



REPRESENTING THE RESTAURANT INDUSTRY

The Cornerstone of the Economy, Career Opportunities and Community Involvement

Statement for the Record

Of

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National Restaurant Association**

For The Hearing On

**“Extenders and Tax Reform:
Seeking Long-Term Solutions”**

Before

**The U.S. Senate
Committee on Finance**

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Chairman Baucus, Ranking Member Hatch, and members of the Senate Committee on Finance, thank you for the opportunity to submit this statement for the record on behalf of the National Restaurant Association. We applaud the Chairman, Ranking Member, and Committee's leadership on tax reform.

Looking ahead, tax reform presents an opportunity to provide taxpayers with certainty, simplicity, and fairness, while encouraging economic growth and job creation. Done properly, a comprehensive and nuanced review of the tax system would eliminate those tax policies that detract from these objectives, while promoting those that advance them.

In this regard, as Congress and this Committee undertake the tax reform effort, we wanted to bring to your attention a few tax policies that meet these objectives and are important to the restaurant industry. Specifically, the U.S. economy would benefit from reform efforts that make permanent the 15-year depreciation schedule for leasehold improvements, restaurant improvements and new construction, and retail improvements, which would advance these goals. We also urge continued support for the Work Opportunity Tax Credit ("WOTC"), the deduction for donations of food inventory, and an increase in the deduction for business meals. These provisions provide significant benefits to the economy and should be continued as permanent aspects of the Internal Revenue Code ("tax code").

Moreover, in the interim, we urge immediate and seamless extension of expired tax provisions, which is essential to continuing the tax relief and access to capital that is critical to our nation's economic and financial recovery.

Restaurants: Small Businesses with a Large Impact on Our Nation's Economy

The restaurant industry plays a significant role in our nation's economy. In 2011 alone, the restaurant industry generated an estimated \$604 billion in sales, with an overall economic impact of more than \$1.7 trillion. Every dollar spent in restaurants generates an additional \$2.05 spent in our nation's economy. The restaurant industry is one of the nation's largest private job creators, employing approximately 12.8 million people, representing nearly ten percent of the U.S. workforce. We are truly the cornerstone of this nation's economy.

Moreover, it is important to stress that the restaurant industry is an industry of small businesses. There are 960,000 restaurant and foodservice outlets in this country. Seven out of ten restaurants are single-unit operators. Most eating and drinking establishments, 93 percent of the industry, have fewer than 50 employees. Restaurants also serve as the conference rooms for many of the self-employed and other small businesses.

15-year Depreciation Schedule for Leasehold Improvements, Restaurant Improvements and New Construction, and Retail Improvements

One principle of the tax code is that costs of assets are allocated over the period in which they are used. Assets with longer expected lives are depreciated over a longer period of time, while assets with shorter lives are depreciated over a shorter period of time. As a reflection of this principle, the tax code contains a provision under which leasehold improvements, restaurant

improvements and new restaurant construction, and retail improvements can be depreciated over 15 years rather than a 39-year recovery period that would otherwise apply to nonresidential real property.

With more than 130 million Americans patronizing restaurants each day, restaurant building structures experience daily structural and cosmetic wear and tear caused by customers and employees. National Restaurant Association research shows that, as a result, most restaurants remodel and update their building structures every six to eight years. Consequently, 15 years is a more accurate timeframe for recovering the cost of investments in restaurant buildings and improvements.

Moreover, a 15-year depreciation schedule reduces the cost of capital expenditures and increases cash flow. As demonstrated in Figure 1 below, the annual tax savings and corresponding additional cash flow realized by restaurateurs from a 15-year, rather than a 39-year, depreciation schedule are considerable. For example, a restaurateur’s annual tax liability would increase by nearly \$10,000 if the recovery period for a \$1 million investment were increased from 15 years to 39 years. A more accurate recovery period frees resources to expand business either through new hires or further capital expenditures.

Figure 1.

