

Statement for the Record

Submitted to the Committee on Small Business

United States House of Representatives

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The National Association for the Self-Employed (NASE) respectfully submits this official statement for the record on today's hearing, "The Biggest Tax Problems for Small Businesses." The NASE represents the 23 million self-employed and micro-business owners (10 employees or fewer), providing educational resources for those looking to start and grow their businesses. Founded in 1981, the association has been the sole voice advocating for America's small businesses in all areas of public policy, especially in the area of the tax inequities faced by the self-employed, for the past 30 years.

For background purposes, we would like to put into context the role of the self-employed in the small-business community. At present, there are roughly 27 million small businesses nationwide, ranging from 1 to 499 employees and of those, 23 million are identified as self-employed, accounting for more than 78 percent of the entire small-business community, generating roughly \$950 billion annually in sales (2010 Non-Employer Statistics, U.S. Census Bureau). The majority of the self-employed, roughly 56 percent, have their business organized as a sole-proprietorship, and thus any significant tax reform in the corporate area will have little if any impact on the self-employed.

On behalf of our members, of which 78 percent indicated overwhelming support in a 2012 survey on tax reform, the NASE is in favor of comprehensive tax reform, in order to create a simplified tax code that treats all businesses fairly while also removing unnecessary hurdles and streamlining a cumbersome and overwhelming tax filing process. So strong is the call for reform that in 2012, 96 percent of our members deemed individual and corporate tax reform as a "very important or moderately important" issue for Congress to address in 2013.

Yet lawmakers largely ignore the self-employed in proposed reforms. For the past several years the House Ways and Means Committee has undertaken a valiant effort to draft and propose significant tax reform, however, we remain concerned that those efforts are seemingly void of any proposals that would address the continued disparity faced by the self-employed under the current tax code. In blunt

terms, only one of the four components has any bearing on the self-employed community, Unified Deduction for Start-Up and Organizations Expenses. And it is ironic that the framework for the unified deduction is included in H.R. 886, Small Business Tax Relief Act of 2013, which includes an additional six other tax measures that the small-business draft overlooks (Note: the small business draft does include the permanent expensing provision which is included in H.R. 866).

The following are real, actionable tax reform recommendations that would have significant, positive impact on the self-employed:

- Deduction of health insurance costs for the self-employed as a qualified business expense by adding a line item on the Schedule C form and not on page one of Form 1040. The biggest tax inequity faced by the self-employed continues to be their inability to deduct the cost of the health insurance as a qualified business expense. This amounts to roughly \$1,800 in additional taxes per year for self-employed individuals.
- Amend the definition of “employee” to include the owner and spouse of a sole proprietorship, or a 2 percent or greater shareholder in an S Corporation – a simple legislative or administrative fix to current language. This would address many issues related to “fringe benefits,” for example: the applicability of an HRA 105 plan, retirement plan contributions, and health insurance premiums.
- Simplified and streamlined definition of independent contractor versus employee by expanding the Form 1099 that requires the owner and contractor to agree to their business relationship in a transparent manner. Resulting in a reduction of abuse by business owners and their use of independent contractors.
- Reforms to the Affordable Care Act that would make the purchase of health care coverage simpler and more cost effective for the self-employed. Two proposal: changing the premium assistance calculation from anticipated gross income to adjusted gross income from the previous year (utilizing safe harbor provisions that already existed for the self-employed by the IRS) and reversing the Technical Release No. 2013-03, “*Application of Market Reform and other Provisions of the Affordable Care Act to HRAs, Health FSAs, and Certain other Employer Healthcare Arrangements,*” so that micro-business owners may utilize health reimbursement arrangements for help their employees cover related medical out-of-pockets expenses.

It goes without saying that any significant reform to the tax code will be challenging, but we believe that putting forth a dynamic, common-sense proposal for bringing the tax code into the 21st Century can be accomplished if the proposal provides for a transformational change to all aspects of the tax code, individual and corporate.

As it stands now, our concern remains, the self- employed continue to face a significant inequity when it comes to adhering to the current dysfunctional and byzantine tax code and it is time for Congress to act.

We look forward to continuing to work with the Small Business Committee on removing the barriers to self-employment by making the tax code simpler, easier, and more business friendly.