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The Honorable Orrin Hatch
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

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

The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

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

Dear Chairman Hatch, Ranking Member Wyden, Chairman Brady, and Ranking Member Neal:

On behalf of the Credit Union National Association (CUNA), I am writing regarding H.R. 88, the Retirement, Savings, and Other Tax Relief Act. CUNA represents America's credit unions and their 110 million members. Credit unions are Americans' best option for financial services, and the credit union tax status represents one of the best investments that the government makes in its citizens.

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. Credit unions provide accessible and affordable basic financial services to people of all means and encourage the equitable distribution of capital among individuals, families, communities and small businesses. Credit unions elevate the competition of the financial marketplace through multiple and diverse business models. They help keep financial services accessible – and affordable – for all consumers, whether a credit union member or not.

America's credit unions were deeply appreciative that the *Tax Cuts and Jobs Act of 2017* retained the credit union exemption from the federal income tax. This reflects Congress's understanding that the tax status is based on credit unions' unique structure and mission within the financial services sector.

While credit unions are exempt from income tax, they are subject to various other taxes and are therefore invested stakeholders in tax legislation under consideration by Congress. Through this lens, we raise additional concerns we hope Congress will address in H.R. 88, the Retirement, Savings, and Other Tax Relief Act.

Excise Tax on Retirement Plans

As you know, the *Tax Cuts and Jobs Act of 2017* (TCJA) imposes an excise tax on certain executive compensation provided by tax-exempt organizations. Credit unions 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 not-for-profit sector as these contracts were agreed upon with certain tax considerations assumed.

We urge you to provide parity by grandfathering not-for-profit employer contracts in effect on or before November 2, 2017. As this oversight during the drafting of the legislation was likely unintended, we urge you to fix this unfair provision as H.R. 88 makes its way through the legislative process.

Unrelated Business Income Tax on Employee Fringe Benefits

The *Tax Cuts and Jobs Act of 2017* (TCJA) also extends the Unrelated Business Income Tax (UBIT) in several areas. 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. The definitions and IRS guidance regarding this provision are severely lacking in substance and clarity.

We urge Congress to delay the effective date of this provision to provide organizations the needed time to establish new accounting systems that value and track such benefits, which have never been subject to taxation. A delay of this provision 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, many 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 UBIT. 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. We urge 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 their 110 million members, thank you very much for your consideration of our views.

Sincerely,



Jim Nussle
President & CEO