United States Senate

WASHINGTON, DC 20510

July 28, 2026

Thomas A. Barthold
Chief of Staff
Joint Committee on Taxation
502 Ford House Office Building
Washington, D.C. 20515

Dear Mr. Barthold:

Last July, President Trump signed the *One, Big, Beautiful Bill Act* (OBBBA) into law, enacting numerous tax breaks for the wealthy, partially paid for by cutting health care and food assistance for millions of Americans.[1] One such tax break was an expansion of the Qualified Small Business Stock (QSBS) exclusion, delivering a windfall to venture capitalists, private equity firms, and other wealthy investors — while generating little benefit to the economy or to middle-class families.[2] We write to seek new data on the QSBS exclusion, including the extent to which the wealthiest taxpayers have benefited from its expansion.

The QSBS exclusion is a tax break for individuals who buy stock in a "qualified business." The qualified business must be organized as a C corporation, have $75 million or less in assets, and not belong to a long list of excluded business types, among other requirements.[3] After the QSBS-qualifying stock is held for at least three years, its owner is exempt from paying 50% to 100% of the resulting capital gains tax when they sell (depending on the holding period's length).[4]

In part because of the restrictions on the QSBS exclusion, this mostly benefits rich investors, especially ones who buy and sell technology startup stock — while "the overwhelming majority of small businesses" see no benefit.[5] Indeed, from 2012 to 2022, 94% of the QSBS exclusion was claimed by households with over $1 million in income.[6]

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[1] Center on Budget and Policy Priorities, "By the Numbers: Harmful Republican Megabill Will Take Health Coverage Away From Millions of People and Raise Families' Costs," August 27, 2025, https://www.cbpp.org/research/health/by-the-numbers-harmful-republican-megabill-will-take-health-coverage-away-from.

[2] Washington Center for Equitable Growth, "Money for nothing: The Qualified Small Business Stock capital gains exclusion is a giveaway to wealthy investors, startup founders, and their employees," Manoj Viswanathan, June 8, 2023, https://equitablegrowth.org/money-for-nothing-the-qualified-small-business-stock-capital-gains-exclusion-is-a-giveaway-to-wealthy-investors-startup-founders-and-their-employees/; RSM, "How the OBBBA's changes to section 1202 represent opportunity for private equity," Nick Gruidl, Nick McCreven, and Joseph Wiener, July 10, 2025, https://rsmus.com/insights/services/business-tax/how-the-obbba-changes-to-section-1202-represent-opportunity-for-private-equity.html.

[3] 26 U.S.C. 1202.

[4] *Id.*

[5] Virginia Tax Review, "A Critical Evaluation of the Qualified Small Business Stock Exclusion," Gregg Polsky and Ethan Yale, January 1, 2023, p. 355, https://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=2585&context=fac_artchop.

[6] Institute for Taxation and Economic Policy, "Quite Some BS: Expanded 'QSBS' Giveaway in Trump Tax Law Threatens State Revenues and Enriches the Wealthy," Sarah Austin and Nick Johnson, October 2, 2025,

In addition, the QSBS exclusion is riddled with loopholes that are regularly exploited by the very wealthy. For instance, one major loophole enables QSBS beneficiaries to circumvent the cap on how much QSBS-eligible stock issued by a given company can be excluded (i.e., exempted from capital gains tax) by one taxpayer. Investors can repeatedly evade this cap — already set at $15 million — by gifting the stock to as many family members as they choose — a process known as "stacking."[7] This process routinely saves ultra-wealthy investors tens of millions of dollars annually.[8] Stacking, among other loopholes, has made the QSBS exclusion an even larger boon for the rich than Congress ever intended.

Experts across the political spectrum have raised concerns about the QSBS exclusion. In one article co-written by two tax policy experts, one progressive and one conservative, the authors criticize the exclusion as being "inefficient, complex, and unfair."[9] Other experts note that in addition to being riddled with loopholes and a windfall for "the wealthiest U.S. taxpayers,"[10] it arbitrarily advantages certain businesses and industries over others[11] and "has little if any positive incentive effects."[12] One expert points out that "it is hard to argue that [venture capital] is currently in need of a narrowly targeted subsidy" like the QSBS exclusion.[13]

But instead of reforming or repealing the QSBS exclusion, President Trump's *One Big Beautiful Bill Act* dramatically expanded it. The largest changes raised the asset cap from $50 million to $75 million and indexed it to inflation for future years while significantly shortening the period for which an investor must hold stock before becoming eligible for the exclusion.[14] These and several other changes to the QSBS exclusion will cost taxpayers an estimated $17.2 billion through 2034.[15] Treasury is reportedly in the process of developing regulations to formally implement these changes.[16] At the same time, state governments are deciding whether to align

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https://itep.org/qsbs-trump-tax-law-threatens-state-revenues-enriches-wealthy/.

