



March 20, 2020

The Honorable Mitch McConnell
U.S. Capitol Building, S-230
Washington, D.C. 20510

The Honorable Chuck Schumer
313 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Nancy Pelosi
U.S. Capitol Building, H-204
Washington, D.C. 20515

The Honorable Kevin McCarthy
U.S. Capitol Building, H-204
Washington, D.C. 20515

Dear Leader McConnell, Speaker Pelosi, Leader Schumer, and Leader McCarthy:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, we write to thank you for your work to combat the economic and public health impacts of the COVID-19 pandemic. This is a challenge unlike any our nation has seen before, and we appreciate your efforts to provide taxpayers and businesses relief at this difficult time.

We also write urging you to include several additional provisions in either the Phase 3 stimulus package or a legislative package considered by Congress in the coming weeks. Two are from recently introduced legislation, S. 3545 (the RESULTS for Coronavirus Patients Act) and S. 3547 (the Creating Capacity for Communities in Need Act).¹ These bills would offer public and private stakeholders the regulatory flexibility needed to bring to market the innovative drugs and devices that test for and treat COVID-19, and to increase the supply of hospital beds that will be desperately needed across the country in the coming months. Several other proposals focus on additional tax relief that will be critical for businesses seeking to retain their workforces and weather the crisis.

Health Policy

The RESULTS for Coronavirus Patients Act (S. 3545) would create a reciprocal, expedited, 30-day Food and Drug Administration (FDA) approval process for drugs and devices meant to test for or treat COVID-19, if that drug or device has been approved in a limited set of other countries.² A drug or device that has received approval from some of our trusted foreign partners should not be hampered by an outdated FDA process here at home. Unfortunately, that is already the case in Utah, where a company that is "ready to produce 50,000 tests a day" has received approval in Europe but is still awaiting final FDA approval for *emergency use* authorization.³

¹ U.S. Senator for Texas Ted Cruz. (March 19, 2020). "Sen. Cruz Introduces Legislation to Increase Healthcare Capacity & Access, Speed Up FDA Approval for Certain Vaccines & Cures." Retrieved from: https://www.cruz.senate.gov/?p=press_release&id=4999

² U.S. Senator for Texas Ted Cruz. (March 19, 2020). "To amend the Federal Food, Drug, and Cosmetic Act to provide for reciprocal marketing approval of certain drugs, biological products, and devices that are authorized to be lawfully marketed abroad, and for other purposes." Retrieved from:

[https://www.cruz.senate.gov/files/documents/Letters/TAM20487%20\(V4%20RESULTS%20for%20Corona%20\(002\).pdf](https://www.cruz.senate.gov/files/documents/Letters/TAM20487%20(V4%20RESULTS%20for%20Corona%20(002).pdf)

³ Raymond, Art. "Utah company's COVID-19 test gets FDA go-ahead, set to distribute 50K per day." *Deseret News*, March 18, 2020. Retrieved from: <https://www.deseret.com/utah/2020/3/18/21185177/coronavirus-covid-19-test-supply-co-diagnostics-utah-pandemic> (Accessed March 20, 2020.)

The Creating Capacity for Communities in Need Act (S. 3547), meanwhile, would temporarily suspend a provision of law that inhibits the growth of physician-owned hospitals (POHs).⁴ According to Physician Hospitals of America, “37 planned hospitals have not been constructed, and over 30,000 planned healthcare jobs have gone uncreated” because of these legal restrictions.⁵ While temporary relief cannot make up for all those uncreated jobs, it could add critical capacity to the health care system at a time when we need it most.⁶

Tax Policy

While the Treasury Department has wisely provided taxpayers with some relief from tax filing and tax payment burdens until July 15th, Congress should expand Treasury’s guidance. Currently, Quarter 2 estimated tax payments are not delayed, meaning that they are still due on June 15th. Delaying estimated tax payments until October would provide businesses with essential liquidity at this time. Additionally, any delay of estimated payments should be expanded to include employer-side payroll tax contributions.

Expanding net operating losses (NOLs) for 2020 is also critical. The Tax Cuts and Jobs Act capped NOLs to 80 percent of taxable income in any one tax year and eliminated the ability to carry losses back. It also limited NOLs for pass-through businesses to \$250,000 or \$500,000, depending on filing status. In order to provide businesses with much-needed liquidity during these difficult times, for the 2020 tax year, NOL limits should be suspended for both C corporations and pass-through businesses. Further, “carrybacks” for at least two years, up to five years, should be allowed.

Supporting new investment is also key. To accomplish this, accelerating depreciation deductions for capital investments in residential and nonresidential property would be a great step forward, particularly to support economic recovery. Limiting to new buildings or substantial improvements is a reasonable approach to contain the cost or even adopting neutral cost recovery would be a worthwhile win for the U.S. economy.

While we stand ready to work with you on this and any other policy options you are considering to combat the COVID-19 pandemic, we believe these provisions are ready for quick inclusion in a relief package, and we encourage you to add them to the Phase 3 bill or another legislative vehicle in the near future. Thank you for your continued efforts, and should you have any questions we are at your service.

⁴ U.S. Senator for Texas Ted Cruz. (March 19, 2020). “To amend title XVIII of the Social Security Act to waive limitations on expansion of facility capacity under rural provider and hospital exception to ownership or investment prohibition during coronavirus 2020 emergency period.” Retrieved from: [https://www.cruz.senate.gov/files/documents/Letters/TAM20487%20\(V4%20RESULTS%20for%20Corona%20\(002\).pdf](https://www.cruz.senate.gov/files/documents/Letters/TAM20487%20(V4%20RESULTS%20for%20Corona%20(002).pdf)

⁵ U.S. Department of Health and Human Services, U.S. Department of the Treasury, U.S. Department of Labor. (December 3, 2018). “Reforming America’s Healthcare System Through Choice and Competition.” Retrieved from:

<https://www.hhs.gov/sites/default/files/Reforming-Americas-Healthcare-System-Through-Choice-and-Competition.pdf>

⁶ Waldman, Annie; Shaw, Al; Ngu, Ash; Campbell, Sean. “Are Hospitals Near Me Ready for Coronavirus? Here Are Nine Different Scenarios.” *ProPublica*, March 17, 2020. Retrieved from: <https://projects.propublica.org/graphics/covid-hospitals> (Accessed March 20, 2020.)

Sincerely,

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