Associated Builders and Contractors, Inc.

April 15, 2013

The Honorable Vern Buchanan
Chairman
Small Business Working Group
2104 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Allyson Schwartz
Vice Chair
Small Business Working Group
1227 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Buchanan and Vice Chairwoman Schwartz:

On behalf of Associated Builders and Contractors (ABC), a national association with 72 chapters representing nearly 22,000 merit shop construction and construction-related firms, I am writing in regard to the Ways and Means Committee's Tax Reform Working Group on Small Business. With roughly 80 percent of the commercial construction industry comprised of pass-through entities, we appreciate your attention to the vast majority of American businesses whose rates are determined by the individual side of the tax code.

As millions of business owners struggle this month with the increasingly onerous burden of tax compliance, the U.S. corporate tax rate remains the highest in the industrialized world. Worse yet, the fiscal cliff opened a yawning gap between Main Street and the Fortune 500, with many small businesses facing combined marginal rates up to 25 percent greater than those paid by the country's largest companies With the construction unemployment rate at 14.6 percent, nearly double that of the broader economy, tax relief is critical for these businesses to spur reinvestment, create jobs and grow.

ABC's top priorities for reforming the tax system are parity, simplicity and certainty. Parity in terms of closing the emerging rate gap between corporations and pass-throughs via comprehensive reform; simplicity in the sense of moving toward a less complex structure with minimal brackets and fewer loopholes; and certainty by way of long-term tax policy, elimination of temporary gimmicks and permanent extension of worthy tax expenditures.

First and foremost, tax reform must be done in a comprehensive way that keeps rates low and similar for small businesses and large corporations alike. Not only would a revenue-neutral, corporate-only plan such as the one included in the FY2014 White House budget further tilt the playing field in favor of big business, its base-broadening elements would in fact amount to a massive tax hike on Main Street companies. According to a 2011 Ernst & Young study, the elimination of widely used business tax expenditures would result in a $27 billion annual tax increase on the pass-through community, which comprises 95 percent of all U.S. businesses entities and employs the majority of the private sector workforce. Construction would be among the industries hardest hit by such a move, with four out of five businesses absorbing a 9 percent tax increase totaling $2.3 billion per year. We admire Chairman Camp's steady leadership on this important point, but we fear in the absence of a broader agreement that corporate reform might be proffered as an attractive consolation prize. Bipartisan boosters aside, this type reform is political pyrite- a corporate rate cut financed by small business would have troubling implications for the tax code and must not be entertained as a viable alternative.

While low, equitable statutory rates are a key element of reform, easing the administrative burden of tax compliance is just as imperative. According to a recent NFIB survey, 91 percent of small business owners rely on a professional tax preparer to navigate the increasingly byzantine Internal Revenue Code. Compliance with federal tax law alone costs taxpayers 6.7 billion hours and $240 billion each year, per the National Taxpayers Union. Until the tax code is pared down to size, American business owners will continue to waste precious resources on at the expense of growth, capital investment and job creation.

One immediate way for Congress to relieve the significant compliance challenges within the construction industry is to reform Section 460(e) to allow more small commercial construction firms to use the Completed Contract Method (CCM) of accounting on multi-year contracts. As an historical accident of the 1986 overhaul, new limits on this traditionally favored method of accounting were not indexed for inflation. In the 26 year interim, tens of thousands of Small Business Administration-defined small businesses have fallen into the administrative trap of "look-back" accounting required by the Percentage of Completion Method. By raising the current $10 million CCM eligibility threshold in Section 460(e) to a more contemporary $40 million per year level, these small and mid-sized companies would be spared the many hours and thousands of dollars per job spent on look-back calculations, with no net change in the contractor's liability to the Treasury.

Finally, in order to achieve a truly efficient and effective tax system, we must end the annual practice of short-term and retroactive tax expenditures, make tough decisions as to which preferences deserve permanent status, and give business owners the certainty they need to hire and invest. In construction and other capital-intensive industries, businesses rely on the ability to expense major equipment purchases under Section 179. While the increased deduction has encouraged big-ticket investment in the immediate term, uncertainty over future levels prevents any degree of sensible planning. To this end, ABC supports the permanent Section 179 expensing up to $250,000 provided for in Chairman Camp's recent discussion draft. Likewise ABC members often reduce their federal burden via bonus depreciation, the Section 199 deduction, deduction of state and local taxes and other perennial extenders, but the efficacy of these provisions is often undercut by their inherent transience. Depending on their relative merits, tax extenders should be acknowledged as permanent elements of the code or used to finance lower marginal rates.

Thank you for your working group's attention to the impact of tax rates and compliance challenges on small businesses. We applaud the committee's methodical, deliberate approach to crafting comprehensive legislation, and look forward to working with you on reform efforts that will grow the economy and create jobs.

Sincerely,

Geoffrey Burr
Vice President, Federal Affairs

# Tax Reform

## OVERVIEW

More than a quarter century after its last significant reform, our nation's tax system is creaking under its own weight. The sweeping changes of 1986 have been eroded over time by tens of thousands of pages of new regulations, loopholes and preferences. In its current form, the internal revenue code disproportionately affects small businesses, which are forced to expend significant time and resources in order to comply with increasingly burdensome tax provisions. Moreover, Congress impedes economic growth with unpredictable, ad hoc tax policies extended on a year-to-year basis.

In order to avert much of the fiscal cliff, Congress recently extended Bush-era tax rates for most taxpayers, creating a new threshold for higher earners who now face an elevated top rate. While this notional permanence lends some needed certainty to the business community, it adds further layers of complexity while opening up a significant gap between Main Street and the Fortune 500. With the overwhelming majority of construction businesses paying income tax at the individual level, many now face a combined rate up to 25 percent higher than that of America's largest corporations. This new baseline must be used as an opportunity to pursue fundamental, comprehensive reform in a way that keeps rates low and similar for corporations and individuals alike.

As the United States struggles to emerge from a deep recession, the country can ill afford perpetually higher taxes on small business, the primary engine of job creation. Further, comprehensive tax reform will establish an encouraging climate for capital investment and economic growth. ABC supports minimizing the overall tax burden while reducing complexity and providing needed certainty to the construction industry and the broader business community.

## ABC SUPPORTS

- Comprehensive tax reform that:
- Lowers marginal rates
- Simplifies the internal revenue code
- Maintains parity for main street businesses and large corporations
- Repeal of the Estate Tax ("death tax").
- Repeal of the individual and corporate Alternative Minimum Tax (AMT).
- Increasing and indexing the Completed Contract Method (CCM) threshold.
- Repeal of look-back accounting requirements.
- Reform of depreciation schedules to reflect the useful life of capital investments.
- Making permanent worthy business tax credits and deductions ("extenders").
- Repeal of newly effective Patient Protection and Affordable Care Act taxes on wages and investment income.

## ABC OPPOSES

- The widening gap between small business tax rates on pass-through entities and those for large corporations.