

**Congress of the United States**  
**U.S. House of Representatives**  
**Committee on Small Business**  
2561 Rayburn House Office Building  
Washington, DC 20515-6515

April 15<sup>th</sup>, 2009

The Honorable Douglas Shulman  
Commissioner  
United States Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, D.C. 20224

Dear Commissioner Shulman,

The Committee on Small Business would like to thank you for testifying on April 1<sup>st</sup> regarding the relationship between small businesses and the Internal Revenue Service (IRS). As you noted in your testimony, our economic recovery and future prosperity depend on the success of our nation's small businesses. Given the current economic climate, small firms need the IRS to be particularly responsive to questions regarding tax provisions within the American Recovery and Reinvestment Act (P.L. 111-5).

A common source of frustration for entrepreneurs is the complexity of compliance with the tax code. The multitude of filings, forms, and records are confusing for many small business owners. According to the Government Accountability Office (GAO), an entrepreneur can face more than 200 IRS forms and schedules in any given year. Although the IRS has dedicated resources to addressing taxpayer questions and concerns, many entrepreneurs are still frustrated by the agency's bureaucracy.

In 2009, the IRS will have a greater impact on small businesses than it has in previous years. At a time of frozen credit and declining profits, many small firms are struggling to meet their tax obligations. For countless entrepreneurs, the way in which the IRS handles these challenges could mean the difference between staying open and closing their doors forever. In other words, the IRS's actions will affect the pace of our economic recovery.

The IRS will also influence recovery efforts through its administration of tax provisions contained in the Recovery Act. The implementation of these initiatives - which are targeted directly at small businesses - will be vital to helping cash-strapped entrepreneurs expand their businesses and create new jobs.

Given the importance of these items, the Committee is offering its recommendations on how the IRS can assist small businesses in these difficult times. Attached you will find several recommended actions. This is by no means an exhaustive list, but, rather, contains proposals the IRS could undertake immediately. I would urge the IRS to swiftly adopt these proposals to help lessen the burden on America's small firms.

Again, thank you for testifying at our April 1<sup>st</sup> hearing. I look forward to hearing your thoughts on the implementation of these recommendations.

Sincerely,

A handwritten signature in dark ink, reading "Nydia M. Velázquez". The signature is written in a cursive style with a large, stylized "Z" at the end.

Nydia M. Velázquez  
Chairwoman

House Committee on Small Business

Encl:

## Committee on Small Business Recommendations

### 1. Administration of the American Recovery and Reinvestment Act (ARRA)

As the lone Agency that collects and distributes revenue, the IRS will play an integral role in carrying out the policies of the American Recovery and Reinvestment Act so that our economy can get back on track. Specifically, under the Act, employees who are “involuntarily terminated” from their jobs will only have to pay 35 percent of the premiums for COBRA insurance covering themselves and their dependents. The employer must pay the entire premium and then claim the subsidy as a credit against payroll taxes on Form 941. There is a concern that small businesses, already cash strapped, will be making COBRA payments and then waiting for months to get that money refunded to them.

**Recommendation:** Because the new COBRA premium will immediately impact the payroll tax deposit and reporting process of every company that has downsized its workforce, the Committee recommends that the IRS make processing of Form 941 its highest priority. Millions of Americans have lost their jobs in the past two years and many of them worked for small businesses. The Committee urges the IRS to hire as many staff as needed to process the COBRA claims so that small businesses can get back refunds owed to them in a timely manner.

### 2. IRS Must Ensure Refunds Are Paid Timely

A new provision, enacted as part of the American Recovery and Reinvestment Act of 2009, enables small businesses with a net operating loss (NOL) in 2008 to elect to offset this loss against income earned in up to five prior years. Typically, an NOL can be carried back for only two years. The longer NOL carry back period gives small businesses that experienced losses the ability to get immediate refunds of income taxes paid in earlier years. This will help many small businesses shore up balance sheets and also provide them with an infusion of cash to maintain operating expenses at a time when the credit markets have frozen up. Taxpayers who already filed a return for 2008, elected to waive the normal two-year carry back period, or have not filed a return, generally have until April 17, 2009 to make the election.

**Recommendation:** Because of the economic downturn, the IRS expects a record number of small businesses to be eligible for the refunds. It has also stated that they will be implementing special steps to ensure timely processing of the refunds. Also, since April 17, 2009 is generally the deadline to make the election to use the provision, the Committee recommends that the IRS hire as much staff as needed so that small businesses can quickly get their tax refunds. Additionally, the IRS must closely monitor the filings of Form 1045 and Form 1139 (forms used to claim the NOL refund) to ensure that small businesses that are eligible for the provision are in fact taking advantage of the provision. As the Committee has highlighted, many times small businesses are simply not aware of tax benefits that they could be taking.

### **3. Flexibility Regarding the Impact of Collection on Small Businesses Facing Economic Hardship**

When the IRS contemplates taking enforced collection action against a taxpayer, both the tax code and IRS procedures require that IRS personnel consider whether the collection action will impose an economic hardship on the taxpayer. With the economy worsening since last year, the importance of considering the impact of collection actions on taxpayers and their families is even more critical. The Commissioner noted some of the things the IRS has been doing to assist taxpayers who might be delinquent on their taxes. Offering installment agreements, postponing collection actions, and adding flexibility for missed payments all provide real relief for small businesses. However, more can be done.

**Recommendation.** The Committee recommends that the IRS start accepting more Offers in Compromise. The IRS Offer in Compromise (OIC) program was established by the U.S. Congress to help taxpayers who have experienced significant financial problems to get a fresh start but only if they qualify. However, in 2007, over 46,000 Offers were submitted with only 12,000 or, about 26%, being accepted. Due to the fact that small businesses could be experiencing significant hardships and the importance they play in our overall economy, the Committee suggests that the IRS look into accepting more Offers in Compromise as a way to alleviate the effects of the recession.

### **4. Improving Outreach to Small Businesses**

The hearing highlighted the need for the IRS to help educate small business owners, especially in light of the economic downturn. One program that the IRS has implemented recently has been "Super Saturdays." The program, in which the IRS opens its office doors on Saturdays to reach out to taxpayers by offering free tax preparation, advice, and information, has been widely successful. However, a Super Saturday has never focused solely on small businesses.

**Recommendation:** The Committee recommends that the IRS hold a Super Saturday dedicated solely for small businesses. Almost every aspect of starting a business, to operating one, to expanding one, has tax components. In his written testimony submitted to the Committee, Mr. Shulman acknowledged that the IRS is always looking for ways to better serve the small business/self-employed taxpayer. One way to do this would be to set up a forum where small businesses could meet with the IRS and various partners and get advice on their tax obligations. Many small businesses complain that they often do not know where to get questions answered. A Super Saturday focused on small businesses would give them that very venue, while also allowing the IRS to offer its advice on setting up a business and staying compliant.