

September 9, 2025

The Honorable Howard W. Lutnick  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230

Dear Secretary Lutnick:

The undersigned organizations represent millions of Americans for whom efforts alongside the Trump administration on the One Big Beautiful Bill Act (OBBBA) are yielding permanently lower tax rates, both for American businesses and families. We also strongly back the administration's efforts to deregulate the economy in business sectors from energy to finance. We therefore write to share our concerns about a possible policy proposal that would undermine key benefits achieved in the OBBBA.

OBBBA's full, immediate expensing, particularly of research and development (R&D) investments, represents a central element in the economic framework for supporting American innovation. Such pro-growth policies are intended to spur the domestic innovation that is crucial for U.S. competitiveness and global leadership. This model has proven successful over more than two centuries, benefitting Americans as well as the entire world.

We are troubled over reports of an unprecedented change being considered for the U.S. patent system: charging a 1%-5% tax on the value of the most successful U.S. patents. This would be counterproductive in the extreme, "fraught with peril and unintended consequences." Though described in media accounts as a fee, available details suggest this levy would be designed to raise revenue for the general operations of the federal government. This is in contrast to the user-fee-based patent system in existence today, one which funds its operations from a dedicated revenue stream.

First, a patent tax would undermine the benefits of hard-fought business tax provisions of the OBBBA for America's most innovative and competitive companies – including the Foreign-Derived Intangible Income provision that encourages companies to develop and locate intellectual property (IP) in the United States. This tax on valuable patents would simultaneously drive private venture capital away from U.S. R&D innovators while making our competitors in overseas markets more attractive as investment opportunities.

Second, taxing success — on top of the other taxation businesses bear — would diminish America's technological leaders and their global leadership. This tax would reduce their R&D funding; threaten jobs and capital investment, including investment in new domestic manufacturing facilities; and make more attractive the decision to keep the most valuable inventions as trade secrets rather than patenting them.

Third, assigning value to a patent is hardly an exact science. Overestimating a patent's valuation would risk choking the life out of a nascent invention before it has reached its commercial potential and perhaps leapfrogged the current state of a technological art. The U.S. Patent and Trademark Office (PTO) lacks expertise and experience in predicting the commercial success of patented technologies, which in many cases is volatile and decades away from patent grant. In this respect, the proposal as described in the media would bear an unfortunate resemblance to wealth taxes and mark-to-market tax schemes concocted by advocates of expansive government. A reported exemption from the tax for "small" patent holders could, like the threshold for any other tax, be reversed or eroded at some future point in the quest for additional revenue.

Fourth, only Congress may impose a tax. PTO's authority for setting fees extends only to covering the costs of the agency's operations. A 1%-5% tax based on a patent's perceived value clearly falls outside of PTO's authority and is not provided in the tax code for any other government department or agency.

Fifth, a patent tax would directly jeopardize the United States's position in the global race for innovation leadership. This is especially true in critical and emerging technologies, such as semiconductors, medicine, quantum computing, artificial intelligence, energy, advanced materials, aeronautics, and national security-related technologies. A patent tax would amount to putting an anchor on both established and startup companies pursuing the next advancement and its commercialization.

Under the patent system the Founders crafted, the government does not imbue value to new inventions and has no claim on the product of private ingenuity. Rather, innovators' ingenuity and subsequent commercialization (including both product development and market development) are the source of an invention's eventual value.

We are certain that as an inventor, you recognize that the patent or other intellectual property is the deed to newly created property, and the patent office merely ascertains that the invention is indeed new and records the metes and bounds of the new property. Moreover, the patent merely secures exclusive private property rights that inherently belong to the inventor for the term of the patent. The sole purpose is securing the patent owner's unfettered opportunity to commercialize and profit from the time and effort invested in the creative pursuit, which typically involves much trial and error and costs along the way. The Founders' model incentivizes more individuals to attempt invention, democratizes the granting of a patent, and rewards invention based on its merit.

The brilliant U.S. patent system design has never taxed patents, as is now being considered. The public and the government already benefit — from disclosure of the new knowledge disclosed in the patent, which becomes available when the patent is issued. This achieves the goal set forth in Article 1, Section 8, Clause 8 of the U.S. Constitution: promoting the progress of science and useful arts — the key to American innovation on a grand scale. Here and in the Patent Acts of

1790 and 1793, the country benefits from the mass human flourishing that fuels economic expansion from innovation's forward leaps, U.S. competitiveness, and dynamism.

As a result, lower taxes and more prolific innovation enable our nation to outcompete China and other foreign competitors that subsidize their national champion companies, manipulate and micromanage their economies, and rely on central planning for technological and industrial performance. It is the means by which we have outcompeted nations that subsidize their national champion companies, that manipulate and micromanage their economies, and that rely on central planning for technological and industrial performance.

As we all know, and were reminded of over the past several months of extending and furthering tax relief from the 2017 Trump tax policies, taxing what we want more of is the course of failure. Leaving more money in the coffers of entrepreneurs, businesses, and American workers to use in exercising their economic freedom is the course of innovative dynamism and success (for both individuals and the nation). This framework has allowed the free market to allocate capital more effectively and efficiently to the United States's benefit. As Donald Trump, Jr., wrote in [a 2012 column](#), the “very purpose of patent law in the first place” is “to allow those who dream big and work hard to reap the rewards of their effort, and to foster innovation in a capitalist system.” Those words could not be more relevant and powerful today.

Therefore, we strongly urge the Department of Commerce to drop any further consideration of a patent tax and, instead, allow the salutary effects of the President's OBBBA to take root. We stand ready to work with the administration on ensuring tax policies and deregulation that incentivize initiative, ingenuity, and U.S. innovative advancement.

Sincerely,

Grover Norquist  
President  
Americans for Tax Reform

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Unleash Prosperity

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National Taxpayers Union

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