



REPRESENTING THE RESTAURANT INDUSTRY

*The Cornerstone of the Economy, Career Opportunities and Community Involvement*

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July 17, 2009

The Honorable Nydia Velazquez  
Chairwoman, Small Business Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Sam Graves  
Ranking Member, Small Business Committee  
U.S. House of Representatives  
Washington, DC 20515

**Re: Letter for the record regarding July 15, 2009 hearing “Economic Recovery: Tax Stimulus Items that Benefitted Small Business with a Look Ahead”**

Dear Chairwoman Velazquez and Ranking Member Graves:

The National Restaurant Association appreciates this opportunity to submit for the hearing record comments regarding tax provisions of benefit to small businesses in previous legislation and future tax law changes that would bring additional benefits to these businesses. The restaurant industry is comprised mostly of small businesses with seven out of 10 restaurants being single unit operations. Most eating and drinking places – three-quarters of the industry – employ 50 or fewer employees. Restaurants also serve as the conference rooms for many self-employed and other small businesses.

The National Restaurant Association supported the passage of the American Recovery and Reinvestment Act earlier this year that included such tax provisions such as the Make Work Pay tax credit, extended net operating loss carryback for small businesses, extended Sec. 179 expensing and bonus depreciation, and established two new temporary categories of workers for the Work Opportunity Tax Credit. In addition, the Association was extremely supportive of the additional funding for the Small Business Administration and its programs to help businesses such as ours. All of these provisions – many of which were championed by the House Small Business Committee – have helped but we respectfully suggest that there are further policy changes that can be made to help small businesses in these difficult economic times.

We would suggest that Congress examine the benefits of increasing the business meal deduction from 50 percent to 80 percent. America’s restaurants are small business’ conference rooms and the restaurant table is where much business is conducted. Increasing the deduction is a benefit not only to restaurateurs and their employees, but their guests – the small business owner or the self-employed. Additionally, permanently extending the 15-year restaurant depreciation schedules will certainly stimulate the economy by creating jobs in the construction industry and in our broader communities. Shorter depreciation schedules mean increased cash flows in operators’ hands that can be potentially reinvested in their restaurant in the form of capital purchases or hiring of additional workers. We ask Congress to enact both of these provisions to assist the restaurant industry to be a job creation engine in these times.

### **Business Meal Deductibility**

The National Restaurant Association would urge Congress to consider additional economic relief for this nation's struggling economy and to implement policies that will boost consumer spending. We believe increasing the business meal and entertainment deduction to 80 percent from its current level of 50 percent is a key provision for small businesses. It was the small businesses and self-employed individuals that were hit hard when Congress first reduced the deduction from 100 percent to 80 percent in 1986, then again to 50 percent in 1993. For many small companies the ability to conduct business over a meal is their only means of advertising and marketing their business.

There is no question that as the economy continues to struggle, the restaurant industry is feeling the effects. Although the restaurant industry is a cornerstone of the economy, generating \$558 billion in annual revenues and employing 13 million people nationwide, new research indicates the outlook for the restaurant industry is softening. The National Restaurant Association's comprehensive index of restaurant activity registered its first decline in five months, following 19 months of low performance indicators. The index is based on input from restaurateurs on a variety of indicators including sales, traffic, labor and capital expenditures. Restaurant operators reported negative same-store sales for the 12<sup>th</sup> consecutive month in May. And operators have reported negative customer traffic levels in May, marking the 21<sup>st</sup> month of consecutive month of traffic declines.

The Small Business Committee has been a long time supporter of increasing the business meal and entertainment deduction as a means of providing tax relief for the nation's small businesses. Last Congress, the Committee included a provision to increase the deduction from 50 percent to 80 percent in the *Small Business Tax Modernization and Stimulus Act of 2008*. While this legislation was not enacted into law, the National Restaurant Association applauds the Committee's continued effort to restore this valuable deduction.

Representative Neil Abercrombie (1<sup>st</sup> District of Hawaii) is expected to re-introduce stand-alone legislation to increase the business meal and entertainment deduction to 80 percent for all business meal users. An increase in the business meal deduction to 80 percent would increase business meal sales by \$6 billion, and create an \$18 billion increase in the overall economy. The impact of the restaurant industry on the nation's economy is considerable and felt in every state (see enclosed impact chart). We service 133 million guests every day. Every dollar spent dining out generates \$2.34 in business to other industries, totaling \$1.5 trillion in overall economic impact.

We appreciate the committee's continued support for the business meal and entertainment deduction. We believe an increase in the deduction to 80 percent would provide a needed and immediate boost to our economy.

