

REDUCING THE FEDERAL TAX BURDEN FOR AMERICA'S SMALL BUSINESSES

FIELD HEARING BEFORE THE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP UNITED STATES SENATE ONE HUNDRED FOURTEENTH CONGRESS FIRST SESSION

APRIL 2, 2015

Printed for the Committee on Small Business and Entrepreneurship



Available via the World Wide Web: <http://www.fdsys.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

23-873 PDF

WASHINGTON : 2017

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

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C O N T E N T S

OPENING STATEMENTS

	Page
Vitter, Hon. David, Chairman, and a U.S. Senator from Louisiana	1

WITNESSES

Boustany, Hon. Charles, a U.S. Representative from Louisiana	6
Shamsie, Sadie, President and Co-Founder, Licensed Title Insurance Agent, Standard Title, Lafayette, LA	14
Moring, Robert, Owner, Weld Done Design, Carencro, LA	15
Hebert, Alan D., Partner, Thibodaux Hebert Deshotels Leblanc, L.L.C., Lafay- ette, LA	20
Feibus, Dan, Chief Executive Officer, Zagis USA, Lafayette, LA	25

ALPHABETICAL LISTING

Boustany, Hon. Charles	
Opening statement	6
Feibus, Dan	
Testimony	25
Prepared statement	27
Hebert, Alan	
Testimony	20
Prepared statement	22
Moring, Robert	
Testimony	15
Prepared statement	18
Shamsie, Sadie	
Testimony	14
Vitter, Hon. David	
Opening statement	1
Prepared statement	4

REDUCING THE FEDERAL TAX BURDEN FOR AMERICA'S SMALL BUSINESSES

THURSDAY, APRIL 2, 2015

COUNCIL CHAMBERS,
LAFAYETTE CITY HALL,
Lafayette, LA.

The Committee met, pursuant to notice, at 8:00 a.m., at Lafayette City Hall, 705 West University Avenue, Hon. David Vitter, Chairman of the Committee, presiding.

Present: Senator Vitter.

OPENING STATEMENT OF HON. DAVID VITTER, CHAIRMAN, AND A U.S. SENATOR FROM LOUISIANA

Chairman VITTER. Good morning, everyone. How's everyone doing? Welcome, this is a combination Town Hall Meeting and Field Hearing by the Senate Small Business Committee. I'm really honored to be joined by Congressman Charles Boustany who is co-hosting this event with me. We are honored to have you.

Why don't we get started in the right frame of mind, and right frame of heart, by standing for a prayer, and then please remain standing right after the prayer. We'll have the Pledge of Allegiance to the Flag. But first, we'll be led in prayer by the Reverend Blaine Peterson, of the Church of the Ascension.

Reverend.

Reverend PETERSON. Today is Maundy Thursday. This is the day that Jesus gave his followers a new commandment, a new perspective of the call to care for others, to serve others and yes to serve on behalf of others. The Apostle Paul writes: Let the same mind be in you that was in Christ Jesus, who though he was in the form of God, did not regard equality with God as something to be exploited, but emptied himself, taking the form of a slave, being born in human likeness. And being found in human form, he humbled himself and became obedient to the point of death, even death on a cross.

Let us pray: Lord make us instruments of your peace. Where there is hatred, let us sow love; where there is injury, pardon; where there is discord, union; where there is doubt, faith; where there is despair, hope; where there is darkness, light; where there is sadness, joy. Grant that we may not so much seek to be consoled as to console; to be understood as to understand; to be loved as to love; for it is in giving that we receive; it is in pardoning that we are pardoned, and it is in dying that we are born to eternal life. Amen.

Chairman VITTER. Thank you so much, Reverend. Please remain standing for the Pledge of Allegiance. We will be led in the pledge by Norword Meche, Commander of the VFW Post 9822.

Commander.