Sample Calculations for 15-Year versus 39-Year Depreciation

Total Capital Expenditure on Eligible Property	Annual Depreciation Based on 39-year Schedule	Annual Tax Savings from Depreciation	Annual Depreciation Based on 15-year Schedule	Annual Tax Savings from Depreciation	Annual Difference in Tax Savings Between 15- & 39-year Schedules
\$100,000	\$2,532	\$608	\$6,667	\$1,600	\$992
\$250,000	\$6,329	\$1,519	\$16,667	\$4,000	\$2,481
\$500,000	\$12,658	\$3,038	\$33,333	\$8,000	\$4,962
\$700,000	\$17,722	\$4,253	\$46,667	\$11,200	\$6,947
\$1,000,000	\$25,316	\$6,076	\$66,667	\$16,000	\$9,924
\$1,500,000	\$37,975	\$9,114	\$100,000	\$24,000	\$14,886
\$2,000,000	\$50,633	\$12,152	\$133,333	\$32,000	\$19,848

Expenditure Scenarios

Rebuild Costs:

Quickservice - \$700,000

Fullservice - \$1,500,000

Renovation Costs:

Quickservice - \$250,000

Fullservice - \$500,000

Note: Figures are based on a 24 percent effective marginal tax rate

Additionally, when restaurants invest in construction and renovations, the impact spreads throughout the economy. Before the economic downturn, the restaurant industry spent more than \$10 billion in 2007 on construction of restaurant buildings. According to the Bureau of Economic Analysis, every dollar spent in the construction industry generates an additional \$2.39 in spending in the rest of the economy and every \$1 million spent in the construction industry creates more than 28 jobs in the overall economy. This means that, in 2008 and 2009, at a time

when the overall economy was contracting, restaurant industry construction spending created nearly 400,000 jobs (see Figure 2 below).

Figure 2.
Restaurant Spending on New Construction

Year	Billions (\$)	Jobs Created In Overall Economy
2004	5.2	145,000
2005	7.4	208,000
2006	6.6	185,000
2007	10.4	292,000
2008	7.6	214,000
2009	6.2	174,000

Source: U.S. Census Bureau and National Restaurant Association

However, the 15-year depreciation schedule is temporary and must be extended annually. Most recently, it was extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (“2010 Act”) retroactive to the beginning of 2010 and through the end of 2011. Consequently, the provision has expired again. The piecemeal and temporary approach to the 15-year depreciation schedule, requiring extension every couple of years, presents taxpayers with unnecessary uncertainty and complexity.

Making permanent the 15-year depreciation schedule for leasehold improvements, restaurant improvements and new construction, and retail improvements would address this issue, providing taxpayers with predictability, simplicity, and fairness. Until there is comprehensive tax reform, the 15-year depreciation schedule should be extended. Our nation’s businesses are looking forward by planning capital expenditures to improve and expand their businesses. The ability to plan for these expenditures and know what the tax treatment will be in the future is important to those who are making such decisions right now.

Work Opportunity Tax Credit

Another important, but largely expired, aspect of the tax code is WOTC, a tax credit provided to employers who hire individuals from several targeted groups who face significant barriers to employment. Examples of WOTC-targeted employee groups include veterans who either are food stamp recipients or are unemployed and suffering a service-connected disability, former felons, disconnected youth, and members of families receiving benefits under the Temporary Assistance for Needy Families Program (“TANF”).

The restaurant industry employs close to 13 million people, many of whom may not have been hired if WOTC had not been in place. WOTC encourages employers to hire certain categories of individuals with barriers to employment, enabling these workers to move into self-sufficiency as they earn a steady income and become contributing taxpayers. Through WOTC, more long-term welfare recipients – the most difficult cases – are being employed in the private sector and 7 out of 10 welfare recipients are using WOTC to find private sector jobs. A 2011 study by Peter Cappelli of the Wharton Business School at the University of Pennsylvania found that

individuals hired under WOTC go on to become productive employees who are no longer dependent on public assistance.

Further, WOTC works. In 2011, more than 1.1 million workers found jobs through WOTC, at an average cost of approximately \$1,300 based on Joint Committee on Taxation data. It is important to note that this figure does not reflect any offsetting saving from lower welfare, disability, and social security payments. The Cappelli study found that WOTC is one of the most successful and cost effective federal employment programs.

Allowing this provision to expire at a time of intransigent unemployment is a significant setback for job creation and the provision should be extended. Moreover, in the longer term, Congress should make WOTC permanent, since it has proven to be an efficient incentive for businesses to provide jobs for workers who might otherwise fall through the cracks. Doing so would further provide taxpayers with predictability and certainty in the tax code.

