Statement for the Record for the

House Committee on Ways and Means
Subcommittee on Select Revenue Measures

Hearing on Certain Expiring Tax Provisions

April 26, 2012

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The National Federation of Independent Business (NFIB) appreciates the opportunity to submit this statement for the record for the hearing on certain expiring tax provisions, also known as “tax extenders.” NFIB is the nation’s leading small business advocacy organization representing over 350,000 small business owners across the country, and we appreciate the opportunity to provide our perspective.

Tax uncertainty continues to plague small business. In fact, according to the NFIB April 2012 Small Business Economic Trends report, 20 percent of small business cited taxes as the single most important problem facing them today. Additionally, a recent NFIB poll shows 22 percent of small-business owners said uncertainty is the single most important external impediment to growth. Tax uncertainty also increases compliance costs for small businesses. Already, the typical small business spends annually between 1.7 billion and 1.8 billion hours on tax compliance and $18 billion to $19 billion on compliance costs. Small business owners also spend on average $74.24 per hour on the paperwork associated with tax compliance—the highest paperwork cost imposed on small business by the federal government.

Further, one of the greatest concerns for small business owners is their inability to conduct long-term planning when challenged with tax rules that change constantly. It is very difficult for small business owners to make short- and long-term investment decisions when their future tax burden is so uncertain.

At the end of this year, 2012, the expiration of many small business tax provisions will adversely impact job creation and small business investment opportunities. Irrespective of when these provisions were enacted or extended through previous legislation, the outcome of these provisions expiring will be the same: higher taxes on small businesses, resulting in the loss of vital cash flow. For this reason, any discussion of extending expiring tax provision must include the following priorities for small business: (1) the expanded expensing under Section 179 including the definition of real property as added in Section 2021 of the Tax Relief Act of 2010; (2) extending the self-employed health insurance tax deduction, as enacted in Section 2042 of the Small Business Jobs Act of 2010; (3) the reduced 5 year holding period for the built in gains (BIG) tax, as extended in Section 2014 of the Small Business Jobs Act of 2010; and (4) the increased start-up deduction for new small businesses, as enacted in Section 2031 of the Small Business Jobs Act of 2010. Additionally, other provisions included in S. 2050, the Small Business Tax Extenders Act of 2012 should be considered by the committee. Finally, it is important for the committee to consider other expiring tax provisions important to NFIB’s members including depreciation for qualified restaurant buildings, farm equipment, and the deduction for state sales taxes.

Section 179 with Real Property

Since 2003, Congress has steadily increased the allowable expensing amount from $25,000 to $500,000 for tax year 2011. Section 2042 of the Small Business Jobs Act of 2010 also allowed for the inclusion of real property as an eligible deduction. This allows small businesses to immediately deduct the full value of investments in equipment in the year the investment is made rather than claiming the deduction over a longer depreciation period, greatly simplifying tax preparation. If Congress fails to act this year, Section 179 expensing would no longer include real property, and the limits will fall back to $139,000 in 2012 and $25,000 in 2013.
**Self-Employed Health Insurance Deduction**

NFIB supports providing tax equity to the nation's self-employed businesses by expanding the deductibility of health insurance to apply to employment taxes. Section 2042 of the *Small Business Jobs Act of 2010* allows self-employed business owners to deduct the cost of health insurance for themselves and their family in the calculation of their 2010 self-employment tax. Because 75 percent of all small businesses are pass-through entities taxed at individual rates, the deductibility of such insurance expenses makes a real difference.

**Reduced Holding Period for Built-In Gains**

Reducing the BIG holding period for S-Corporations is central to the ability of small businesses to access capital. When businesses convert from a C-corporation to an S-corporation, they have been required to hold their appreciated assets for up to a decade or else face a punitive level of double taxation. Thus, the BIG tax effectively locks-in capital assets. Section 2014 of the *Small Business Jobs Act of 2010* reduced this holding period to 5 years, but it will increase to 10 years in 2013.

**Start-Up Deduction for New Small Businesses**

While a typical business can deduct its business expenses in the year the expenses are paid, a start-up business is limited in the amount it can deduct. Managing such expenses is important to operating a successful business. According to the 2001 NFIB Small Business Poll, the cost of materials and supplies are among the most prominent expenses for small business owners. Most new small businesses face significant start-up costs, including advertising, obtaining licenses, permits and fees, paying rent, hiring business and financial consultants and providing employee training. Section 2031 of the *Small Business Jobs Act of 2010* addressed this issue by allowing up to $10,000 after tax year 2011 as a deduction for start-up expenditures. Inaction by Congress reduces this deduction to $5,000.

**Conclusion**

Delaying consideration of these provisions has the practical effect of creating greater uncertainty for small businesses. This uncertainty is amplified due to the fact that, in most instances, small businesses must pay their income taxes quarterly. The end of 2012 already entails the expiration of the current marginal tax rate structure, many popular family and business deductions, the expiration of the AMT patch and several other provisions. Not dealing with these popular small business tax extenders until the end of the year results an extra layer of uncertainty for small business taxpayers. Furthermore, many of these provisions enjoy wide support by both Members of Congress and the business community. As such, if and when Congress takes up fundamental tax reform, these provisions should be made permanent features of the tax code. Barring that, there is no reason that these provisions should not be extended permanently.
Thank you again for the opportunity to provide comments on expiring tax provisions. NFIB remains eager to work with members of the Committee on Ways and Means to provide tax relief and certainty to our nation’s small business job creators.