Statement of the National Grocers Association Submitted to The House Ways and Means Committee Subcommittee on Select Revenue Measures On Certain Expiring Tax Measures

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The National Grocers Association (N.G.A.) wishes to express its appreciation to Subcommittee Chairman Tiberi and members for holding the hearing on April 26, 2012 on Certain Expiring Tax Measures and for affording N.G.A. the opportunity to submit this statement for the hearing record.

N.G.A. is the national trade association representing the retail and wholesale grocers that comprise the independent sector of the food distribution industry. An independent retailer is a privately owned or controlled food retail company operating a variety of formats. Most independent operators are serviced by wholesale distributors, while others may be partially or fully self-distributing. Some are publicly traded but with controlling shares held by the family and others are employee owned. Independents are the true “entrepreneurs” of the grocery industry and dedicated to their customers, associates, and communities. N.G.A. members include retail and wholesale grocers, state grocers associations, as well as manufacturers and service suppliers. For more information about N.G.A. and the independent sector of the industry, see the N.G.A. website: www.NationalGrocers.org.

Overview.

On January 6, 2012 the Congressional Joint Committee on Taxation published a long list of 60 federal tax provisions that expired at the end of 2011 and another 43 that will expire at the end of 2012. It is well known that in recent years the uncertainty of our tax laws has created a major impediment for independent retail grocers, wholesalers and other businesses to plan for the future, even more so for family owned businesses when it comes to estate taxes. N.G.A.’s retail and wholesale grocers are growing more and more concerned about the inability to make fundamental business and succession decisions because of the numerous short term changes Congress makes to the tax code and then fails to timely extend the expiring provisions. In today’s economic environment many business owners are refraining from investing in a new store or remodel because of the expired 2011 provisions, and thus curtailing employment opportunities. The magnitude of the dilemma for independent retail and
whole sale grocers will be even more significant if Congress does not act before December 31, 2012. In the longer term N.G.A. believes that tax reform must be balanced, fair and equitable. Reform of the tax code is complex and must be carefully studied before any reform changes are adopted.

**Extension of Pro-Growth Tax Provisions.**

**Cost Recovery and Investment Incentives.** At the end of 2011 a number of pro-growth tax provisions expired including the Work Opportunity Tax Credit (WOTC), 15 year straight-line cost recovery for qualified leasehold improvements (including qualified retail improvements), the 100% accelerated bonus depreciation, the increased expensing of up to $500,000 in equipment, and re-authorization of New Market Tax Credits. These provisions that were listed in the Subcommittee’s list of expiring measures have been, in many cases, the only reasons independent retail grocers or wholesalers have been able to expand their businesses or hire new workers.

N.G.A. members feel strongly that appropriate tax policies should promote economic growth and jobs, such as the accelerated depreciation incentives that promote investment in equipment and business expansion. The resulting economic growth will not only create jobs within retail and wholesale grocery companies, but also in the communities they serve and the manufacturing, construction and supply industries.

In October 2011 the N.G.A. Tax Committee reviewed the importance of these provisions to their business growth and in creating jobs. The consensus was the 100% percent accelerated bonus depreciation, along with the increased expensing of up to $500,000 in equipment, the 15 year straight-line cost recovery for qualified leasehold improvements and New Market Tax Credits, were the key essential elements in fostering their plans for investment, and ultimately in their creation of new jobs in recent years.

Retailers and wholesalers reported during this economic recession that because credit has been so tight, or nonexistent, the 100% accelerated bonus depreciation was the key resource that made projects financially feasible. The increased expensing for equipment was an important incentive for equipment purchases and upgrades. In fact, a report prepared by Ernst and Young for the S Corporation Association entitled “The Flow-Through Business Sector and Tax Reform” illustrates that the combination of accelerated depreciation and Section 179 expensing rank at the top of largest business tax expenditures is beneficial to both C corporations and Flow-through entities, such as Subchapter S corporations and LLCs, from 2010 through 2014. In addition, the 15 year straight-line cost recovery for qualified leasehold improvements, including retail improvements, has long been recognized as important to retail grocers due to the fact that the prior 39 year life was too long and does not reflect the economic realities of cost recovery.

The New Markets Tax Credits serve to offer retailers critical access to capital. The New Markets Tax Credit (NMTC), authorized in the Community Renewal Tax Relief Act of 2000, was designed to stimulate investment and economic growth in low-income communities that are traditionally overlooked by conventional capital markets. The NMTC program attracts capital to low income communities by providing private investors with a 39 percent federal tax credit for investments made in businesses or economic development projects located in some of the most distressed communities in the nation –
census tracts where the individual poverty rate is at least 20 percent or where median family income does not exceed 80 percent of the area median.

