

September 26, 2024

Dear Members of Congress,

I write to express Americans for Tax Reform's opposition to the *FIGHTING for America Act* introduced by Senate Finance Committee Chairman Sen. Ron Wyden (D-Ore.) that would increase costs for American households by eliminating the use of de minimis for certain products and implementing new fees on consumers, grow the size of government and redirect Customs and Border Protection (CBP) officers to unnecessary busy work.

De minimis is a section of U.S. [trade law](#) found in Title 19, U.S.C, Section 1321 enacted "in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected." De minimis allows shipments with a value under \$800 to enter the United States free of duties and taxes.

The current de minimis level of \$800 was enacted in 2016 after Congress passed the [Trade Facilitation and Trade Enforcement Act](#), an increase from the previous de minimis level of \$200. This legislation passed the House of Representatives by a vote of 256 – 158 including 232 House Republicans voting in support of the bill and passed the Senate by a vote of 75 – 25 including 47 Senate Republicans voting in support of the bill.

Included in Sec. 901 of the Trade Facilitation and Trade Enforcement Act was the Congressional Finding that "higher thresholds for the value of articles that may be entered informally and free of duty provide significant economic benefits to businesses and consumers in the United States and the economy of the United States through costs savings and reductions in trade transaction costs."

In contrast, Sen. Wyden's legislation would impose new restrictions on goods qualifying for de minimis and implement a new \$2.00 customs fee on all de minimis entries that would increase trade transaction costs for American businesses and consumers.

Small and medium-sized businesses make use of de minimis to source inputs from around the world while keeping costs down. [In fact](#), small businesses comprise over 97 percent of all exporters according to the U.S. Small Business Administration, employing nearly 10 million Americans. Limiting de minimis will directly impact the supply chain of these businesses and hinder their international competitiveness.

Most importantly, American consumers benefit from de minimis the most and they will end up paying the cost. A recent [study](#) by UCLA and Yale found limitations on de minimis would be a regressive tax disproportionately hitting lower-income households. The same study found that eliminating de minimis would reduce aggregate welfare by as much as \$14.3 billion.

Further, by suspending de minimis for a wide range of products the Wyden bill would force the CBP to hire tens of thousands of new agents at great cost to taxpayers or divert agents

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from enforcing the border. The agency is already understaffed by 4,800 agents. In return, the bill does not include any meaningful provisions that would allow CBP to interdict illicit packages more efficiently.

For instance, Section 321 Data Pilot and Entry Type 86 are voluntary programs that allow CBP to receive advanced digital data of shipments used to target high-risk shipments and expedite clearance of low-risk packages that can be expanded. Furthermore, during the Trump administration the STOP Act was passed, designed to enhance CBP ability to screen and detect packages containing opioids, but a recent Office of Inspector General [report](#) found that it was never fully implemented during the Biden administration.

Opponents of de minimis frequently mischaracterize the policy as a loophole that allows packages to be exempt from CBP inspection and allows China to evade U.S. law and tariffs.

However, it has been made explicitly clear through the congressional testimony of Brandon Lord, Executive Director, Trade Policy and Programs, Office of Trade, U.S. Customs and Border Protection that even when a package is under the de minimis threshold “[CBP has legal authority to detain, seize, forfeit, and destroy merchandise](#)” if it contains intellectual property infringing merchandise, products suspected of forced labor, or any other illegal substance including fentanyl. The CBP agency utilizes intelligence from a vast array of public and private sector agencies to target packages for interdiction.

As Taylor previously [stated publicly](#):

"There's a misconception that we don't target or screen de minimis -- it's not true. People throw around the phrase 'loophole.' It's not a loophole. De minimis is not a loophole."

As [pointed out](#) by National Taxpayer Union's Bryan Riley, CBP [seized](#) more than 400,000 de minimis packages from 2018 to 2021 and the government collected \$44 billion in duties from China last year alone, more than triple the amount collected in 2015 before the de minimis threshold was increased to \$800. Tariffs on imports from China accounted for 61 percent of total duties collected by the United States last year, up from 42 percent before the de minimis threshold was raised.

Members of Congress that want to maintain the competitive of America's Small and Medium enterprises in international markets, keep government agencies from wasteful spending and bloated busy work should oppose Sen. Wyden's *FIGHTING for America Act*.

Onwards,

Grover Norquist
President, Americans for Tax Reform