### **Restaurant Depreciation**

Shortening depreciation schedules, especially for more than 1 year at a time to allow for capital expenditure planning, can help stimulate the economy by maintaining or creating jobs. Depreciation schedules for commercial real estate have not been significantly revised since they

were established – generally at 39 1/2-years for both the original building and for any subsequent renovations or improvements to the building.

Shorter depreciation schedules fuel economic activity. When restaurants invest in construction and renovations, the impact spreads through the economy. Clearly Congress believes shorter depreciation schedules help stimulate the economy because they have repeatedly turned to temporary changes in depreciation schedules in stimulus legislation over the years. Shorter depreciation schedules immediately free up capital for business owners to be able to make capital expenditures with tax savings. Those capital expenditures translate into jobs in the rest of the economy.

Economic stimulus legislation in the 107<sup>th</sup> Congress included bonus depreciation and led to shorter schedules for qualified leasehold properties. Subsequently, the American Jobs Creation Act of 2004 established that restaurants could depreciate qualified restaurant building improvement costs over 15 years for property in place by the end of 2005. Just as Congress had intended, this provision spurred a tremendous amount of economic activity in both the restaurant industry and the overall economy. According to the U.S. Census Bureau, the restaurant industry spent more than \$7.4 billion on new structures and building improvements in 2005 – a whopping 42 percent increase over the \$5.2 billion spent in 2004. The additional spending – fueled by a shorter depreciation schedule – created thousands of jobs in construction-related industries across the country.

The Tax Relief and Health Care Act of 2006 extended the existing combined qualified leasehold and restaurant improvement provision for costs incurred through the end of 2007. These provisions did not cover new restaurant construction in stand-alone buildings; rather, this tax relief applied only to restaurants leasing space within larger commercial buildings, and to improvements to existing restaurant structures.

The Economic Stabilization Act of 2008 contained a two year extension of the 15-year depreciation schedule for qualified leasehold properties and qualified restaurant improvements for years 2008 and 2009. The legislation also established a 15-year depreciation schedule for new restaurant construction, placed in service in 2009, for the first time ever. (The provision also applied to owned retail building improvements for 2009).

According to Census data, restaurants spent \$6.6 billion on new construction in 2006 and \$10.4 billion on new construction in 2007. 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, while every \$1 million spent in the construction industry creates more than 28 jobs in the overall economy.

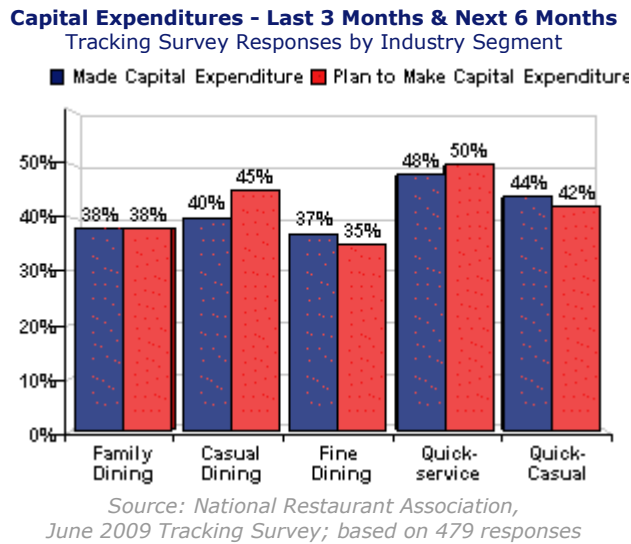
Extension of the current depreciation provision (leasehold, restaurant improvements and new construction, and new retail) will have a positive impact on construction spending in the restaurant industry.

A faster, more accurate depreciation schedule has a direct impact on a restaurant's bottom line. By shortening the depreciation schedule, Congress gives operators cash flow to reinvest in their

businesses, allowing them to grow restaurant jobs and contribute to the community. In an industry with median profit margins of 3 to 5 percent, every penny counts.

As more restaurateurs learn that Congress passed this favorable depreciation schedule change in 2008, they are motivated to increase their capital expenditures. While expenditures have been down in the last year due to the overall state of the economy, restaurateurs are beginning to plan to make these expansions again. Restaurateurs are relatively optimistic that the economy will improve in the months ahead.

NRA research shows that there is clearly pent-up demand for capital expenditures in the restaurant industry, and the permanency of depreciation schedules for improvements and new construction at 15 years. The National Restaurant Association conducts a monthly tracking survey that asks operators if they made a capital expenditure during the previous three months, and if they plan to make a capital expenditure in the next six months.