**Employment Incentives-Work Opportunity Tax Credit.**

Since President Reagan’s Economic Recovery Tax Act of 1981 was enacted, Congress has provided private sector employers a work opportunity tax credit (WOTC) as a financial incentive to hire workers from targeted groups of the chronically unemployed. This has enabled retail grocers, wholesalers and other employers to provide job opportunities, many for the first time, to the poor, veterans, at-risk youth, and the disabled. The WOTC has been proven by several Federal and State evaluations to be an effective tool for placing hard-to-hire workers into productive, private-sector jobs.

In 2011, over 1.1 million workers found jobs through WOTC, at an average cost of approximately $1,300 based on Joint Committee on Taxation data—all other employment costs are borne by the private employer. This figure doesn’t include any offsetting savings from lower welfare, disability, and SSI payments. Congress allowed WOTC to expire last year for all but veterans, and past experience demonstrates that with unemployment still exceeding 8 percent a chance for a million jobs may be lost to disadvantaged workers if the WOTC is not extended this year.

The WOTC originated from the appeals of veterans, mayors with large at-risk youth populations, and parents of children with disabilities who wanted their child to live a normal life. Employer acceptance of WOTC is demonstrated by the fact that last year State Workforce Agencies received 3,750,000 employer requests to certify workers for WOTC and approved 1,160,000. N.G.A. strongly supports the extension of the WOTC as called for in Representative Schock’s (R-IL) and Rangel’s (D-NY) bill, H.R. 2082.

**Major Important Priority Tax Extenders For N.G.A.’s Independent Retail Grocers and Wholesalers.**

The Subcommittee’s list of Certain Expiring Tax Measures for the hearing did not include two major current tax provisions that are of crucial importance to retail and wholesale grocers and expire at the end of 2012, the current individual tax rates and the estate taxes. As Congress considers these measures it is also important that they be extended.

**Extend Individual Tax Rates.**

On December 31, 2012 the individual tax rate reductions of 2001 and 2003 will expire and individuals will face average rate increases of 3 to 4%. For business entrepreneurs that operate Subchapter S, LLC’s, and other pass-through entities, these rate increases would adversely affect the financial resources that are retained for operating capital, business expansion and jobs. N.G.A.’s 2011 Independent Grocers Financial Survey reported that 51 percent were S-Corporations, 18% LLCs, and 30% C Corporations. According to the Ernst & Young report for the S Corporation Association, approximately 3.8 million flow-through entities in 2008 were in the retail and wholesale trade compared to just 425,000 C corporations. Meanwhile, flow-through entities with 100 or more employees employed 20 million employees, suggesting that large flow-through businesses are a significant source of employment. The report observed an important finding that, “The concern over higher individual tax rates has, in part, been the
result of the fact that the flow-through sector plays an important role in the U.S. economy and the recognition that higher tax rates on these firms’ owners may result in less hiring and capital investment with the flow-through sector.”

The individual income tax rates should be extended for the foreseeable future, such as through 2014, so Congress can pursue tax reform in a fair and equitable fashion and weigh the concerns of both flow-through entities and C corporations in evaluating comprehensive tax reform. The so-called Millionaire’s surtax on income over $250,000 and the “Buffet rule” should be rejected because of the adverse effects on Main Street community businesses like retail grocers.

**Extend Estate Tax Provisions.**

N.G.A. supports full repeal of the estate tax, however, the current economic environment may preclude repeal. In the absence of repeal, N.G.A. calls on Congress to provide meaningful relief by making permanent the current inflation adjusted exemption of $5 million per individual ($10 million per married couple with portability of any individual’s unused portion to the surviving spouse) and the maximum tax rate of 35%.

Because the estate tax falls on assets, it reduces incentives to save and invest and, ultimately, hampers growth of privately held and family owned businesses. The estate tax is especially burdensome to family-owned retail grocers and wholesalers. Well over half of the assets of a typical supermarket—the highest of any other industry sector—are not liquid, so the death of an owner creates a serious obstacle to continuation of the business. Because the estate tax is assessed on the value of a business at the owner’s death, it often forces families to borrow funds to pay the tax. As a result it reduces the ability to invest and hampers growth of the business, or forces the sale of the business.

**Conclusion.**

Congress should immediately include the above provisions in a comprehensive extenders bill and quickly pass it. Tax increases and uncertainty are not the answer to restoring economic growth. Congress should act now to provide American businesses with long term stability and certainty within the tax code, in part, by making permanent the current individual rates and current estate tax rates and exemption. N.G.A. also urges Congress to extend, through 2014, the Work Opportunity Tax Credit (WOTC), the 15 year straight-line cost recovery for qualified leasehold improvements (including qualified retail improvements), the 100% accelerated bonus depreciation, the increased expensing of up to $500,000 in equipment, and re-authorization of New Market Tax Credits.