Statement for the Record

of

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on

"Benefits of Permanent Tax Policy for America's Job Creators"

for the

Committee on Ways and Means
United States House of Representatives

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Chairman Camp, Ranking Member Levin, and members of the House Ways and Means Committee, thank you for the opportunity to submit this statement on tax reform for the record on behalf of the National Restaurant Association ("NRA"). The hearing is focused on those expired business tax businesses that would be extended by Chairman Camp's tax reform discussion draft ("Discussion Draft") released on February 26, 2014, with a particular emphasis on how permanent tax policy can promote certainty for American businesses and generate additional economic growth. We applaud the Chairman, Ranking Member, and Committee for holding today's hearing and undertaking the complex challenge of developing reform legislation that would move the Internal Revenue Code into the 21st Century.

About the National Restaurant Association

The NRA is the largest foodservice trade association in the world—supporting nearly 500,000 restaurant businesses. The restaurant industry plays an important role in our economy by generating an estimated $632 billion in annual sales, with an overall economic impact of more than $1.7 trillion. It is one of nation's largest private job creators, employing approximately 12.9 million people, representing nearly ten percent of the U.S. workforce. Moreover, the restaurant industry is an industry of small businesses. There are 970,000 restaurant and foodservice outlets in the United States. Seven out of ten restaurants are single-unit operators and most eating and drinking establishments have fewer than 50 employees. As the Committee considers comprehensive tax reform, the NRA and its vast network of business owners would be pleased to serve as a resource.

Comments Regarding the Committee Chairman's Comprehensive Tax Reform Discussion Draft

Currently, the tax law presents taxpayers with a great deal of complexity, unpredictability and compliance burdens. The NRA believes that tax reform offers an opportunity to provide taxpayers with certainty, simplicity, and fairness, while encouraging economic growth and job creation. Done properly, a comprehensive and nuanced review of the tax system would eliminate those tax policies that detract from these objectives, while promoting those that advance them.

We commend the Chairman and the members for the open and transparent process by which the Committee is approaching tax reform. The NRA has been working for the past several years to make the case for fair reforms that take the restaurant industry's uniqueness and organizational diversity into account. We believe that marginal tax rates for both individuals and corporations should be reduced as much as possible. We also believe it is important for Congress to examine corporate and individual tax reform simultaneously due to the variety of smaller pass-through entities that make up the majority of restaurant businesses.

The comprehensive tax reform Discussion Draft released in February would eliminate and modify many current tax provisions to reduce the statutory corporate tax rate and simplify individual tax rates. Included within the discussion draft are a number of changes made to policies that are of particular importance to the restaurant industry. As the Committee moves forward with crafting reform legislation, the NRA would like to comment on several tax extenders of particular importance to our industry. Specifically, we strongly support:

1) Making permanent Section 179 expensing with inclusion of qualified real property as property eligible for Section 179. The Discussion Draft includes this provision.

2) Making permanent the 15-year depreciation schedule for leasehold improvements, restaurant improvements and new construction, and retail improvements. This temporary provision clearly comports with the tax reform policy that cost recovery reflect the economic useful life of the taxpayer's investment. The Discussion Draft would repeal the 15-year recovery period and lengthen permanent law from 39 years to 40 years.

3) Making permanent the Work Opportunity Tax Credit ("WOTC"). WOTC has been very effective helping targeted group members find gainful employment. The Discussion Draft would repeal this provision.

4) Making permanent for all restaurant businesses the enhanced charitable deduction for donations of food inventory, which has helped alleviate hunger in the U.S. The Discussion Draft would repeal this provision.

<u>Making permanent Section 179 expensing</u>

The Discussion Draft would make permanent the expensing thresholds under IRC Section 179. Specifically, the draft makes permanent the election to deduct the cost of certain property placed in service for the year rather than depreciate those costs over time. The draft sets the maximum dollar amount that may be deducted at $250,000 and the amount at which the deduction phases-out at $800,000, indexed for inflation.

