NATIONAL RESTAURANT ASSOCIATION

June 12, 2023

The Honorable Jason Smith
Chairman
Committee on Ways & Means
United States House of Representatives
1139 Longworth House Office Building
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member
Committee on Ways & Means
United States House of Representatives
1129 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Smith and Ranking Member Neal,

On behalf of the National Restaurant Association ("the Association"), we appreciate the opportunity to submit comments in anticipation of the Committee's markup of the "Build It in America Act" (H.R. 3938). Specifically, our members back **(Sec. 102)** to provide a four-year restoration of the Earnings Before Interest, Tax, Depreciation, and Amortization (EBITDA) calculation method for deducting interest on business debt**.** Because restaurants operate on slim margins and require regular facility investments to stay competitive, eliminating full depreciation and amortization is especially harmful to these small businesses, especially when restaurant operators are facing rising costs and lingering debt incurred during the pandemic.

The U.S. restaurant and foodservice industry is comprised of nearly one million outlets with a workforce of more than 15 million employees. The Association is the leading business association for the industry, and together with 52 state associations, we serve every restaurant through advocacy, education, and food safety programs.

Almost every U.S. county has at least three restaurants, and **9 in 10 restaurants are small businesses**. Restaurants are the backbone of their communities, fueling local economic growth, creating jobs, and promoting togetherness. However, most restaurants only see a profit margin of 3 to 5% before tax. Rising food, labor and operating costs cut into these slim margins. Due to the limitation of depreciation and amortization starting in 2022, **restaurant operators are facing a major spike in their tax obligations. Restaurant operators rely on:**

1) **Depreciation** to help finance renovations, equipment purchases, and expansion; and
2) **Amortization** to balance loan repayment obligations, some of which will last 30 years.

To remain competitive, restaurant operators must regularly renovate and remodel their dining rooms, kitchens, and buildings. Most operators plan extensive – and expensive – updates every two to three years due to the high activity of dining areas and the heavy use of kitchen equipment. During these projects, operators keep a close eye on how these expenses affect cash-on-hand and year-end tax obligations. **Limiting the deduction for depreciation or amortization serves as a tax on investment, especially amid higher interest rates, freezing budgets and creating major long-term complexity.**

Many restaurant operators took on sizeable loans during the COVID-19 pandemic to keep their businesses afloat. The ability to deduct interest on business debt under the previous calculation (which included amortization) is critical to offset the cost of debt financing for businesses. As lawmakers know, small businesses are already struggling to repay loans offered under the EIDL program, and losing amortization worsens their long-term financial prospects.

Without the Build It in America Act, some restaurant operators will see their overall tax liability rise by nearly 30 percent.

Thank you for your consideration. We look forward to working with your Committee.

Sincerely,

Aaron Frazier

Aaron Frazier
Vice President of Public Policy