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June 19, 2019

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 America's credit unions, I am writing to thank you for holding a markup on H.R. 3300, the Economic Mobility Act of 2019. Specifically, credit unions are strongly supportive of Section 401 of the bill, which reads, "Repeal of inclusion of certain fringe benefit expenses in unrelated business taxable income." The Credit Union National Association (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.

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.

The Tax Cuts and Jobs Act of 2017 (TCJA) 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. The definitions and IRS guidance regarding this provision is severely lacking in substance and clarity. Thus, CUNA strongly supports a repeal of this provision of the TCJA as furthered by Section 401 of the Economic Mobility Act of 2019.

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.

In addition, 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. I urge you to consider granting this parity by amending H.R. 3300 during the committee’s markup.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Nussle". The signature is fluid and cursive, with a large loop at the beginning and end.

Jim Nussle
President & CEO