The Chairman's proposal to make the increased limits permanent, to index the amounts for inflation, and to include certain qualified real property in the definition of qualified property furthers simplification and provides predictability. We would note that for taxable years before 2014 the limits were set at $500,000 and $2 million. On April 11th, Congressmen Tiberi, Kind, Young, Neal, Gerlach Davis and Schock introduced H.R. 4454. Their bill would permanently renew section 179 expensing at the levels that expired at the end of last year and would repeal the $250,000 limit on qualified real property. These higher limits would be very beneficial to many small restaurant businesses in terms of simplification and investment decisions. We are very pleased that the Camp discussion draft makes 179 expensing permanent and retains the expanded definition of qualified property to include leasehold improvements and qualified restaurant and retail property. We believe that the legislation recently introduced by members of the Committee would greatly improve the provision and merits serious consideration.

<u>Permanence of the 15-year Depreciation Schedule for Leasehold Improvements, Restaurant Improvements and New Construction, and Retail Improvements</u>

One principle of the tax code is that the costs of assets are allocated over the period in which they are used. Assets with longer expected lives are depreciated over a longer period of time, while assets with shorter lives are depreciated over a shorter period of time. As a reflection of this principle, the tax code contains a provision under which leasehold improvements, restaurant improvements and new restaurant construction, and retail improvements can be depreciated over 15 years rather than a 39-year recovery period that would otherwise apply to nonresidential real property.

With more than 130 million Americans patronizing restaurants each day, restaurant building structures experience daily structural and cosmetic wear and tear caused by customers and employees. Also, NRA research shows that most franchise contracts require restaurant owners to remodel and update their building structures every six to eight years. Consequently, 15 years is a more accurate timeframe for recovering the cost of investments in restaurant buildings and improvements.

Moreover, a 15-year depreciation schedule reduces the cost of capital expenditures and increases cash flow. As demonstrated in Figure 1 below, the annual tax savings and corresponding additional cash flow realized by restaurateurs from a 15-year, rather than a 39-year, depreciation schedule are considerable. For example, a restaurateur's annual tax liability would increase by nearly $10,000 if the recovery period for a $1 million investment were increased from 15 years to 39 years. A more accurate recovery period frees resources to expand business either through new hires or further capital expenditures.

Figure 1.

Sample Calculations for 15-Year versus 39-Year Depreciation

Total Capital Expenditure on Eligible Property	Annual Depreciation Based on 39-year Schedule	Annual Tax Savings from Depreciation	Annual Depreciation Based on 15-year Schedule	Annual Tax Savings from Depreciation	Annual Difference in Tax Savings Between 15- & 39-year Schedules
$100,000	$2,532	$608	$6,667	$1,600	$992
$250,000	$6,329	$1,519	$16,667	$4,000	$2,481
$500,000	$12,658	$3,038	$33,333	$8,000	$4,962
$700,000	$17,722	$4,253	$46,667	$11,200	$6,947
$1,000,000	$25,316	$6,076	$66,667	$16,000	$9,924
$1,500,000	$37,975	$9,114	$100,000	$24,000	$14,886
$2,000,000	$50,633	$12,152	$133,333	$32,000	$19,848

Note: Figures are based on a 24 percent effective marginal tax rate

Additionally, when restaurants invest in construction and renovations, the impact spreads throughout the economy. Figure 2 (attached at the end of statement) provides state-by-state estimates of the additional spending on restaurant improvements and new construction that would result from an extension of the 15-year depreciation provision in 2013, as well as the overall economic and employment impact within each state.

However, the 15-year depreciation schedule is temporary and must be extended annually. Most recently, it was extended by the *American Taxpayer Relief Act of 2012* retroactive to the beginning of 2012 and through the end of 2013. Consequently, the provision expired again at the end of 2013. The piecemeal and temporary approach to the 15-year depreciation schedule, requiring extension every couple of years, presents taxpayers with unnecessary uncertainty and complexity.