Deduction for Charitable Donation of Food Inventory for Small Businesses

Each day, 35 million Americans are at risk of hunger. At the same time, billions of pounds of food are wasted each year. America's restaurants give back to their communities in major ways, the most significant of which is through food donation. According to National Restaurant Association research, 73 percent of restaurants donate food to individuals or charities.

The deduction for charitable donation of food inventory is a critical tool in alleviating hunger. Without the provision, taxpayers get the same tax treatment for throwing out surplus food as they do for giving it to charity. The enhanced deduction instead encourages donating the food to charity, by helping to offset the costs associated with storing and transporting the extra food. Absent the enhanced deduction for the charitable donation of food inventory, these charities would be hard-pressed to meet critical demands, putting our nation's most vulnerable families at risk for hunger.

However, the impact of the deduction could be improved. For nearly 30 years since its inception in 1976, the tax deduction for contributions of food inventory was limited to C corporations. In 2005, the provision was temporarily expanded to include pass-through entities (i.e., Subchapter S corporations, limited liability companies) and has been extended on subsequent occasions. Making permanent the now-temporary component of the deduction would make it more effective, while advancing the objectives of providing taxpayers with simplicity and predictability.

The National Restaurant Association strongly encourages its members to donate more food and has partnered with Food Donation Connection ("FDC") to strengthen this effort. Founded by a former restaurant executive, FDC serves as the liaison between the restaurants interested in donating food and the social service agencies adept at getting that food to people in need. FDC helps restaurants develop and implement programs designed to provide an alternative to discarding surplus food, while capitalizing on the economic benefits of those donations through the tax savings. Since 1992, FDC has helped facilitate the donation of over 140 million pounds of food to non-profit, hunger-relief agencies.

Business Meal Deduction

Under current law, the business meal deduction is limited to only 50 percent of costs incurred. By way of background, business meals previously were fully deductible. In 1986, the deduction was reduced to 80 percent and, in 1993, the deduction was further reduced to its current level of 50 percent.

The business meal deduction should be reformed to better reflect the basic principle that business expenses should be fully deductible. Full deductibility would appropriately bring the business meal deduction in line with other ordinary and necessary business expenses, but even increasing the limitation to 80 percent would better align the provision with these objectives.

According to National Restaurant Association research, increasing the business meal deduction to 80 percent would increase business meal sales by over \$7 billion and provide an additional 200,000 jobs. Moreover, the impact of the restaurant industry on the nation's economy is considerable and felt in every state (Figure 3 provides the state-level economic and jobs data for an increase in the deduction limitation from 50 percent to 80 percent; Figure 4 provides the same information for full deductibility). We service more than 130 million guests every day. Each dollar spent dining out generates \$2.05 in business to other industries, totaling more than \$1.7 trillion in overall economic impact.

Increasing the business meal deduction would also benefit small businesses. America's restaurants are small businesses' conference rooms, and the restaurant table is often where business is conducted. Increasing the deduction is a benefit not only to restaurateurs and their employees, but to their guests and the many small business owners across the country. For many small companies, the ability to conduct business over a meal is their only means of advertising and marketing their business.

Conclusion

Thank you for the opportunity to submit this statement on behalf of the National Restaurant Association. Although we welcome tax reform as an opportunity to inject predictability and fairness into the tax code; in the interim, expired tax policies should be extended to provide taxpayers with the certainty necessary to encourage economic growth and job creation. As Congress considers tax reform, we are happy to be a resource for Congress and the Committee.

Figure 3.**Estimated Impact of Increasing Business Meal Deductibility from 50% to 80%**

