TESTIMONY BEFORE THE UNITED STATES CONGRESS
ON BEHALF OF THE

NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Statement for the Record of Jeff Brabant
Vice President, Federal Government Relations

United States Senate
Committee on Finance

"The 2025 Tax Policy Debate and Tax Avoidance Strategies"

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National Federation of Independent Business
555 12th Street NW, Suite 1001
Washington, DC 20004

Good morning, Chairman Wyden, Ranking Member Crapo, and Members of the Senate Committee on Finance. My name is Jeff Brabant, and I am the Vice President of Federal Government Relations for the National Federation of Independent Business (NFIB). It is an honor to testify before your committee today on the importance of making the 20% small business deduction permanent.

I am here on behalf of the approximately 300,000 small and independent business owners that NFIB represents. NFIB is the Voice of Small Business. The Voice of Small Business is not just a slogan but a reality that drives the advocacy work of NFIB members and staff. The average NFIB member represents fewer than eight employees, with about 88% of NFIB members employing fewer than 20 people. NFIB represents every industry in America including retail, manufacturing, agriculture, and financial services among others.

A typical business owner joins NFIB because of its unique mission and structure. NFIB was founded in 1943 with the promise of "one member, one vote." This unique promise ensures that all NFIB policy decisions are made by all our members, rather than individual company CEOs in board rooms. NFIB does not make a major policy decision unless it secures at least a 70% consensus from our membership. This one-member one-vote promise makes it so that no one member can exert outsized control over the organization.

The Tax Cuts and Jobs Act and Small Business

In 2017 Congress passed the Tax Cuts and Jobs Act (TCJA). One of the most publicized aspects of TCJA was the cut to the corporate rate from 35%-21%. This was beneficial to small business owners as over 20% of small employers are organized as C-corporations. However, over 77% of small employers and well over 90% of all small businesses are organized as pass-through businesses.[1] This means that business income passes through to an individual business owner's personal income tax. Types of pass-through businesses include sole proprietorships, partnerships, and S-corporations.

With C-corporations receiving a 14% rate cut, and pass-through businesses only receiving a 2.6% cut of the top rate,[2] Congress realized that they needed to do something so that small pass-through businesses were not placed at a competitive disadvantage with their larger rivals. Congress wisely decided to create the 20%

[1] U.S Small Business Administration, Office of Advocacy, *Frequently Asked Questions*, March 2023
[2] The top marginal rate bracket was cut from 39.6 to 37%

small business deduction, officially known as the Section 199A qualified business income deduction. This deduction has allowed most small business owners to take up to a 20% deduction on "qualified business income." While qualified business income sounds complicated it closely mirrors net revenue.

The creation of the 20% small business deduction has been crucial to the survival of small business owners. Since its passage, the small business economy has endured a plethora of issues including a pandemic that closed many businesses for long periods, record inflation, and a historically tight labor market. This deduction empowered small business owners and allowed them to not only survive these difficult times but to thrive.

However, small business owners are now confronted with a new reality, if Congress fails to act the 20% small business deduction will expire at the end of 2025 and over 90% of small business owners will see a significant tax increase. These small business owners will not be absorbing this increase in a vacuum. They will be absorbing it at a time when their larger C-corporation competitors will not be seeing a tax increase, and at a time when inflation remains hugely problematic for small employers.[3]

NFIB Member Michael Ervin of Coal River Coffee Company in St. Albans West Virginia said it best earlier this year at a House Committee on Ways and Means Hearing:

> *"These tax increases do not exist in a vacuum. My larger competitors like Starbucks and Tim Hortons are organized as C-Corporations and pay a 21% federal corporate rate, which is permanent.*
>
> *If the small business deduction lapses and my marginal rates increase, I could be staring at an effective tax rate of nearly 45% when you combine federal and state income tax rates. This 45% tax is not on my take-home pay like high-wage W-2 employees, this is the tax on my business income. With a pass-through business like mine, I am taxed on business income whether I reinvest that money in my business and create new jobs or take it home as profit.*
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> *Down the street from my location is a larger competitor, Tim Hortons. In two years, if my taxes go up, the corporate rate will remain 21%. Tim Hortons will be*

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[3] Holy Wade and Madeleine Oldstone, NFIB Research Center, *Small Business Problems and Priorities*, 2024 https://www.nfib.com/problemsandpriorities/

paying a 21% federal rate and a 6.5% state corporate rate for a total combined rate of 27.5%, while my total combined rate will be closer to 45%. This disparity will make it extremely difficult for me to compete."

The Macroeconomic Benefits of Extending the Small Business Deduction

This morning, NFIB in conjunction with EY released a macroeconomic analysis on the small business impact of permanently extending the 20% small business deduction.[4] ***This study concluded that permanently extending this provision would increase jobs in the small business sector by 1.2 million jobs each year and by 2.4 million annually every year thereafter***.[5]

Extending the 20% small business deduction would also result in a $750 billion GDP increase in the small business sector over the first ten years, and a $150 billion increase annually after that.[6]

The analysis also found that 33 million small pass-through businesses employ more than 68 million workers in the United States. Of those 33 million small pass-throughs 25.9 million of them claimed the deduction in 2021.

How Small Business Owners View Potential Tax Increases

Today, NFIB released a tax survey of small business owners. This survey found that fifty-nine percent of all business owners reported that the elimination of the 20% small business income tax deduction would have a negative impact on their business, with over half (58 percent) of small business owners reporting the potential increase in federal personal income tax rates would negatively impact their business, with 31 percent reporting a serious negative impact.

When asked how the potential tax increase (if the TCJA tax provisions expire) will impact their business, 61 percent of small business owners reported they would likely raise prices, and 44 percent would postpone or cancel capital investments.[7]

2025 Policy Discussion

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[4] Brandon Pizzola, EY, *Macroeconomic Impacts of Permanently Extending the Section 199A Deduction on Small Businesses,* September 2024, NFIB.com/EYReport2024

[5] Ibid

[6] Ibid

[7] Holly Wade and Madeleine Oldstone, NFIB Research Center, *NFIB Tax Survey 2024,* September 2024, NFIB.com/TaxSurvey2024

NFIB's top priority for 2025 is making the 20% small business deduction permanent. However, Congress should be aware that if other provisions expire, they could have a detrimental effect on small business owners. 5 out of 7 marginal rates are scheduled to increase. These increases combined with the expiration of the 20% small business deduction will result in significant effective rate increases for many small business owners.

The Estate Tax exemption is also scheduled to be cut in half at the end of 2025. While many people may associate the Estate Tax with billionaires, this tax has a significant effect on small businesses. If the Estate Tax climbs too high, it can have the effect of making families sell their family business to foot the tax bill. In many cases, families end up selling to larger companies that don’t have the same footprint in the local community.

Conclusion

The decisions Congress makes reflect the values of a Congress. Over the next year, Congress will debate the merits of extending over $4 trillion worth of tax provisions. Members of Congress should ask themselves if they really believe it when they say, “Small Businesses Are the Backbone of America.” If they truly believe that statement and value small businesses in their communities, then making the 20% small business deduction permanent be an easy decision.