Commander MECHE. I'm glad to be here. Would everybody remain standing, and face the flag and salute. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

Chairman VITTER. Thank you Commander. Please be seated. We are also going to open our program today, since this is about small business, with the recognition of a small business here in Louisiana. One this I'm interested in as the new Chair of the Senate Committee on Small Business and Entrepreneurship is to recognize a vibrant, successful, leading small business every week, including with comments in the Congressional Record, and this week we are recognizing Jill Listi Dance Studio, from right here in Acadiana. Jill is with us, and I want to present her with this formal copy of the comments in the Congressional Record, and I'll just read a paragraph of it:

"Listi's Dance Studio is committed to providing opportunities in the arts to children and adults throughout Acadiana. The studio values the opportunity to introduce students to dance while instilling a firm foundation that promotes the respect and understanding for the art of dance."

Jill, congratulations, and I'll be presenting this to you. Congratulations.

[Applause].

Chairman VITTER. Thank you very much, Jill. Your business is a prime example of how small business is the heart and soul of our economy throughout the country, including right here in Acadiana, and that's why we are meeting today in Lafayette, to talk about some important small business issues.

Let me explain how the program will work. As I said, this is a combination Town Hall Meeting and we want to hear your comments and questions, and it's also a Field Hearing of the Senate Small Business Committee featuring four key witnesses, and the broad theme is small business tax issues, the hurdles, the costs, the expense, the complication in our present tax system that's a burden and a problem for small business.

Now the meeting will proceed and in a minute I will turn it over to Charles for opening comments. After that, I'll have a few on the topic of small business tax issues, with a very brief slide show myself, and then we'll go into the Town Hall Meeting portion of the program. I want to hear from you, your comments and questions. If you haven't already, we're passing around a little form. Just use that to jot your comment or question, and give it to the staff, and we'll get through absolutely as many of those as possible. Hopefully, most are on topic about these key small business issues. We'll certainly take others off topic as well.

And then, after we do that for roughly 30, 35 minutes, then we'll proceed to the Field Hearing. Charles and I will introduce our four great witnesses, and each of them will testify about their challenges and experience with the Tax Code for about five minutes,

and then following their testimony, we'll have a conversation with them with comments and questions and interplay involving Charles and myself. So that's how we will proceed. With that, let me thank again our co-host today, who has been a great leader in this area, and was really super in co-hosting this Town Hall Meeting and Field Hearing, Congressman Charles Boustany.

[The prepared statement of Chairman Vitter follows:]

Chairman David Vitter Hearing Summary Statement

U.S. Senate Committee on Small Business and Entrepreneurship

"Reducing the Federal Tax Burden for America's Small Businesses"

April 2, 2015

Small businesses are the job creators – not only in Louisiana, but across America as a whole; but when you consider the burden of tax compliance that's placed on their shoulders, you may wonder how small businesses stay open at all.

Small businesses now rank the administrative portion of taxes as a greater burden than the financial cost. I don't need to tell you as business owners about that burden because you feel it every day and so does every other small business in America. I want to describe it for the others here so they can better understand it and so it can be in the official Congressional record.

The federal tax code is approximately 74,000 pages long and is continuing to grow. Under the current administration, it's already grown approximately 7,000 pages with no end in sight. And just for some perspective, the code was only 400 pages when it was first created.

Small businesses in the U.S. spend approximately 6 billion hours fulfilling their income tax obligations. That doesn't even take into account state income taxes or sales tax that small business may have to handle. This slide shows us that over forty percent of small businesses spend 80 hours and over a quarter of all small businesses now spend more than 120 hours a year on tax compliance. Imagine if those billions of hours spent complying with IRS could be spent focusing on growing your company and what that would mean for our national economy and our Louisiana economy.

The cost of compliance to small businesses is 70% higher than bigger firms. In fact, as this chart shows, 1 in 3 small businesses spend more than \$10,000 just on federal tax administration and half spend more than \$5000. No offense to our accountant who is with us today, but a small business shouldn't have to hire an accountant in the first place to start a business. It should be simple enough that you can take that money you would otherwise pay an accountant and invest that into your company.

So just for some perspective on all these facts I've just mentioned: that's equivalent to over 50 King James Bibles, three 40 hour work weeks, and the cost of taking your family to Disneyworld, all for a small business owner just like you to comply with federal tax law each year. And I haven't even mentioned the actual taxes themselves and how much those cost you.

You don't have the army of accountants and tax attorneys that these "too big to fail" banks have at their disposal to take advantage of every nook and cranny of the code. No, you may only have you and a few others concentrating on the business side and if you are really fortunate, a CPA on payroll to worry about the taxes.

