

September 7, 2023

The Honorable Kevin McCarthy
Speaker of the House
H-232 The Capitol
Washington, DC 20515

The Honorable Hakeem Jeffries
House Minority Leader
2433 Rayburn House Office Building
Washington, DC 20515

The Honorable Chuck Schumer
Senate Majority Leader
322 Hart Senate Office Building
Washington, DC 20510

The Honorable Mitch McConnell
Senate Minority Leader
S-230 The Capitol
Washington, DC 20510

Dear Congressmen McCarthy and Jeffries and Senators Schumer and McConnell:

From nuclear power to solar photovoltaic cells, American innovators have been at the leading edge of game-changing energy technologies that have significantly improved quality of life across the globe. Federal investments through the tax code and research programs such as the Small Business Innovation Research program have helped catalyze private sector cleantech innovation, contributing to substantial cost declines in solar, wind, batteries, EVs, energy efficient heat pumps, and LED lightbulbs. Continued public support that enables private sector-led innovation is vital to our energy security and global competitiveness.

The Clean Energy Business Network and the undersigned business leaders appreciate Congress' strong bipartisan support in recent years through the federal appropriations process of these important programs. Additionally, we applaud Congress for recently extending the Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) program, which has a 40-year track record of bolstering our innovation ecosystem. For such a small program, SBIR's [impact](#) has been outsized, resulting in more than 70,000 patents, nearly 700 public companies, and approximately \$41 billion in venture capital investments.

Despite this robust support for federal R&D, we write with the utmost concern that small business innovators now face a severe obstacle due to a recent lapse of a provision in Section 174 of the tax code. We call on Congress to address this issue with the urgency our small business leaders deserve.

[Since 1954](#), the Section 174 R&D tax deduction has enabled businesses conducting research and development to [deduct these expenses in the year they are incurred](#). Due to a budgetary adjustment tucked into the 2017 Tax Cuts and Jobs Act, this provision lapsed in 2022. Small businesses contributing cutting edge technologies and jobs in communities across our country are now forced to amortize these expenses over the course of five years. For the first time in nearly 70 years, small businesses could not immediately deduct the full value of qualifying R&D expenses when filing taxes this year. Many of these firms were caught unprepared with significantly higher tax burdens than they were expecting—which will potentially force some to declare bankruptcy and shutter operations.

For a nation that prides itself on leading on innovation, the U.S. is lagging in the global economy on this front; with this lapsed provision in the tax code, the United States is now one of [just two developed countries](#) that [requires amortization of R&D expenses](#). To strengthen our competitive advantage in cleantech innovation and domestic manufacturing, we should be seeking to create a favorable dynamic

for startups to invest in forward-looking technologies, rather than penalizing them for doing so. This new policy change runs counter to the major public-private investments the U.S. is making in cleantech innovation through recently-enacted policies and will have a dampening effect on market pull through the tax code.

EY [projects](#) this lapse in the tax code will effectively reduce R&D spending in the U.S. \$4.1 billion annually resulting in a loss of 23,400 direct R&D jobs in each of the first five years of enactment. In each year thereafter, EY projects a \$10.1 billion drop in R&D spending and 58,600 jobs lost. Many of these lost jobs will be at startups with high-growth potential that will die on the vine due to a lapsed provision in the tax code.

Innovative small businesses that predominantly focus on early-stage R&D and are supported by federal programs such as SBIR will be disproportionately impacted. SBIR awards carry an expectation that commercialization requires a multi-year timeline for resulting technologies to begin producing revenue for the recipient. Yet, with the change in Section 174 expensing, SBIR recipients would be put in an impossible position of needing to generate revenue to pay taxes in year one.

Legislative proposals to address this issue led by Senators Young (R-IN) and Hassan (D-NH) ([S. 866](#)) in the Senate and Representatives Estes (R-KS-04) and Larson (D-CT-01) ([H.R. 2673](#)) in the House have attracted significant bipartisan support in both chambers, and we urge you to prioritize enacting these provisions.

Separately, the House Ways and Means Committee's [American Families and Jobs Act](#) would restore immediate expensing of the R&D credit through 2025, but do so at the price of repealing clean energy tax incentives that have historically enjoyed bipartisan support. This approach would create business and investor uncertainty for projects already underway. Repealing these credits would also undermine the investment potential, valuation, and future market opportunities for many clean energy startups. It would not make sense to support R&D on new energy technologies only to undercut market opportunities for deployment down the road.

We urge you to take swift action to restore immediate expensing under Section 174 this Congress - without jeopardizing other important market signals - to ensure that next tax season even more small business innovators will not be forced to close shop. Now is not the time for the U.S. government to turn its back on small business innovators across the country.

Sincerely,

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