Looking back on capital expenditures over the last three months....

During strong economic periods, roughly 55 percent of restaurant operators make a capital expenditure for equipment, expansion or remodeling. However, over the last 12 months, an average of 38 percent of restaurant operators made a capital expenditure during a quarter. The NRA June 2009 Tracking Survey revealed that 41 percent of operators said they made a capital expenditure for equipment, expansion or remodeling during the last three months. For June 2009, quickservice operators reported the strongest spending activity, with 48 percent making a capital expenditure during the past three months.

Looking ahead for plans of capital expenditures over the next six months.....

Typically, 60 percent of restaurant operators' report that they plan to make a capital expenditure for equipment, expansion or remodeling in the next six months. Over the last 12 months, that figure has hovered around 40 percent, though there are signs that restaurant operators are starting to ramp up plans for capital spending. After rising to a 10-month high in May 2009, restaurant operators reported in June that they have scaled back on plans for capital expenditures in the

months ahead with 41 percent of restaurant operators planning to make a capital expenditures for in the next six months.

Fifteen rather than 39 years is a much more accurate depreciation schedule for restaurant buildings. With 133 million Americans patronizing restaurants each day, restaurant building structures experience a daily human assault unlike that borne by any other type of retail building. Restaurateurs must constantly make changes to keep up with the structural and cosmetic wear and tear caused by customers and employees. The heavy use accelerates deterioration of a restaurant building's entrance, lobbies, flooring, restrooms and interior walls. National Restaurant Association research shows that most restaurants remodel and update their building structures every six to eight years.

### **Conclusion**

The National Restaurant Association appreciates this opportunity to submit for the record comments on how Congress can help small businesses like restaurants create jobs and turn the economy around. The Association was supportive of the passage of the American Recovery and Reinvestment act of 2009 and appreciates the inclusion of the tax and small business provisions – many championed by the House Small Business Committee. We respectfully ask Congress to consider increasing the business meal deduction to 80 percent to benefit small business owners and the self-employed as well as restaurateurs, and also make the 15-year restaurant depreciation schedule permanent.

Thank you for considering the restaurant industry's perspective and ideas.

Sincerely,

A handwritten signature in cursive script that reads "Beth Johnson". The signature is written in black ink and is positioned below the word "Sincerely,".

Beth Johnson  
Executive Vice President, Public Affairs

Encl.

Cc: Members of the House Small Business Committee

**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	\$77	\$155	2,464
Alaska	\$17	\$29	401
Arizona	\$118	\$235	3,125
Arkansas	\$43	\$87	1,451
California	\$767	\$1,797	20,868
Colorado	\$114	\$264	3,328
Connecticut	\$71	\$133	1,624
Delaware	\$19	\$35	402
District of Columbia	\$31	\$43	254
Florida	\$368	\$745	9,746
Georgia	\$193	\$446	5,642
Hawaii	\$44	\$86	1,154
Idaho	\$24	\$47	799
Illinois	\$256	\$610	7,207
Indiana	\$117	\$241	3,712
Iowa	\$47	\$95	1,544
Kansas	\$46	\$92	1,314
Kentucky	\$78	\$158	2,266
Louisiana	\$81	\$158	2,374
Maine	\$24	\$46	709
Maryland	\$113	\$235	2,750
Massachusetts	\$161	\$324	3,884
Michigan	\$171	\$341	5,272
Minnesota	\$105	\$240	3,270
Mississippi	\$41	\$78	1,340
Missouri	\$115	\$256	3,512
Montana	\$20	\$39	682
Nebraska	\$31	\$64	1,048
Nevada	\$71	\$127	1,703
New Hampshire	\$29	\$53	653
New Jersey	\$170	\$367	4,139
New Mexico	\$37	\$66	1,079
New York	\$379	\$751	8,855
North Carolina	\$176	\$371	5,435
North Dakota	\$11	\$20	333
Ohio	\$217	\$466	6,978
Oklahoma	\$60	\$127	2,016
Oregon	\$82	\$169	2,274
Pennsylvania	\$212	\$478	6,311
Rhode Island	\$24	\$45	598
South Carolina	\$87	\$179	2,689
South Dakota	\$14	\$27	458
Tennessee	\$121	\$272	3,531
Texas	\$477	\$1,164	14,109
Utah	\$41	\$92	1,375
Vermont	\$11	\$19	288
Virginia	\$157	\$331	4,155
Washington	\$129	\$279	3,419
West Virginia	\$28	\$47	830
Wisconsin	\$100	\$210	3,399
Wyoming	\$10	\$16	293

Source: National Restaurant Association estimates, 2009