



September X, 2021

The Honorable Richard Neal
Chairman
Committee on Ways & Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin Brady
Ranking Member
Committee on Ways & Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Neal and Ranking Member Brady:

We, the undersigned members of the Family Business Estate Tax Coalition (FBETC), write to state our unequivocal support for the continuation of stepped-up basis. Stepped-up basis prevents family-owned businesses and farms from being hit with a significant and damaging tax bill when a family member passes away. The FBETC opposes any changes to stepped-up basis that would increase taxes on family-owned businesses and farms—including administratively unworkable “protections” that simply delay destructive tax hikes.

On April 29, 2021, President Biden unveiled the American Families Plan, which proposed eliminating stepped-up basis with unspecified protections for family-owned businesses and farms. It remains unclear how and if these protections would shield future generations from substantial tax increases—but we know that current law *already* provides effective protections for families seeking to pass a business on to the next generation.

Ineffective protections for family businesses have been tried before. For example, in 1997 Congress enacted the Qualified Family-Owned Business Interest (QFOBI) deduction, also known as “family business carve-out,” as part of the *Taxpayer Relief Act of 1997*. This “carve-out” was repealed just four years later by the *Economic Growth and Tax Relief Reconciliation Act of 2001* because it was complex and administratively unworkable, it placed a burden on the next generation, and in practice it excluded most family-owned businesses.

Some have proposed “protecting” family-owned businesses and farms by allowing them carryover basis if stepped-up basis is repealed. While carryover basis delays payment of tax until inherited assets are sold, once the asset is sold the total tax bill will be the same as if gains were taxed at death. Carryover basis is simply stepped-up basis repeal by another name—it represents a significant tax increase for family-owned businesses and farms, and it is an administrative nightmare.

A previous attempt to implement carryover basis, the *Tax Reform Act of 1976*, was initially postponed three years by the *Revenue Act of 1978* and ultimately repealed by the *Crude Oil Windfall Profit Tax Act of 1980* before it was implemented. Prior to repeal, tax practitioners noted significant difficulties in attempting to determine the basis of inherited assets. The Joint Committee on Taxation's report, *General Explanation of the Crude Oil Windfall Profit Tax Act of 1980*, states:

A number of administrative problems concerning the carryover basis provisions have been brought to the attention of the Congress. Administrators of estates have testified that compliance with the carryover basis provisions has caused a significant increase in the time required to administer an estate and has resulted in raising the overall cost of administration. Congress believed that the carryover basis provisions are unduly complicated and should be repealed.¹

Further, a recent EY report forecasts that 40,000 jobs would be lost in each of the first 10 years and GDP would decrease by \$50 billion over 10 years if stepped-up basis were repealed via carryover basis.² Carryover basis is not an effective exemption from step-up repeal for family-owned businesses and farms, and the FBETC opposes any such misguided "protections."

We respectfully urge you to protect family-owned businesses and farms from tax increases by defending stepped-up basis and opposing any changes to current law.

Sincerely,

¹ Joint Committee on Taxation, General explanation of the Crude Oil Windfall Profit Tax Act of 1980, (H.R. 3919, 96th Congress, Public Law 96-223), <https://www.jct.gov/publications/1981/jcs-1-81/>

² EY, Repealing step-up of basis on inherited assets: Macroeconomic impacts and effects on illustrative family businesses, https://www.fb.org/files/FBETC_Stepped-Up_Basis_Report_2021