

February 11, 2015

The Honorable Jim Renacci  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Kurt Schrader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Lynn Jenkins  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Jim Costa  
U.S. House of Representatives  
Washington, DC 20515

Dear Representatives Renacci, Schrader, Jenkins and Costa:

Thank you for your leadership in introducing, H.R. 863, the “STARS Act of 2015.” This bipartisan legislation provides desperately needed technical corrections and clarity at a time when employers with highly seasonal workforces are having significant difficulty in determining their employer size and employer shared responsibility requirements under the Patient Protection and Affordable Care Act (ACA). We appreciate your recognition of the challenges that our members have encountered as they attempt to understand and comply with the law’s requirements.

We commend the Department of the Treasury for its continued recognition of the challenges that seasonal employment pose for small employer compliance in its final rule on IRC §4980H. It is clear that the Administration both acknowledged and intended to fix the significant issues that the unique seasonal employment paradigm pose within the construct of the ACA. We agree with Treasury’s fact sheet that accompanied the final rule: “those in positions in which customary employment is six months or less” should not be considered full-time employees.

While the regulatory definition of seasonal employee is clear at 6 months, the statute itself still contains the second seasonal worker definition, which leaves more room for interpretation and continues to confuse small employers as they work to comply with the law. The attached guidance document from the Internal Revenue Service, from an FAQ published on May 13, 2014, demonstrates the unnecessary complexity that small, seasonal employers with limited human resource capabilities have encountered when attempting to comply with the ACA. And though Treasury has appropriately recognized these challenges, it lacks the statutory flexibility to fully address compliance issues through regulation. Hence, Congress must act.

The STARS Act adopts the Administration’s definition of seasonal employment while simplifying and aligning the seasonal provisions of the ACA to better enable employer compliance. This targeted approach provides critical relief without fundamentally upsetting the intent of the ACA’s employer provisions. The bill does not eliminate an applicable large employer’s requirement to offer affordable

coverage to qualifying full-time employees, nor does it alter the Administration's preferred treatment of seasonal employees. It simply provides seasonal employers with the clarity needed to assess their obligations under the ACA.

Specifically, the STARS Act:

- *Aligns* the separate definitions of "seasonal" found in statute and in the final regulation to the Treasury Department's preferred definition from the final regulation on IRC §4980H (six months or less, customary, annual, recurring);
- *Simplifies* the determination of Applicable Large Employer size and the determination of a seasonal employee's full-time status for the purposes of the ACA's Employer Shared Responsibility provisions.

Thank you again for introducing the "STARS Act of 2015." This well-crafted, bipartisan legislation appropriately addresses the unique challenges that seasonal employment poses for small employer compliance with the ACA. By passing STARS, Congress can ensure that small seasonal employers with limited HR capabilities have the tools and understanding necessary to comply with the ACA and to continue to grow their businesses. We look forward to working with you and members of Congress to address the challenges of seasonal employer compliance under the ACA and greatly appreciate your leadership on this issue.

Sincerely,

Accredited Snow Contractors Association  
Agricultural Retailers Association  
American Farm Bureau Federation  
American Honey Producers Association  
AmericanHort® (American Horticulture Industry Association)  
American Hotel and Lodging Association  
American Sugar Cane League  
Arizona Farm Bureau  
Arkansas Hospitality Association  
Associated Builders and Contractors  
Associated General Contractors  
Associated Landscape Contractors of Colorado  
Building Stone Institute  
California Association of Winegrape Growers  
California Grape and Tree Fruit League  
Colorado Arborists & Lawn Care Professionals  
Colorado Nursery & Greenhouse Association  
Connecticut Association of Theatre Owners  
Connecticut Environmental Council, Inc.  
Federation of Employers & Workers of America  
Florida Farm Bureau Federation

Florida Fruit & Vegetable Association  
Florida Nursery, Growers & Landscape Association  
Florida Restaurant and Lodging Association  
Forest Resources Association Inc.  
Georgia Fruit and Vegetable Growers Association  
Georgia Restaurant Association  
Golf Course Superintendents Association of America  
Gulf Citrus Growers Association  
Heartland National Association of Theater Owners  
Idaho Nursery and Landscape Association  
Idaho Lodging & Restaurant Association  
Iowa Restaurant Association  
Illinois Green Industry Association  
Illinois Landscape Contractors Association  
Indiana Nursery and Landscape Association  
International Association of Fairs and Expositions  
International Franchise Association  
Kentucky Nursery and Landscape Association  
Louisiana Farm Bureau Federation  
Maine Innkeepers Association  
Maine Landscape and Nursery Association  
Maine Restaurant Association  
Massachusetts Nursery & Landscape Association, Inc.  
Massachusetts Restaurant Association  
Michigan Restaurant Association  
Mid-America Green Industry Council  
Mid-Atlantic National Association of Theater Owners  
Minnesota Nursery & Landscape Association  
Minnesota Restaurant Association  
Missouri Landscape & Nursery Association Motion Picture Exhibitors of  
Washington, Alaska and Oregon  
Mulch and Soil Council  
National Association of College Stores  
National Association of RV Parks & Campgrounds  
National Association of Theatre Owners  
National Association of Theatre Owners of NY State  
National Christmas Tree Association  
National Club Association  
National Council of Agricultural Employers  
National Council of Farmer Cooperatives  
National Federation of Independent Business  
National Hispanic Landscape Alliance  
National Onion Association  
National Potato Council  
National Restaurant Association  
National Retail Federation

National Thoroughbred Racing Association  
New Mexico Restaurant Association  
New Jersey Nursery and Landscape Association  
New York State Hospitality and Tourism Association  
Nevada Restaurant Association  
North American Retail Dealers Association  
North Carolina Green Industry Council  
North Carolina Nursery & Landscape Association  
North Carolina Peanut Growers  
North Carolina Restaurant and Lodging Association  
North Carolina State Grange  
North Central National Association of Theater Owners  
Ohio Lawn Care Association  
Ohio Nursery & Landscape Association  
Ohio Restaurant Association  
Oklahoma Nursery and Landscape Association  
Oklahoma Restaurant Association  
Oregon Association of Nurseries  
Oregon Farm Bureau Federation  
Oregon Potato Commission  
Oregon Restaurant & Lodging Association  
Outdoor Amusement Business Association  
The PGA of America  
Pennsylvania Landscape & Nursery Association  
Professional Landcare Network  
Puerto Rico Restaurant Association  
RISE (Responsible Industry for a Sound Environment)  
Rhode Island Hospitality Association  
Snow & Ice Management Association, Inc.  
Society of American Florists  
South Carolina Restaurant and Lodging Association  
Southeast National Association of Theater Owners  
Texas Restaurant Association  
Theatre Owners of Indiana  
Theatre Owners of Mid-America  
Theatre Owners of New England  
The Society for Human Resource Management (SHRM)  
The Utility Sprayer Alliance  
Tennessee Nursery & Landscape Association  
Texas Nursery & Landscape Association  
U.S. Apple Association  
United Drive-In Theatre Owners Association  
United Egg Producers  
United Fresh Produce Association  
Utah Restaurant Association  
Virginia Green Industry Council

Virginia Hospitality & Travel Association  
Virginia Nursery and Landscape Association  
Washington Association of Landscape Professionals  
Washington Potato Commission  
Washington State Nursery and Landscape Association  
Western Growers  
Wisconsin Green Industry Federation  
Wisconsin Hotel & Lodging Association  
Wisconsin Landscape Contractors Association  
Yuma Fresh Vegetable Association