State	Increase in Business Meal Spending 50% to 80% Deductibility (in millions)	Total Economic Impact In the State (in millions)	Total Employment Impact In the State (number of jobs created)
Alabama	\$92	\$186	2,952
Alaska	\$19	\$33	452
Arizona	\$151	\$300	3,984
Arkansas	\$50	\$101	1,689
California	\$967	\$2,267	26,315
Colorado	\$136	\$313	3,943
Connecticut	\$88	\$165	2,019
Delaware	\$24	\$43	499
District of Columbia	\$39	\$53	313
Florida	\$472	\$957	12,522
Georgia	\$230	\$532	6,732
Hawaii	\$54	\$104	1,402
Idaho	\$28	\$55	933
Illinois	\$313	\$744	8,786
Indiana	\$135	\$278	4,272
Iowa	\$51	\$102	1,669
Kansas	\$56	\$112	1,606
Kentucky	\$90	\$183	2,618
Louisiana	\$98	\$193	2,888
Maine	\$29	\$55	848
Maryland	\$148	\$307	3,594
Massachusetts	\$193	\$388	4,649
Michigan	\$191	\$380	5,872
Minnesota	\$119	\$272	3,714
Mississippi	\$50	\$95	1,630
Missouri	\$134	\$298	4,084
Montana	\$21	\$40	710
Nebraska	\$35	\$73	1,190
Nevada	\$83	\$147	1,974
New Hampshire	\$34	\$63	784
New Jersey	\$205	\$442	4,993
New Mexico	\$45	\$82	1,331
New York	\$482	\$954	11,251
North Carolina	\$222	\$467	6,849
North Dakota	\$12	\$22	373
Ohio	\$252	\$540	8,081
Oklahoma	\$74	\$157	2,491
Oregon	\$94	\$194	2,611
Pennsylvania	\$258	\$582	7,688
Rhode Island	\$29	\$53	706
South Carolina	\$108	\$221	3,329
South Dakota	\$15	\$30	509
Tennessee	\$143	\$322	4,191
Texas	\$576	\$1,405	17,036
Utah	\$50	\$113	1,682
Vermont	\$13	\$22	335
Virginia	\$200	\$423	5,312
Washington	\$157	\$340	4,160
West Virginia	\$32	\$54	950
Wisconsin	\$107	\$224	3,629
Wyoming	\$12	\$19	346

Source: National Restaurant Association estimates, 2011

Figure 4.**Estimated Impact of Increasing Business Meal Deductibility from 50% to 100%**

State	Increase in Business Meal Spending 50% to 100% Deductibility (in millions)	Total Economic Impact In the State (in millions)	Total Employment Impact In the State (number of jobs created)
Alabama	\$167	\$336	5,334
Alaska	\$34	\$59	817
Arizona	\$273	\$542	7,198
Arkansas	\$91	\$182	3,052
California	\$1,748	\$4,095	47,543
Colorado	\$245	\$565	7,124
Connecticut	\$160	\$298	3,648
Delaware	\$43	\$77	901
District of Columbia	\$70	\$96	565
Florida	\$854	\$1,729	22,623
Georgia	\$416	\$961	12,162
Hawaii	\$97	\$188	2,533
Idaho	\$50	\$99	1,685
Illinois	\$565	\$1,344	15,874
Indiana	\$243	\$501	7,718
Iowa	\$92	\$185	3,015
Kansas	\$101	\$202	2,902
Kentucky	\$163	\$331	4,730
Louisiana	\$177	\$348	5,219
Maine	\$53	\$100	1,533
Maryland	\$267	\$554	6,493
Massachusetts	\$348	\$701	8,399
Michigan	\$345	\$686	10,610
Minnesota	\$216	\$492	6,710
Mississippi	\$90	\$171	2,944
Missouri	\$241	\$539	7,379
Montana	\$38	\$72	1,282
Nebraska	\$64	\$132	2,149
Nevada	\$150	\$266	3,566
New Hampshire	\$62	\$114	1,416
New Jersey	\$370	\$799	9,022
New Mexico	\$81	\$148	2,405
New York	\$871	\$1,724	20,328
North Carolina	\$401	\$844	12,374
North Dakota	\$22	\$40	673
Ohio	\$455	\$976	14,601
Oklahoma	\$133	\$284	4,500
Oregon	\$170	\$350	4,717
Pennsylvania	\$467	\$1,052	13,890
Rhode Island	\$52	\$95	1,276
South Carolina	\$195	\$400	6,014
South Dakota	\$28	\$54	920
Tennessee	\$258	\$582	7,571
Texas	\$1,041	\$2,539	30,778
Utah	\$91	\$204	3,039
Vermont	\$23	\$40	606
Virginia	\$362	\$764	9,598
Washington	\$284	\$614	7,516
West Virginia	\$57	\$98	1,717
Wisconsin	\$193	\$405	6,556
Wyoming	\$22	\$35	626

Source: National Restaurant Association estimates, 2011