

STATEMENT FOR THE RECORD
Mr. J.D. Alexander
President, National Cattlemen's Beef Association
HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON SELECT REVENUE MEASURES
"HEARING ON CERTAIN EXPIRING TAX PROVISIONS"
APRIL 26, 2012

To Chairman Pat Tiberi, Ranking Member Richard E. Neal, and distinguished members of the House Committee on Ways and Means, Subcommittee on Select Revenue Measures, on behalf of the National Cattlemen's Beef Association (NCBA) I offer this statement for the record for the April 26, 2012, hearing on certain expiring tax provisions.

NCBA has represented America's cattlemen and women since 1898, preserving the heritage and strength of the beef industry through education and public policy. As the largest and oldest national association of cattle producers, NCBA represents a very diverse beef industry that strives to meet demand in emerging markets and increase demand for beef. NCBA appreciates the opportunity to provide you with insight on how certain expiring and expired tax provisions impact the beef industry.

Before we discuss the individual provisions impacting the beef industry, it is important to recognize the importance of having certainty in the tax code. Cattlemen deal with daily stress of uncertainty in water supply, feed availability, forecasting of prices, labor supply, the health and welfare of their animals, not to mention all of the other normal stressors that come with operating a family business. These are factors beyond our control, and we do not ask nor want government assistance in addressing them. However, one area the government can help is providing certainty in the tax code. This is one factor of our operation that we should be able to depend on with some certainty—to be able to formulate a business plan to brace for changes in factors beyond our control, but that's simply not the case in recent years. The lack of certainty in the tax code is hindering our economic growth and is detrimental to our ability to reach our full potential. As cattlemen across the United States can attest, it is difficult to establish a multi-year business plan, craft an estate plan to keep your operation in business once you pass away and make long term improvements and expansions in your operation, when you have no clue what the tax code will look like several months from now. Furthermore, why would a financial institution risk investing more capital in an already risky enterprise when there are too many unknown factors in a business plan?

While we definitely need certainty in the tax code, the reality of the situation is that we may not have any certainty of the tax code until the last few weeks of this year. Regardless of when action occurs, we want to highlight expiring and expired tax provisions that are important parts of our business operations.

One of the most important issues facing beef-producing families is the future of the estate tax, more commonly referred to as the death tax. The death tax is one of the leading causes of the breakup of multi-generation family farms and ranches. If Congress fails to act by the end of this year, the estate tax will revert to a staggering \$1 million exemption, taxed at a 55 percent rate.

Increasing production costs, rising property values and an uncertain tax code make it difficult to form a business plan, much less plan for the future of your estate. We cannot afford for the estate tax to continue being a political football that is punted year after year. We need permanency in the tax code.

NCBA was pleased that temporary estate tax relief for two years was provided in the 2010 tax package. The current estate tax exemption applies to estates up to \$5 million a person (\$10 million per couple) and taxed at a rate of 35 percent. The two year estate tax package also reinstates stepped-up basis, indexes the estate tax exemption for inflation and contains a spousal transfer of any unused estate tax exemption amount. Without question, we support a full and complete repeal of the estate tax, or at the very least, a long term extension of current estate tax relief or relief for estates engaged in production agriculture. We cannot afford for the estate tax to revert to the pre-2001 levels.

As part of the 2010 tax package the capital gains tax rate was set at 15 percent for two years, expiring at the end of 2012. As cattlemen are primarily asset-rich and cash-poor, the capital gains tax is an important tool for our business and estate plans. Many farmers and ranchers are dependent on their land to fund their retirement and the accumulated estate is significantly reduced by income taxes upon liquidation. NCBA supports changes to the tax code that allow agricultural operators a one-time tax free capital gains rollover from the sale of agricultural land and/or rights into an Individual Retirement Account (IRA), Keogh Plan, or similar retirement account to be taxed at time of withdrawal, or allow a one-time exemption from tax on the sale of certain agricultural land and/or rights. NCBA also supports increasing the amount eligible to be expensed and increasing the annual limitation amount on capital purchases. Finally, NCBA supports the premise that sales of conservation easements and conservation easement credits be considered capital gains sales for tax purposes. Incorporating these reforms to the capital gains tax would greatly improve our business operations.

Another major part of the 2010 tax package was a two-year patch of the Alternative Minimum Tax (AMT). The AMT has resulted in an increased income tax burden on farmers, ranchers and owners of other closely held businesses who have long-term capital gains on the sale of lands and other business assets. For these reasons, NCBA supports the abolition of the Alternative Minimum Tax. However, if the AMT remains as part of the tax code, then Congress must address the negative impact of income averaging triggered by the AMT. The purpose of income averaging was to even out the effect of high and low years of agriculture income. Unfortunately there have been instances where its use has triggered the AMT. If the AMT remains part of the tax code, NCBA supports changing the AMT where the use of income averaging does not trigger the AMT.

Conservation easements are a valuable tool for estate planning and allow tax benefits to the donor of the easement. Currently the tax code does not allow tax benefits over a long enough period to allow the average farmer or rancher to use the benefit. NCBA supports legislation to give the donor of a conservation easement substantially more time to use the tax deduction than the current 6 years and to give agricultural producers a larger percentage income tax deduction than currently allowed (30 percent) by the tax code. NCBA was pleased to see the inclusion of

the conservation easement tax credit included in the 2010 tax package. This credit was made retroactive to January 1, 2010, and unfortunately expired at the end of 2011. The tax credit raised the income tax deduction a landowner can take for donating a conservation easement from 30 percent of their income in any year to 50 percent. It allowed farmers and ranchers to deduct up to 100 percent of their income, and increased the number of years over which a donor can take deductions from 6 to 16 years. NCBA supports permanent extension of this credit made retroactive for all of 2012.

I would be remiss if I did not highlight one of the greatest hindrances facing the beef industry today--the lasting effects of drought, wildfires and floods. The U.S. beef industry has witnessed a tremendous decrease in our national herd due to circumstances far beyond our control. In some cases, complete livestock operations were liquidated or forced to relocate to escape impending disaster. We are no stranger to bad weather, but the tax code makes it difficult for livestock operations to get back on their feet in a short time frame. Natural disasters can destroy livestock, productive grazing lands and ranch facilities, including fences. Unfortunately, current Internal Revenue Service (IRS) rules do not allow fence replacement costs to be fully expensed and deducted in the year of replacement, except on a restricted basis. This limitation places an unnecessary and undue burden on ranchers who have been devastated by natural disasters and who need to rebuild and restock their ranching operations. NCBA supports federal legislation that would allow the costs of replacing fences that have been destroyed by natural disasters to be fully tax deductible in the year such costs are incurred.

Mr. Chairman and Ranking Member, we appreciate this opportunity to share with you our concerns and priorities regarding the tax code. The beef industry is not asking for government handouts, but we do ask that you carefully consider our concerns and requests to provide greater certainty and efficiency in the tax code so that the current generation of cattlemen and women, and future generations of cattlemen and women of America can continue feeding the world.

Sincerely,

J.D. Alexander
President, National Cattlemen's Beef Association

KENT BACUS

ASSOCIATE DIRECTOR, LEGISLATIVE AFFAIRS
NATIONAL CATTLEMEN'S BEEF ASSOCIATION
1301 PENNSYLVANIA AVE NW SUITE 300
WASHINGTON DC 20004-1701
(202) 347-0228 (OFFICE)
KBACUS@BEEF.ORG

www.beefusa.org

