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The Honorable Richard Neal
Chairman
Committee on Ways and Means
United States House of Representatives
Washington, DC 20515

The Honorable Kevin Brady
Ranking Republican Member
Committee on Ways and Means
United States House of Representatives
Washington, DC 20515

Dear Chairman Neal and Ranking Member Brady:

On behalf of the Credit Union National Association (CUNA), I am writing to thank you for holding this hearing, "The 2017 Tax Law and Who It Left Behind." CUNA represents America's credit unions and their more than 115 million members. Credit unions are Americans' best option for financial services. I respectfully request that this letter be made part of the hearing record.

The importance of having not-for-profit credit unions as vibrant and viable alternatives in the financial services marketplace is as significant today as it has ever been. The fact that this hearing is happening at all provides ample evidence of the need for this alternative in the marketplace. Credit unions provide accessible and affordable basic financial services to people of all means and encourage the equitable distribution of capital across all individuals, families, communities and small businesses. Credit unions infuse financial market competition with multiple and differentiated competitive business models. They help keep financial services accessible – and affordable – for all consumers, whether they are members of a credit union or not.

Credit unions provide significant financial benefits to their members. The nation's 115 million credit union members benefit by \$12 billion a year as a result of paying fewer and lower fees and lower loan rates and earning higher rates on deposits compared to banking institutions. This \$12 billion is not retained by just a few large stockholders. Instead it is distributed across all 115 million members based on their usage of the credit union. In fact, relatively more of the benefit accrues to lower income members than would be explained by their volume of business at the credit union because credit union pricing tends to be friendlier to lower balance accounts than at banks and alternative financial institutions.

I appreciate that the Tax Cuts and Jobs Act of 2017 (TCJA) recognizes and, in a sense, reaffirms the federal income tax status of credit unions. By not altering the credit union federal income tax status, Congress demonstrated its long-held belief in the credit union model and structure. However, the TCJA imposes an excise tax on certain executive compensation provided by tax-exempt organizations. Tax-exempt entities are now required to pay a 21% excise tax on the five highest paid employees' compensation that individually exceed \$1 million annually. CUNA and other not-for-profit employers are concerned about the lack of parity between existing for-profit and not-for-profit employee contracts regarding the not-for-profit 21 percent excise tax and the

deductibility of corporate executive compensation. The TCJA exempts from deductibility limits existing corporate executive compensation contracts by “grandfathering” in “for-profit” executive contracts in effect on or before November 2, 2017. No such provision was included for not-for-profit employee contracts. This amounts to a retroactive tax on the nonprofit sector as these contracts were agreed upon with certain tax considerations assumed. CUNA and the nonprofit sector are deeply concerned about this lack of parity.

The Tax Cuts and Jobs Act of 2017 (TCJA) also extends the Unrelated Business Income Tax (UBIT) to certain employee fringe benefits. The TCJA requires tax-exempt organizations currently subject to UBIT to pay UBIT (effectively 21 percent) on certain employee fringe benefits, namely transportation and parking benefits, as well as on-site gyms and athletic facilities. For profit businesses are no longer allowed to deduct these and other employee benefits. The definitions and IRS guidance regarding this provision is severely lacking in substance and clarity. Absent a clear repeal of this provision in the TCJA, a delay in its implementation would hold these tax-exempt employers harmless until they have clear instructions on how to file.

Further, some cities, including Washington, DC, New York, and San Francisco, have mandated employer-provided pre-tax mass transit benefits. As a result, employers in those cities cannot avoid the new tax. Nationwide, thousands of credit unions and other not-for-profit entities that have historically had very limited contact with the IRS and have also never needed this type of administrative expertise, are now suddenly required to begin filing tax returns and pay income tax. It has been estimated that two million employees living in such jurisdictions have these mandated benefits. In addition, this new tax on fringe benefits basically taxes an expenditure made by an employer, not sales or other revenue-generating activity. CUNA and others have lobbied Congress to exempt from this new tax all not-for-profit employers who are subject to these local mandates.

On behalf of America’s credit unions and more than 115 million members, thank you very much for your consideration of our views.

Sincerely,



Jim Nussle
President & CEO