



April 23, 2012

United States House of Representatives  
Ways and Means Committee  
Subcommittee on Select Revenue Measures  
Washington, DC 20515

The Texas Society of Certified Public Accountants respectfully submits this letter as a written statement into the hearing record on:

“Certain Expiring Tax Provisions”  
Thursday, April 26, 2012, 10:00 AM  
Longworth House Office Building

On behalf of the 29,000 members of the Texas Society of Certified Public Accountants (TSCPA), we are writing to request your support to permanently extend the election to deduct state and local sales taxes. Related bills H.R. 476 and S. 80 (or S. 24) illustrate strong bipartisan support for this concept.

The state and local tax deduction has been in place in some form since the inception of the modern federal income tax in 1913 to prevent the double taxation of funds collected by the state to finance state services. The general sales tax deduction was eliminated in 1986.<sup>1</sup> It was temporarily restored for 2004 and 2005 returns, then extended through 2007, 2009, and ultimately through 2011.<sup>2</sup> The provision has now expired, leaving millions of taxpayers uncertain as to this important deduction and concerned about the fairness of our tax system.

The sales tax deduction is particularly important for residents of Texas. According to a recent study of the Tax Foundation, in the latest year for which figures are available (2009), 90 percent<sup>3</sup> of Texans claimed an itemized deduction for state taxes on their federal return reported the sales tax deduction. But it is also important to know that this figure was greater than 80 percent for taxpayers in Florida,

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<sup>1</sup> Congressional Budget Office, “The Deductibility of State and Local Taxes” (February 2008), 4, the sales tax deduction was first enacted in *The Revenue Act of 1913*, eliminated in *The Tax Reform Act of 1986*, reinstated with *The American Jobs Creation Act of 2004* for two years, and extended two years each by *The Tax Relief and Health Care Act of 2006*, *The Emergency Economic Stabilization Act of 2008*, and *The Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010*, Internet.

<sup>2</sup> Ibid, 4.

<sup>3</sup> Tax Foundation, Fiscal Fact No. 288, “States Vary Widely in Number of Taxpayers Deducting State or Local Sales Taxes” (January 11, 2012), Internet.

Tennessee, Nevada, Wyoming, South Dakota and Washington.<sup>4</sup> These figures establish the obvious: the sales tax deduction is an important tax benefit for millions of individuals.

This provision should be extended and made permanent because it is a classic case of fairness. Without the deduction for sales taxes, the Internal Revenue Code is simply unfair to individuals who happen to live in states that have, for whatever reason, chosen to finance the need for state revenue with a sales tax rather than alternative sources such as income taxes or property taxes. We are unable to understand the rationale or fairness of the Code discriminating between permitting a federal deduction for one type of state and local tax versus another. If the concern is that taxpayers should not have the benefit of both a sales tax and an income tax deduction, then the current provision section 164(b)(5)(A)<sup>5</sup> could be extended. Continuance of this election on the Form 1040 would provide fairness to the citizens of states that have chosen to not impose an individual income tax.

An analogous provision currently exists in connection with the foreign tax credit mechanism in section 903.<sup>6</sup> This long standing provision respects the judgment of foreign jurisdictions to levy taxes in a form other than (in lieu of) income taxes while still providing a tax credit for U.S. citizens for the alternative tax form. We suggest that respecting the judgment of our own states to levy taxes in the form they deem best for their own citizens should be given no less respect than that accorded foreign jurisdictions.

Without the deduction for sales taxes, our tax law, in effect, discriminates against individuals living in Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee, Texas, Washington, and Wyoming.<sup>7</sup> It creates an unlevel playing field when it comes to attracting individuals and businesses that create jobs.

The sales tax deduction expired at the end of 2011, leaving uncertainty for millions of taxpayers. Some may not be aware that the provision has expired and may be saving sales receipts, only to be disappointed at the end of the year if the deduction is not available. Others may be aware of the expiration and may not be saving receipts, to be disappointed when they miss an important deduction if the provision is extended or made permanent.

We would like to address an additional administrative issue. If, as we hope and expect, the deduction for the sales tax is made available, we ask you to consider encouraging the Internal Revenue Service to be more generous in its computation of the deduction amount as based on the income of the individual. Our experience has been that the amount of the deduction that can be claimed without specific documentation is significantly less than the amount individuals actually pay. This results in

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<sup>4</sup> Wikipedia, States Without an Individual Income Tax. Alaska has no income tax with about half of its taxpayers claiming the itemized deduction. Tennessee and New Hampshire have no individual income tax, but tax only dividend and interest income. Less than five percent of New Hampshire filers claim the itemized deduction. Internet.

<sup>5</sup> 26 USC § 164 – Taxes.

<sup>6</sup> 26 USC § 903 – Credit for Taxes in Lieu of Income, Etc., Taxes.

<sup>7</sup> Ibid, Wikipedia.

taxpayers having to retain voluminous files of sales receipts adding greatly to the complexity and administrative inefficiency of the deduction.

Texas has the second largest gross domestic product in the nation and 15<sup>th</sup> largest in the world.<sup>8</sup> On behalf of taxpayers resident in Texas and the other state and local jurisdictions that have decided to raise revenue by levy of a sales tax instead of an income tax, we encourage you to extend or make the sales tax deduction permanent to provide fairness and certainty for millions of taxpayers.

Sincerely,

Donna Wesling, CPA  
Chairman

John M. Sharbaugh  
Executive Director/CEO

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<sup>8</sup> Wikipedia, Comparison between U.S. States and Countries by GDP (PPP), 2008 data, Internet.