In March 2012, the NRA surveyed a sample of nearly 600 restaurant operators who took advantage of the 15-year depreciation provisions between 2005 and 2011. The survey revealed that 30 percent of restaurant operators said they put projects on hold in 2012 when the provision lapsed because of the uncertainty surrounding the extension of the 15-year depreciation provision. With single-unit restaurant operators reporting an average expected project cost of $40,000, and multi-unit operators reporting an average expected project cost of $500,000, the additional construction activity from these restaurant projects put on hold would have exceeded $7 billion in 2012. Based on economic multipliers from the Bureau of Economic Analysis, the overall economic impact of these restaurant construction projects would have exceeded $23 billion, with a total employment impact of nearly 200,000 additional jobs across all U.S. industries.

The Discussion Draft would extend the depreciable period for non-residential commercial real property from 39 years to 40 years for property placed in service after December 31, 2016. The draft provision is inconsistent with the principle that allows taxpayers to recovery the cost of their investment over the economic useful life of their investment. The NRA strongly supports using tax reform to make permanent the 15-year depreciation schedule for leasehold improvements, restaurant improvements and new construction, and retail improvements. Including the 15-year recovery period in tax reform and making it permanent comports with cost recovery principles and would provide taxpayers with predictability, simplicity, and fairness. The ability to plan for these expenditures and know what the tax treatment will be in the future is important to those who are making business decisions in today's economy.

<u>Permanence of the Work Opportunity Tax Credit</u>

Another important provision in the tax code is WOTC, a tax credit provided to employers who hire individuals from several targeted groups who face significant barriers to employment. Examples of WOTC-targeted employee groups include veterans who either are Supplemental Nutrition Assistance Program ("SNAP", formerly food stamps) recipients or are unemployed and suffering a service-connected disability, former felons, disconnected youth, and members of families receiving benefits under the Temporary Assistance for Needy Families Program ("TANF").

The restaurant industry employs roughly 13 million people, many of whom may not have been hired if WOTC had not been in place. WOTC encourages employers to hire certain categories of individuals with barriers to employment, enabling these workers to move into self-sufficiency as they earn a steady income and become contributing taxpayers. Through WOTC, more long-term welfare recipients – the most difficult cases – are being employed in the private sector and seven out of 10 welfare recipients are using WOTC to help find private sector jobs. A 2011 study by Peter Cappelli of the Wharton Business School at the University of Pennsylvania found that individuals hired under WOTC go on to become productive employees who are no longer dependent on public assistance.

Further, WOTC works. In 2011, more that 1.1 million workers found jobs through WOTC, at an average cost of approximately $1,300 based on Joint Committee on Taxation data. It is important to note that this figure does not reflect any offsetting savings from lower welfare, disability, and Social Security payments. The Cappelli study found that WOTC is one of the most successful and cost effective federal employment programs.

WOTC was most recently extended by the *American Taxpayer Relief Act of 2012* retroactive to the beginning of 2012 and through the end of 2013. The provision has lapsed and the Discussion Draft would repeal this program. The NRA would submit that getting rid of this program at a time of intransigent unemployment would be a significant setback for job creation. Moreover, we believe that Congress should make WOTC permanent, since it has proven to be an efficient incentive for businesses to provide jobs for workers who might otherwise be shut out of the job market. Doing so would further provide taxpayers with predictability and certainty in the tax code.

Permanence for the Deduction for Charitable Donations of Food Inventory for Small Businesses

Each day, 35 million Americans are at risk of hunger. At the same time, billions of pounds of food are wasted each year. America's restaurants give back to their communities in major ways, one of the most significant is through food donation. According to National Restaurant Association research, 73 percent of restaurants donate food to individuals or charities.

The deduction for charitable donation of food inventory is a critical tool in alleviating hunger. Without the provision, taxpayers get the same tax treatment for throwing out surplus food as they do for giving it to charity. The enhanced deduction instead encourages donating the food to charity, by helping to offset the costs associated with storing and transporting the extra food. Absent the enhanced deduction for the charitable donation of food inventory, these charities would be hard-pressed to meet critical demands, putting our nation's most vulnerable families at risk for hunger.

