

Small-Business Tax Equity

NSBA's groundbreaking report on the state of small-business tax discrimination

As the nation's oldest small-business organization, NSBA regularly receives comment from small-business owners on the federal government's Byzantine tax system. One complaint delivered with great frequency was that individual pieces of tax law discriminate against small-business owners. In response, NSBA enlisted the help of two tax specialists to go through the Internal Revenue Code line-by-line, to see just how much the system hurt small-business owners. When the results arrived, even the organization was shocked.

NSBA's report, titled "The Internal Revenue Code: Unequal Treatment Between Large and Small Firms," details a broad array of tax policies that discriminate and act as a disincentive to entrepreneurship. While most of the offending rules appear to unintentionally harm small-business owners, some are too targeted to be anything but an attack on the small-business community.

To make the most effective case when delivering the report's findings to policy makers, NSBA's tax committee culled top priorities from the wide range of topics covered. The committee chose the following issues as the most egregious examples of tax policy that harm small-business owners.

PENSION PARITY

Nondiscrimination rules, "key employee" clauses and plan administration costs drive many small-business owners away from pension plans, such as 401(k) plans, offered by larger firms. Small businesses that cannot shoulder the cost and burden of heavily-regulated pension plans must settle for plans that allow them to save considerably less for their retirement. SIMPLE plans, while being easier to offer, do not provide the same benefits to the worker. Small-business owners and their employees who use small-business friendly SIMPLE 401(k) plans can set aside \$10,000 before taxes, while employees participating in tradition 401 (k) plans can set aside \$15,000.

OWNER EXCLUSION FROM FRINGE BENEFITS

Tax law prohibits most entrepreneurs from taking advantage of benefits available to most citizens, such as Section 125 ("cafeteria") plans and education-assistance programs. It is outrageous that the small-business owners who sponsor these plans for their employees are prohibited from participating themselves.

SELF-EMPLOYMENT TAXES ON HEALTH CARE

Unfortunately, the fight over the self-employed individual's ability to deduct the cost of their health care from their taxes is not over. In 2003, the self-employed gained the ability to deduct the cost of health insurance against income tax; however, they are still being forced to pay self-employment taxes on the income used to purchase the health insurance. This is equal to a 15.3 percent tax on health insurance that no one but the self-employed must pay.

NSBA is committed to working to educate policy makers about the disastrous effects that some tax policy has on the decision-making process for people considering either offering benefits for their employees or starting a business of their own. Unequal tax treatment of small businesses must end.