work with the Committee toward the best policy solutions for all of these products.

b. 45V Credit for Clean Hydrogen Production.

Many of the Associations' members – particularly those with highway locations that service heavy duty commercial trucks – are also actively expanding their hydrogen capabilities in response to market- and federal policy signals. They have developed new commercial relationships with companies in the hydrogen value chain, actively participate in multiple "hydrogen hub" projects, and are actively exploring hydrogen grant and loan guarantee opportunities that have enjoyed bipartisan support in Congress.

Hydrogen-powered trucks would leverage *existing* refueling infrastructure and a supply chain familiar to the industry: centralized production and transportation to market, along with retail fuel sales through a network of well-functioning and convenient refueling locations. As transportation energy retailers and distributors, our membership will rely upon hydrogen producers to provide an economical supply of clean hydrogen in the years ahead.

Tax policy should maximize the market's ability to realize these objectives. Congress should continue to maintain, and ensure the efficacy of, Section 45V. Properly implementing Section 45V will result in the development of hydrogen supply chains that will be competitive well beyond Section 45V's expiration.[6]

c. Section 30C Credit for Alternative Refueling Infrastructure.

The Section 30C tax credit ("30C Credit") is a long-standing, technology-neutral tax credit for the installation of alternative refueling infrastructure, including hydrogen stations and electric vehicle "EV" charging stations. The 30C Credit is a well-crafted tax policy designed to prompt technology-neutral investments in alternative refueling infrastructure. The Associations have many members who are making investments premised on economics that incorporate the 30C credit. We support this important policy.

III. Conclusion.

The Associations appreciate the Committee's focus on these important tax policies that support the travel center and fuel marketing industry. We look forward to our continued work with the Committee.

Sincerely,

NATSO, Representing America's Travel Plazas and Truckstops
SIGMA: America's Leading Fuel Marketers

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[6] *See* comment letter from the Associations on the proposed rulemaking from Treasury implementing the Section 45V hydrogen production tax credit, *available at*, https://www.regulations.gov/comment/IRS-2023-0066-29642.