It's an unfortunate truth, but Congress and the IRS simply do not lean towards the opinions of small businesses when crafting laws and regulations. But as Chairman of the Senate Small Business Committee, I've begun to change that, and that is what this hearing is all about today.

I've been listening to the concerns and issues of small businesses across this state and am once again here to listen today to your experiences and feedback. In response to that feedback, I am preparing to introduce legislation that can reduce some of that burden and address many of the issues that you have discussed with me. Just a few of the provisions include permanently extending Section 179 expensing, increasing the limit for cash basis accounting, eliminating burdensome record keeping requirements for business computer equipment, increasing the de minimus safe harbor threshold, and requiring the IRS to consult small business representatives before passing new rules and regulations that may affect them, among many others.

These are real solutions to real problems and I am confident they will be a first step to removing that burden altogether.

**OPENING STATEMENT OF HON. CHARLES BOUSTANY, A U.S.
REPRESENTATIVE FROM LOUISIANA**

Representative BOUSTANY. Well, thank you David, and let me thank you for holding the hearing and the Town Hall Meeting, and I want to thank you for your leadership on the Senate Small Business and Entrepreneurship Committee. It's a very important committee because small businesses are the backbone of growth. They drive growth, they drive job creation, and so understanding the things that have an impact on small businesses is really critical, and obviously taxation is one of those, and let me just say, I serve of the Tax Writing Committee in Congress, the House Ways and Means Committee, where all tax revenue measures begin, according to the Constitution.

We have been working for three years on tax reform with an eye towards what is the impact on startups and entrepreneurs and businesses, and recognizing the distinction between those kinds of businesses that we have in our community versus large corporations who are looking for a corporate rate reduction. If we get a corporate rate reduction, that's great, it's going to help our large companies, but it's not going to help the entrepreneurs who are out there, and the small business owners who day in and day out throughout their toil of work, and try to make cash flow needs in their businesses, dealing with tight credit situations, and having the Government taking more and more of their money, so I think it's really appropriate that we have this conversation as we approach tax day, recognizing that what's happened under this current Administration, we've seen the highest tax rate go up to nearly 45% at the Federal level alone, and this is directly affecting small business owners here in Louisiana, and across our great country.

Secondly, we also have the issue of the Estate Tax, the Death Tax, which really disproportionately hits small businesses and farmers around our area, and is something that we need to address. So I think this is a timely subject, and I'm really happy to be here with you. Again, David, thank you for your leadership in all this, and we want to hear questions from the audience, and then we'll get into the Field Hearing.

Chairman VITTER. Thanks Charles. A few opening comments of mine. I'm going to refer to this slide show, if we can go to the first slide.

This makes the point. This is a Small Business Survey that was done by a leading small business group, and they asked a simple question. What's the bigger problem, what's the bigger burden, the check you have to write for taxes, or actually the administrative burden, the time and the expense of figuring it all out, doing the paperwork, complying with the law. Actually a majority of businesses said, it's the administrative burden. I mean, they weren't happy with the size of the check. Don't get me wrong; but the time, the burden of figuring out an overly complicated system was actually an even greater burden, which is sort of amazing.

Go to the next slide. This is what tax complexity has done over time. You know, in the early part of the last century, we started with a Tax Code that was about 400 pages long. It's now 74,000 pages long. That chart on the right basically shows the increase in

the size of the Code. Just under the present Federal Administration, it's grown 7,000 pages, 10%, just this one Administration, and that has led to that spike in the last several decades. That is just unacceptable.

Next slide. This also is about the tax compliance burden. It's based on the same survey as the first slide was based on; 40% of all small businesses say they spent over 80 hours a year on tax compliance. So two full work weeks, just figuring out the Tax Code, and then a quarter spent over 120 hours a year, so that's a huge burden on small business.

Next slide. Okay, this is the next. One in three businesses spend over \$10,000 on compliance, just on the Federal side; that's not even counting State and local. Over half spent more than \$5,000. Again, huge burden.

