April 15, 2015

Dear Members of the Working Group on Business Income Taxes:

In the United States and across the globe, entrepreneurs and small businesses are the engines of economic activity. The Small Business & Entrepreneurship Council (SBE Council) and its more than 100,000 members work to ensure that U.S. policies strengthen the environment for successful startups and small business growth. The complex and burdensome U.S. tax system is a hindrance to entrepreneurship and small business success. Therefore, tax reform is a top priority for SBE Council and its membership.

Our members are weighed down more each day with administrative burdens, high tax payments, and tax compliance costs. Many of our members have no choice but to hire accountants and advisors to help them navigate new changes and requirements, and sort through retroactive extensions and other tax-related issues at the federal, state and local level. While compliance costs and burdens are major concerns to small businesses, so is the financial burden of high taxes. These are resources that could be put back into the business to make firms more competitive. Access to capital remains a challenge for many entrepreneurs, and every dollar that is sent out the door to Washington is a dollar that is not available for investment or hiring staff.

SBE Council is pleased that Congress is tackling tax reform, and we only hope that the efforts of the tax reform working groups are not wasted. Small business owners and entrepreneurs want to see legislative action to reform the system, and NOW – they are looking for simplicity, relief, certainty, and fairness.

To that end, we are providing the working group with five simple rules on tax reform for small businesses:

Personal Income Tax Rates Matter to Small Business. Of course, the personal income tax rate matters a great deal to entrepreneurs and small businesses since more than 96 percent of businesses, according to the latest IRS data, pay the personal income tax (as sole proprietorships, partnerships, S-Corps, etc.) rather than the corporate income tax. The top federal personal income tax rate is 39.6 percent, rising to 43.8 percent with the Medicare income tax, and reaching as high as 52 percent in California, for example, after adding in state income levies. That's non-competitive and destructive.

Corporate Income Tax Rates Matter to Small Business. Reducing our high and non-competitive corporate income tax rate of 35 percent – which can top 41 percent when state tax rates are factored in – is not just an issue for big business. After all, among employer C Corporations in 2011 (latest Census Bureau data), 99.2 percent had less than 500 workers, and 86.4 percent had fewer than 20 employees.

Capital Gains Taxes Matter to Investment and Capital Access and Formation. Given that entrepreneurship and investing are the market endeavors that drive economic growth, it makes no sense to tax the returns on such critical risk taking. For good measure, gaining access to capital stands as the biggest challenge faced by entrepreneurs. Yet, under President Obama, the capital gains tax has increased from 15 percent to 23.8 percent, and he would like to raise the top rate further to 30 percent. Also, since capital gains are not indexed for inflation, the real capital gains tax rate is even higher. Make no mistake, being a direct tax on the returns of risk taking, the capital gains tax could rank as the most economically destructive levy imposed by the federal government. Both the individual and corporate capital gains taxes should be eliminated under pro-growth tax reform.

Make Expensing a Permanent Option. The higher (but temporary and retroactively extended) Section 179 expensing of capital expenditures need to be further expanded and made permanent. This would be a minimal goal under tax reform, however, as all businesses should be given the choice of expensing capital expenditures or using depreciation. A permanent expensing option would be a big plus for investment, and therefore, for economic growth, productivity, and income growth.

Tax Reform Must Not Be a Tax Increase. Finally, in the past, tax reform efforts operated under the overarching principle that the final product would strive for revenue neutrality. That is, the elimination of deductions and credits in order to lower tax rates would not result in a net tax increase. Unfortunately, some talking tax reform today, including President Obama, have pushed the idea that tax reform wind up being a significant tax increase. Entrepreneurs, small businesses and our economy in general already have suffered through enough tax increases in recent years. In fact, from the perspective of maximizing the potential growth effects of tax reform and helping to get the economy back on track, one can make a strong case that reform should implement a sizeable tax cut.

The U.S. tax code is noncompetitive for all businesses. Our tax system should not drive capital overseas or incentivize businesses or investors to keep it overseas. The U.S. needs to be a haven for capital, which our entrepreneurs and startups desperately need. The tax code should not be a deterrent to new business formation and startups.

SBE Council looks forward to working with Members of Congress to make tax reform a reality in 2015. Please let us know how we can be a resource and to provide other ideas and solutions that would help make our tax system a modern, efficient and competitive system.

Sincerely,

Karen Kerrigan
President & CEO

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