



AMERICANS *for* TAX REFORM

March 1, 2017

The Honorable Kevin Brady
Chairman, Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Brady:

One of the guiding principles of pro-growth tax reform must be simplification of the code for both businesses and families. As Congress works toward reform, one section of the code that should be repealed is Section 541, an outdated and unnecessary provision that imposes a personal holding company tax on certain businesses to prevent a loophole that no longer exists.

At around 75,000 pages in the length, it is unquestionable that the code is too complex. Each year, American families and businesses spend more than 8.9 billion hours and \$400 billion complying with the code. Unsurprisingly, the majority of Americans support simplifying the tax code.

Simplification of the code should include removing the numerous unnecessary provisions such as the Death Tax, the Alternative Minimum Tax, and many of the distortionary tax credits. While this process sounds straightforward, in reality there are numerous sections of the code that can – and should be repealed as part of tax simplification.

One part of the code that should be repealed is Section 541. Section 541 serves little purpose, is often unknown amongst tax experts, and today serves solely as a trap for unwary taxpayers.

When it was enacted into law nearly 80 years ago, Section 541 was intended to address a potential loophole in the code where taxpayers would retain assets in a corporate entity rather than distributing them to the (and paying taxes at) the individual level.

At the time, there was clear incentive to do this – the top individual income tax rate approached 80 percent, while the top corporate income tax rate was as low as 20 percent. Today, no such discrepancy between individual and corporate rates exists.

The provision imposes an additional 20 percent in taxes if 60 percent of a business's AGI is passive income and if more than 50 percent of the corporation's stock is owned by five or fewer individuals. As a result, the only taxpayers hit by Section 541 are those who are unaware of the law and have made innocuous business choices, yet they are needlessly punished with a higher tax burden.

As you consider overhauling the code through dramatic simplification, I urge you to consider including repeal of Section 541. **The fact, is the current code is too complex and burdensome for American families and businesses because of provisions like Section 541.**

Onward,

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President, Americans for Tax Reform

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