However, the impact of the deduction could be improved. For nearly 30 years since its inception in 1976, the tax deduction for contributions of food inventory was limited to C corporations. In 2005, the provision was temporarily expanded to include pass-through entities (i.e., Subchapter S corporations, limited liability companies) and has been extended on subsequent occasions; most recently it was part of the *American Taxpayer Relief Act of 2012.* Making permanent the temporary, now lapsed, component of the deduction would make it more effective, while advancing the objectives of providing taxpayers with simplicity and predictability.

The National Restaurant Association strongly encourages its members to donate more food and has partnered with Food Donation Connection ("FDC") to strengthen this effort. Founded by a former restaurant executive, FDC serves as the liaison between the restaurants interested in donating food and the social service agencies adept at getting that food to people in need. FDC helps restaurants develop and implement programs designed to provide an alternative to discarding surplus food while capitalizing on the economic benefits of those donations through the tax savings. Since 1992, FDC has helped facilitate the donation of over 210 million pounds of food to non-profit, hunger-relief agencies.

The Discussion Draft would not include the improvement made in 2005. We urge Congress to make permanent the temporary provision allowing unincorporated small businesses the same enhanced deduction for food donations.

Conclusion

Thank you for the opportunity to submit this statement on behalf of the National Restaurant Association. Again, we applaud the Committee for its work to date and commitment to make the tax code more certain, fairer, simpler while encouraging economic growth and job creation. As the Committee moves forward with its deliberations, we would be pleased to serve as a resource.

Figure 2.

Estimated Impact of Extending 15-Year Restaurant Depreciation Provision Through 2013

State	Increase in Spending on Restaurant Improvements & New Construction (in millions)	Total Economic Impact Within the State (in millions)	Total Employment Impact Within the State (total jobs in all industries)
Alabama	$78	$170	1,591
Alaska	$21	$37	263
Arizona	$113	$233	1,913
Arkansas	$53	$104	961
California	$851	$1,953	13,122
Colorado	$130	$293	2,264
Connecticut	$101	$192	1,250
Delaware	$22	$41	269
District of Columbia	$26	$31	42
Florida	$380	$785	7,054
Georgia	$194	$441	3,818
Hawaii	$42	$80	609
Idaho	$40	$71	718
Illinois	$312	$728	4,870
Indiana	$134	$294	2,381
Iowa	$81	$144	1,293
Kansas	$60	$115	900
Kentucky	$75	$161	1,406
Louisiana	$87	$182	1,518
Maine	$42	$82	834
Maryland	$129	$250	1,758
Massachusetts	$193	$382	2,474
Michigan	$224	$482	4,051
Minnesota	$118	$251	1,957
Mississippi	$47	$94	872
Missouri	$127	$275	2,145
Montana	$39	$73	748
Nebraska	$48	$80	723
Nevada	$58	$109	801
New Hampshire	$39	$78	586
New Jersey	$254	$550	3,468
New Mexico	$37	$71	659
New York	$595	$1,075	7,049
North Carolina	$190	$391	3,665
North Dakota	$22	$38	307
Ohio	$254	$584	4,840
Oklahoma	$70	$150	1,424
Oregon	$117	$241	2,018
Pennsylvania	$330	$781	5,728
Rhode Island	$39	$71	539
South Carolina	$98	$214	2,016
South Dakota	$25	$42	416
Tennessee	$109	$246	2,035
Texas	$427	$1,068	8,210
Utah	$48	$112	1,012
Vermont	$21	$39	384
Virginia	$166	$345	2,645
Washington	$187	$408	3,010
West Virginia	$38	$73	627
Wisconsin	$173	$362	3,036
Wyoming	$17	$29	241
United States	$7,081	$23,944	199,830

Source: National Restaurant Association estimates, with economic and employment impact based on BEA multipliers

Note: State impact figures do not sum to the U.S. total, because they only include inputs within each state.