

May 5, 2020

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Kevin McCarthy
Republican Leader
United States House of Representatives
Washington, D.C. 20515

The Honorable Charles E. Schumer
Democratic Leader
United States Senate
Washington, D.C. 20510

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

On behalf of the technology sector, we thank you for your leadership as our country has come together to rapidly address the evolving COVID-19 crisis. As Congress acted quickly and on a bipartisan basis to address the urgent needs of our communities, [the tech industry also moved swiftly](#) to help small businesses, educators, parents, and employees adapt to the new reality that the COVID-19 pandemic presents. Our sector continues to seek innovative ways to help respond to the pandemic. For instance, technology companies are providing supercomputing power to researchers searching for new treatments to combat the coronavirus, forecast the spread, and accelerate experiments that would otherwise take months or years to complete. Technology companies also quickly moved to make alternative online lending platforms available to small businesses as a way to deliver the critically needed working capital provided by Congress under the Paycheck Protection Program (PPP), and worked with Treasury to create alternative payment methods to help deliver individual relief funds to people who are otherwise hard to reach.

As Congress considers additional steps to address the pandemic and improve our economy's ability to weather it, we urge you to consider the following policies to help meet additional pressing needs.

- **Provide additional resources for small businesses, educators, and health care providers to support distance learning, telework, and telehealth.** Leveraging technology has been key as small businesses, schools, and health care providers have rapidly adapted to formats that allow for social distancing, such as remote work, distance learning, and telehealth. However, this new way of doing business requires reliance on a broad range of technology solutions, including hardware, software, cybersecurity, online collaboration and customer relationship management tools, platforms, and data storage. As policymakers look to provide additional resources to help enable our continued transition to learning, working, and meeting health needs remotely, we urge you to ensure that funds and incentives are versatile enough to cover these critical technology solutions.
- **Make programmatic changes to the Paycheck Protection Program (PPP) to support business continuity.** Under the current structure of the PPP, equipment, cloud services, and software

expenses needed to meet overall business continuity needs through the deployment and support of remote work, distance learning, and telehealth capabilities are not considered “allowable uses” for loan forgiveness, nor are the costs associated with effectuating payroll considered “payroll costs.” While the key purpose of the PPP is to keep payrolls intact, a business must be able to continue operations for employees to have a job to return to when community health circumstances allow. As Congress considers the next response package, [we urge you to clarify and expand the definitions of “allowable uses” and “payroll costs” under the PPP](#) to include these core business functions so that loan forgiveness will not be out of reach for the many thousands of businesses who rely on that promise for continued viability.

- **Support information technology (IT) and cybersecurity modernization to enable and enhance federal, state, local, tribal, and territorial governments’ ability to carry out coronavirus-related missions; maximize productivity; improve service delivery to citizens; and enhance cybersecurity protections for government agency networks, clouds, data centers, and end points.** In April, ITI joined with several associations in releasing IT modernization principles for policymakers to consider in future legislative packages. Among the priorities outlined in the principles, we [urged policymakers](#) to provide adequate, multi-year funds to modernize IT systems used by agencies and front-line emergency responders during this pandemic, create and fund a mechanism to provide federal financial support to state and local governments in need of IT modernization to enhance the speed and effectiveness of relief efforts, allocate appropriate funding for the Technology Modernization Fund (TMF) at levels that allow for meaningful investment in cross-agency IT modernization initiatives, and ensure that IT modernization efforts focus attention and investment on [strengthening cybersecurity at all levels of government](#), workforce training, and process transformation. These continue to be priorities in the COVID-19 response.
- **Address direct impacts of travel restrictions and shelter-in-place orders.** Employers and employees alike are dealing with unexpected challenges due to unprecedented restrictions on international travel and prolonged telework. For valuable employees who must navigate our outdated immigration system, unavoidable visa overstays due to restrictions on international travel prevent them from returning home and create significant uncertainty about their legal status. For U.S.-based employees who are under a shelter-in-place order and working from their own home or that of a loved one, an uncertain tax landscape awaits. In the absence of a federal solution, the patchwork of state laws and guidance will lead to unanticipated tax obligations for employees and employers, as employees find themselves working from a different state than where their usual place of work is located for prolonged periods. Policymakers face an urgent need to address both involuntary visa overstays and the state tax implications of extended telework.
- **Create and refine tax provisions designed to directly address the COVID-19 crisis.** We applaud Congress’ inclusion of several tax provisions in the Coronavirus Aid, Relief, and Economic Security (CARES) Act to provide liquidity to struggling companies and encourage those companies experiencing economic hardships and business interruption to keep their employees on the payroll. We also believe it would be beneficial to consider additional refinements to these provisions as part of another package, including, for instance, applying the employee retention credit at the location level instead of the company level. We also recommend considering additional tax provisions to help defray the employer costs of voluntarily providing paid leave for employees who become ill or need to take time off for caretaking, for procuring

