

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 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.  
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 Assc.  
Knowlan's Super Markets, Inc.  
Kocian's Family Market  
Kramer Foods  
LaBonne's Markets  
Lamb's Fresh Market  
Legrand, North America  
Levi Straus & 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  
Trendahl'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.