



S Corporation Association Update

July 18, 2019

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#### **1. S-Corp Mod Introduced in Senate**

Brian Reardon, [BReardon@S-Corp.org](mailto:BReardon@S-Corp.org)

Senators John Thune (R-SD) and Ben Cardin (D-MD) today introduced [S. 2156](#), the 2019 version of the S Corporation Modernization Act. As the Senators noted at the introduction:

*“While I believe we’ve made a great deal of progress toward strengthening the tax code for families and businesses, I think there is always more that Congress can and should do to help further modernize it, the boundaries of which are constantly being tested by innovation and entrepreneurship,” said Thune. “S corporations are located in nearly every single city and town across America, particularly in those throughout rural America, which is why it’s important for our tax code to keep up with these businesses and the communities in which they operate.”*

*“S Corporations, which employ more than 600,000 Maryland workers, are critical to the well-being of the Maryland economy and support thousands of middle class families,” said Cardin. “I’m pleased to work with Senator Thune on this bipartisan legislation that will spur investment in S Corporations so they can better attract capital, innovate, invest in their communities and create jobs.”*

Over the years, numerous provisions from the Modernization Act have been enacted into law, including provisions to permit overseas investment in S corporations and increased charitable deductions that were included in the Tax Cuts and Jobs Act of 2017.

The new Modernization Act focuses on leveling the rules between S corporations and other business forms while increasing the opportunity for S corporations to raise capital. Specifically, the bill would:

- Provide meaningful relief from the so-called “Sting Tax” passive income rules;
- Expand the ability of IRAs to invest in S corporation banks; and
- Level the tax-treatment of asset sales with sales of S corporation stock.

S-Corp applauds Champions Thune and Cardin for their continued work to improve the rules governing S corporations and looks forward to similar legislation being introduced in the House soon.

## **2. S-Corp Opposes Beneficial Ownership Reporting Requirements**

Brian Reardon, [BReardon@S-Corp.org](mailto:BReardon@S-Corp.org)

Legislation moving through Congress would require millions of businesses to report their owner's personal information or face criminal fines and jail time. As the *Wall Street Journal* [opined](#) the other day:

*Similar proposals have been around for a while, but this has legs because it has strong support from banks. Today banks have to report much of this information for every new account. The legislation eases the burden on banks and dumps it on small businesses.*

*Others are pushing back. The American Bar Association says the bill's definition of beneficial owner is "vague, overly broad and unworkable." The National Association of Manufacturers notes that the "vast majority" of companies required to comply will be law-abiding, and "overly strict standards that result in fines and enforcement action against a broad range of small businesses that make filing mistakes would unnecessarily waste FinCEN's time, stretch thin critical resources that should be targeted toward detecting illicit activity" and deter business formation.*

The S Corporation Association joined a broader coalition of business groups in opposing this legislation. Lead by the National Federation of Independent Businesses, the coalition recently wrote to congressional leaders arguing:

*Under this legislation, millions of small businesses would be required to register with FinCEN, upon incorporation, and file annual reports with FinCEN for the life of the business. Failure to comply with these reporting requirements would be a federal crime with civil penalties of up to \$10,000 and criminal penalties of up to 3 years in prison....*

*H.R. 2513 raises significant privacy concerns as the proposed FinCEN beneficial ownership database would contain the names, dates of birth, addresses, and unexpired drivers' license numbers or passport numbers of millions of small business owners. This information would be accessible upon request "through appropriate protocols" to any local, state, tribal, or federal law enforcement agency, or to law enforcement agencies of other countries via requests by U.S. federal agencies. This type of regime presents unacceptable privacy risks.*

You can read the full letter [here](#). Expect to hear more on this issue in coming weeks.

## **3. Biden and S-Corps**

Brian Reardon, [BReardon@S-Corp.org](mailto:BReardon@S-Corp.org)

From our recent wire: ....Going back to their overall tax burden, one question we have is what difference, if any, tax reform would make. Would the Biden's tax burden go up or down?

*The first thing to note is that the Biden's S corporations likely don't qualify for the 199A deduction. Their income is well over the \$315,000 threshold and the business of speechifying is likely a Specified Services Trade or Business, so it should be excluded. Even if it weren't, the guardrail limiting the deduction to 50 percent of W-2s would effectively reduce any available deduction. It's one of the more interesting side-effects of tax reform - the less salary an S corporation shareholder pays themselves to avoid payroll taxes, the more they limit their 199A deduction.*

*And while the Biden's top tax rate would be lowered from 39.6 to 37 percent, they also would lose the ability to deduct the \$733,898 they paid in state and local taxes, so it's kind of a wash. It's even possible their taxes would go up.*

Read more [here](#)...