safety and medical equipment and services required to bring employees back to work safely, and for deploying new telework capabilities broadly across the employee base. Congress may also wish to consider provisions to help employees with out-of-pocket costs associated with telework by temporarily restoring the individual deduction for unreimbursed business expenses without the 2 percent adjusted gross income (AGI) floor, or by creating a temporary above-the-line deduction for those costs.

- **Addressing pitfalls in the tax code for companies experiencing losses or lower-than-expected profits.** Several of the new features of the international portion of the tax code can create unintended difficulties for companies that are suddenly faced with losses. The Base Erosion and Anti-Abuse Tax (BEAT) can create unintended consequences, as companies with reduced taxable income may inadvertently find themselves with BEAT liability. Further, as we seek to support our economic recovery, some companies may be disincentivized from making new capital investments because of the interaction between full expensing and the BEAT. Temporary measures to mitigate BEAT liability would help avoid these outcomes. Additionally, we urge lawmakers to consider temporary changes to the Global Intangible Low-Taxed Income (GILTI) provision. Notably, the GILTI calculation does not allow inclusion of the qualified business asset investment (QBAI) of subsidiaries with losses, and does not allow for carryforwards of foreign tax credits, both of which warrant consideration of changes in an overall landscape where losses are widespread. Other aspects of the GILTI – including its interaction with the Foreign-Derived Intangible Income (FDII) provisions and certain aspects of the high-tax exception – also create issues when taxpayers have losses. Finally, the net operating loss (NOL) provisions in the CARES Act created an opportunity for much-needed cash flow for struggling businesses. However, because of the way NOLs have been interpreted to apply to §965 liability, it may be difficult for companies with §965 liability to monetize their NOLs as intended. This issue is compounded by the fact that the interpretation of §965 has prevented taxpayers from getting refunds of 2017 and certain 2018 overpayments.

Moreover, as our country gets on the path to recovery and Congress looks to promote increased economic activity and future resilience, we encourage you to consider investments in the following areas.

- **Providing funding and other resources to promote broadband connectivity.** The need for increased telework and online learning during the ongoing pandemic brings the digital divide into sharp relief. Millions of Americans are without reliable access to home broadband, whether because they live in areas where networks have not been extended or lack sufficient capacity, or because they face other barriers to adoption including service affordability or not owning a device to access the Internet. Expanding broadband deployment and access – through funding or tax incentives – would create demonstrated economic benefits and significantly improve our resilience in future pandemics and other emergencies.
- **Enabling smart and secure technologies as part of infrastructure investments.** Integrating connected technologies in new projects or as part of infrastructure repairs and upgrades will allow governments at all levels to improve the management of public assets and services. Segments such as transportation systems, health care, the electric grid, and water infrastructure can all achieve new efficiencies by incorporating smart technologies. We support significant, technology-neutral investments in smart cities and digital infrastructure, including cybersecurity to safeguard those investments. Deploying these technology solutions can

improve the delivery of critical services during a crisis and create long term social and economic benefits through energy conservation, reduced congestion, and improved public safety. Infrastructure investment is also a critical opportunity to promote technology adoption around traditional infrastructure projects and make crucial investments in workforce development, particularly around digital skills.

- **Enhancing incentives for research and development.** As we continue to confront the COVID-19 pandemic – and prepare for the possibility of future pandemic events – American innovation and ingenuity will be more important than ever as we leverage our resources to enable contact tracing, implement interventions that mitigate the spread of the virus, and work tirelessly to develop treatments and cures. In addition to direct funding for research and development (R&D), policymakers may want to consider expansions to the R&D Credit and delaying or permanently repealing the requirement to begin amortizing R&D expenses for tax purposes.

We appreciate this opportunity to share these policy recommendations for your consideration in response to this unprecedented crisis. For our part, the technology sector will continue to deploy our resources to assist however possible.

Sincerely,

Jason D. Oxman
President and CEO

cc: Members of the House of Representatives and United States Senate

