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May 14, 2018

Honorable Kevin Brady
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Honorable Orrin Hatch
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Chairmen Brady and Hatch:

On behalf of the National Association of Professional Insurance Agents (PIA)¹, I write to ask that you work with the administration to issue clarifying language related to the tax reform law, H.R. 1.

When Congress began its work on tax reform, PIA was encouraged by the historic opportunity to provide tax relief for small business owners and overhaul the complicated tax structure for all taxpayers. About half of all PIA member agencies own independent insurance businesses organized as sole proprietorships, partnerships, LLCs, or Subchapter S (“pass-through”) corporations. Under the law as it existed before the passage of H.R. 1, such small businesses did not pay corporate income tax. Instead, their business income “passed through” their small companies and appeared directly on their owners’ individual tax returns, where it was taxed as normal income.

While the new law provides provisions that will result in savings for some pass-through entities (new Internal Revenue Code Section 199A), the benefit is limited by an income threshold and a categorical exclusion that may prevent some PIA members with pass-throughs from benefitting from the new deduction. The 20% deduction is not allowed for service trades or businesses with income over a certain threshold (\$207,500 for individuals or \$415,000 for joint filers).

For those filing individually whose pass-through income is between \$157,500 and \$207,500, and for those filing jointly whose pass-through income is between \$315,000 and \$415,000, where the deduction is subject to a gradual phase-out, the language describing the excluded trades and businesses is ambiguous. The law leaves unclear whether income earned by independent insurance agents is considered “qualified business income.” It excludes “brokerage services” but is unclear as to whether insurance agents and brokers will be viewed as engaging in “brokerage services.” Finally, it excludes any trade or business in which the “principal asset” of the business is the “reputation or skill” of the business owners or employees. Because of these provisions, the

¹ PIA is a national trade association founded in 1931, which represents member insurance agents in all 50 states, Puerto Rico, Guam, and the District of Columbia. PIA members are small business owners and insurance professionals.

law could be interpreted as disallowing insurance agents from taking the new pass-through deduction based on any or all these caveats. Whether insurance agencies are excluded may remain unknown until the Internal Revenue Service (IRS) issues regulations or guidance pertaining to the new law.

PIA respectfully asks that, as the authors of H.R. 1, you work with the IRS and the administration to ensure that owners of independent insurance agencies can benefit from the maximum deduction or include clarifying language in any technical bill that is passed by Congress. Independent agents play a critical role in the insurance marketplace across lines of business and around the country, providing individuals and businesses with expert advice on often complex issues. They are small business owners providing advice to their local communities. Including small businesses like insurance agencies in a group that includes global law firms is unfair and will hurt small business owners. Guidance from the IRS should clarify that insurance agency owners who file as S corps are able to use the 20 percent deduction, which will allow for business growth. Otherwise, they may need to consider reorganizing as C corporations, a burdensome and costly process for small businesses.

If we can be of any additional assistance, please contact Jon Gentile, PIA National vice president of government relations, at jonge@pianet.org.

Sincerely,



Mike Becker
Executive Vice President and CEO
PIA National