[7] The New York Times, "A Lavish Tax Dodge for the Ultrawealthy Is Easily Multiplied," Jesse Drucker and Maureen Farrell, December 28, 2021, https://www.nytimes.com/2021/12/28/business/tax-break-qualified-small-business-stock.html.

[8] *Id.*

[9] Tax Notes Federal, "Congress Should Have Eliminated, Not Expanded, the QSBS Exclusion," David S. Mitchell and Kyle Pomerleau, October 13, 2025, p. 315, 318, https://www.aei.org/wp-content/uploads/2025/10/2025tnf41-10-1.pdf?x97961.

[10] Virginia Tax Review, "A Critical Evaluation of the Qualified Small Business Stock Exclusion," Gregg Polsky and Ethan Yale, January 1, 2023, p. 389, https://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=2585&context=fac_artchop.

[11] Tax Foundation, "Quite the Skewed Business Subsidy: QSBS Exclusion Is a Poor Way to Encourage Investment," Aleksei Shilov, December 11, 2025, https://taxfoundation.org/blog/qualified-small-business-stock-qsbs-exclusion/.

[12] Virginia Tax Review, "A Critical Evaluation of the Qualified Small Business Stock Exclusion," Gregg Polsky and Ethan Yale, January 1, 2023, p. 355, https://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=2585&context=fac_artchop.

[13] *Id.*, p. 389.

[14] Tax Notes Federal, "Congress Should Have Eliminated, Not Expanded, the QSBS Exclusion," David S. Mitchell and Kyle Pomerleau, October 13, 2025, https://www.aei.org/wp-content/uploads/2025/10/2025tnf41-10-1.pdf?x97961.

[15] Congressional Budget Office, "Estimated Budgetary Effects of an Amendment in the Nature of a Substitute to H.R. 1, the One Big Beautiful Bill Act, Relative to CBO's January 2025 Baseline," June 27, 2025, Table 7, https://www.cbo.gov/publication/61534.

[16] Bloomberg Tax, "Treasury Working on Rules for Expanded Startup Tax Break," Michael Rapoport, May 9, 2026, https://news.bloombergtax.com/daily-tax-report/treasury-plans-regs-on-startups-enhanced-capital-gains-tax-break.

their own tax codes with OBBBA's expansion of the QSBS exclusion or to instead decouple from this policy change.[17]

Given this flurry of recent QSBS-related policymaking, it is more important than ever for Congress and the American people to have updated data on the QSBS exclusion — both to better understand the implications of its expansion under OBBBA and to inform any future efforts to reform or eliminate it. Therefore, we request that you answer the following questions:

1) Please estimate the percentage share of each industry, including the technology industry, among businesses that are likely eligible to issue QSBS stock.
2) Please estimate the share of businesses that issued QSBS-eligible stock in the most recent year for which JCT has data that had assets (intangible and tangible combined) with a fair market value over:
    a. $1 million?
    b. $10 million?
    c. $50 million?
3) What share of taxpayers excluding gains on QSBS in the most recent year for which JCT has data:
    a. Own the QSBS giving rise to the excluded gain through a private equity fund?
    b. Own the QSBS giving rise to the excluded gain through a venture capital fund?
    c. Are non-grantor trusts?
    d. Will any of these shares of taxpayers be affected by the expansion to the QSBS exclusion in OBBBA?
4) In the most recent year for which JCT has data, what share of taxpayers claiming a QSBS exclusion had:
    a. Adjusted gross income over $1 million?
    b. Adjusted gross income in the 90th percentile or above?
    c. Adjusted gross income in the 99th percentile or above?
    d. Adjusted gross income in the 99.9th percentile or above?

Thank you for your attention to this important matter.

Sincerely,

Elizabeth Warren
United States Senator

Angus S. King, Jr.
United States Senator

[17] Institute for Taxation and Economic Policy, "States Are Standing Up to the Monster Known as QSBS," Nick Johnson, June 5, 2026, https://itep.org/state-decoupling-qsbs-revenue-loss-tax-avoidance/.