#### **4. Progress on S-Corp SALT**

Brian Reardon, [BReardon@S-Corp.org](mailto:BReardon@S-Corp.org)

*From our recent wire: ...Since most states tax pass-through businesses at the owner level, this policy increases Main Street Employer tax rates and puts them at a competitive disadvantage compared to C corporations. It also puts these businesses at a disadvantage compared to those operating in states that have no income tax, like Texas and Florida.*

*This is a BIG deal! The S Corporation Association estimates that 3.6 million (out of 4.8 million S corporations nationally) will lose their SALT deduction this year, the equivalent of paying an extra 2 percentage points of tax on average. Millions more partnerships face the same tax hike.*

*In response to this new policy, the S Corporation Association and the Parity for Main Street Employers coalition has been working with states to restore the SALT deduction at the state level by allowing pass-through businesses the option of paying their SALT at the entity level. To date, four state legislatures have adopted this reform – Connecticut, Wisconsin, Oklahoma, and Louisiana.*

Read more [here](#)...

#### **4. Social Media Update**

[@SCorpAssn](#), [@MainStEmployers](#)



**S Corp Association** @SCorpAssn · Jun 28

Some intel on the IRS response to our Pass-Through SALT Parity efforts. More than one year after CT passed the first reform, and still there's "no decision." Bodes well for reforms passed in WI, OK, LA and CT.

**Siri Bulusu** @siri\_notisiri

Oh, you want more? Here's a little ditty on SALT:  
[news.bloombergtax.com/daily-tax-repo...](https://news.bloombergtax.com/daily-tax-repo...)

Show this thread



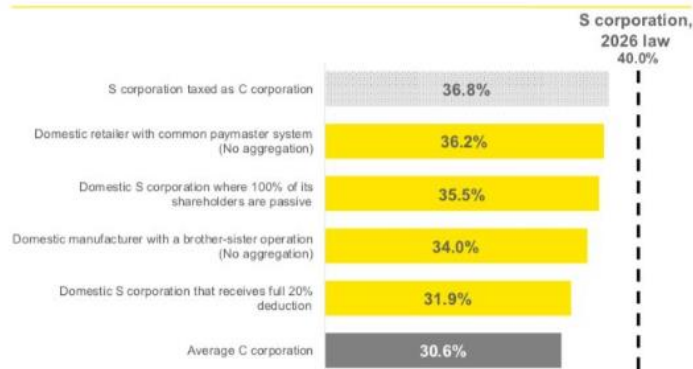
Parity for Main Street Employers Retweeted



**Parity for Main Street Employers** @MainStEmployers · Jun 18

In 2025 the effective tax rate on individually-owned @MainStEmployers will jump to 40%-a nearly 10 ppt jump, a massive disruption on jobs & growth. But the permanent C corp tax rate is 21%. That's not fair & why we need to make the 20% 199A deduction permanent. #199Aperm

### Effective tax rate comparison, 2018 law



Note: S corporation taxed as C corporation is identical to Average C corporation except it has 100% taxable shareholders. S corporation, 2026 law is assumed to have 10% passive and 90% non-passive shareholders.



**Parity for Main Street Employers** @MainStEmployers · Jun 25

Founding idea of @MainStEmployers: #taxparity. No matter the size shape or flavor, all biz should be taxed at roughly the same top rate. 95% are individually owned, hire 1/2+ of workers & now rely on #199A deduction to keep pace w C corporations. Why 199A should be permanent.



**Parity for Main Street Employers** @MainStEmployers · Jun 20

States such as CT, WI, OK and LA have enacted legislation to allow pass-through entities to elect taxation at the entity level in order to deduct State & Local tax just like C corps still can. Helpful steps to restore a level playing field & #taxparity.



### Businesses Come Out On Top In Final SALT Cap R...

Final Treasury and Internal Revenue Service regulations governing the state and local tax deduction cap show a decided preference for business owners, allowing them ...  
[law360.com](https://law360.com)





**Parity for Main Street Employers** @MainStEmployers · Jun 12

icymi: Main Street businesses need permanent tax relief to grow #199Aperm via @thehill



**Main Street businesses need permanent tax relief to grow**

It is critical to the economic future of our nation that these small employers succeed.

[thehill.com](http://thehill.com)



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