



April 30, 2008

The Honorable Max Baucus  
Chairman  
Committee on Finance  
219 Dirksen Senate Office Building  
United States Senate  
Washington, DC 20510

The Honorable Charles Grassley  
Ranking Member  
Committee on Finance  
219 Dirksen Senate Office Building  
United States Senate  
Washington, DC 20510

Dear Chairman Baucus and Ranking Member Grassley:

On behalf of the National Small Business Association, I would like to submit comments on the Senate Finance Committee's draft proposal on "Information Reporting for Electronic Payments." As the nation's oldest nonpartisan small business advocacy group, NSBA reaches more than 150,000 small businesses nation-wide, and our top priority for the 110th Congress is working to find a solution to the "tax gap" without placing excessive and intrusive burdens on honest small-business owners.

The basic premise of the proposal is that a "payment facilitator" would provide the Internal Revenue Service (IRS) and the merchant with an annual, aggregate total of the gross receipts of individual merchant processed by that payment facilitator. After thorough review, NSBA has found that this recommendation would not effectively increase compliance and minimize the "tax gap." Instead, it will add additional and unnecessary burdens on already over-burdened small-business owners.

Currently, taxpayers are subject to some level of information reporting and withholding requirements. Employers must report wages and withhold applicable payroll taxes and federal income taxes for their employees. Businesses are required to report payments made for services in connection with their trade and business of more than \$600 per year. However, the administration's proposal on increasing information reporting by requiring credit and debit card issuers to report to the IRS annually on aggregate reimbursement payments made to businesses, would be extremely burdensome and raises questions of intrusiveness on the business owner.

It is not clear whether merchant processors have a system in place that could accurately and efficiently report the merchant's payment card receipts to the IRS. If such a system is required and it imposes an additional cost to the merchant processor, that cost could be passed on to the small business. A disparity will exist when the merchant processor is reporting payment card transactions and small businesses are reporting both payment card transactions and cash transactions without distinguishing between the two. Further, there is no data available to differentiate between payment card transactions and cash transactions as a contributor of the "tax gap."

In theory, the IRS can conduct some sort of matching exercise with a merchant's reported gross receipts on tax returns. Additionally, the data could be used by the IRS for the purpose of developing trends and reporting profiles, by taking the total credit card receipts reported for a particular business and then extrapolating total income based on industry averages. Not only would it be difficult to determine an applicable average for a particular small business, creating a huge new audit burden on companies that may legitimately fall outside their industries' "averages" but it also raises privacy concerns.

The sheer volume of the information returns generated by this proposal will ensure most of it will never be evaluated or used by the IRS. NSBA questions how the IRS will be able to match and use the information reported by the processor to identify merchants that are truly underreporting electronic payments.

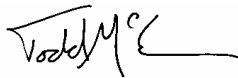
NSBA understands the recommendation is appealing because the direct impact on a merchant is perceived to be limited. Nevertheless, this new level of regulatory burden on credit card issuers likely will lead to increased fees being passed on to businesses which conduct credit card transactions. These increased fees will have a negative impact on business revenue and sales, and in turn tax revenue.

This proposal, which calls for increased reporting requirements, will add to the existing regulatory burdens small businesses face in complying with IRS regulations. Instead of using resources to invest and grow their businesses, they will be forced to spend valuable time and financial resources on record-keeping and outside help to ensure their compliance.

We believe efforts to close the "tax gap" must focus on overall simplification, eliminating inequities within the tax code, and enhancing taxpayer education and outreach. NSBA concludes that the Committee should work with the IRS to conduct more research to better identify noncompliant taxpayers, enhance taxpayer services to inform taxpayers of correct tax obligations and adjust its enforcement tools to target those who intentionally evade paying taxes. In addition, NSBA hopes the Committee will instead consider tax simplification and education proposals that will clearly reduce the compliance burden and reduce errors.

As you move forward in your efforts to close the "tax gap," NSBA is hopeful that you will take our recommendations into consideration. Now is the time for Congress to support proposals that are fair and reasonable, and that do not hinder the survival, growth and innovation of our nation's entrepreneurs. Thank you for the opportunity to comment on the proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd McCracken". The signature is stylized and cursive.

Todd McCracken  
President