Next slide. Now Solutions. As chair of the Small Business Committee, I've been collecting a lot of ideas from small businesses about how we can make some significant improvements, and in the next several weeks, we're going to be introducing a Small Business Tax Relief Bill that's going to propose doing a bunch of these things. Now this isn't overall tax reform. This isn't everything we need to do to simply the Code, but it's some key provisions, particularly for small businesses, and these are some of the main elements of it. I don't want to get into the weeds, but for those of you in business, you know how important some of these things are. Extending Section 179 expensing; increasing the limit for cash basis accounting; increasing the minimum safe harbor threshold, et cetera. So look for that bill we're going to be introducing soon in the Small Business Committee.

Next slide. Is that it? Great. Okay, just to put a little but more meat on the bone, this overly complicated Tax Code we are talking about, we could describe it this way. Let me find it in my notes. It's equivalent to over 50 King James Bibles. We are in Easter week, so pile up 50 Bibles; that's the number of words, the length, the complexity of the Tax Code. It takes an average person to figure it out, and comply in small business, three 40-hour work weeks, cost an average small business in terms of compliance, not the tax check you write, but compliance, the cost of taking your family to Disney World. That's all an enormous burden, particularly the smaller businesses. Now big corporations have full compliance departments; it's still a burden on them. I'm not saying it's not, but for a smaller business, those sorts of burdens can actually be crushing. So that's what we are here to talk about today, including with you, including with our witnesses.

With that, let's go to your comments and questions. Charles and I will alternate, as I get to you, you can stand up and we can have a conversation about your concern. Where is Raymond Rosemuster?

Mr. ROSEMUSTER. Right here.

Chairman VITTER. Yes, sir.

Mr. ROSEMUSTER. I used to be an inventor, and I'm working on a few patents right now. I have one that works. It's old science, but before I, in other words, get a handfull of other interested people to either invest, you know, I want to check on this new Pacific Trade thing that's going on. That doesn't guarantee anything with intellectual property laws or copyrights or patents on such. In my

past experience, I had U.S. Patents. They took the National Gazette in New Orleans, as a matter of record. I had Canadian patents. I also had Taiwan and South Korean patents, and you know, futuristically having a product made overseas at those markets. Now, there's no security, because they read our mail. There was a time, 30 years ago, when I read the CFR 37, the Copyright and Trademark and all that, and patents, that you know, even though it may have taken a year or a year-and-a-half before they did a review to see if your concept was patentable, at least there was some security during that initial patent pending or the newness of it. You didn't have to worry about confidentiality or secrecy or what they said proprietary. Now——

Chairman VITTER. Raymond, I don't want to cut you off, but we want to get to——

Mr. ROSEMUSTER. But the problem is, first you file and there's no security. The Chinese are reading our mail. You get on the computer, your personal file, you file with the patent office, and the Chinese are making it before you can even raise the capital and start the manufacturing process, so where does that leave the entrepreneur today?

Chairman VITTER. Raymond, a huge business issue, particularly for innovator and entrepreneurs. But when patents and copyrights were recognized by the Founding Fathers as essential property rights.

Mr. ROSEMUSTER. It is.

Chairman VITTER. It is in the Constitution, so we need to protect that. Charles and I are working on several things that relate to that, and first of all there needs to be proper protection and reforms in the Patent Office. Secondly, you mention the Pacific Trade deal.

Mr. ROSEMUSTER. Yes.

Chairman VITTER. That's not final yet, but when it is, and when we look at the details, certainly I'm going to concentrate on that sort of patent and copyright protection, because that is the perennial problem, particularly with countries like China and the Pacific Rim, and third, we've got to combat that sort of outright theft by countries like China.

Mr. ROSEMUSTER. I do have a recommendation that might give us more security, like I say, for proprietary information, that if the Patent Office would just accept, say, overnight express packet with the disc, to file, and keep it in house, rather than out there in the public, you know, where the Chinese are reading our mail, and where it doesn't give the entrepreneur an opportunity either raise capital, and I don't want to get a handful of my acquaintances involved in any of business venture without my being confident, assured, there'd be some sort of protection. And I've [inaudible] about filing in Federal Court jurisdiction, where you would have clones or knock offs being made and done, and where I would do the research and investigation, but when you have paid—this is going back a quarter century, \$300,400,000 within the Federal Court jurisdiction to get that clone or knock off off the market because it's competing with your 60 or 100 employee business, it's astounding how they would just pack up and move to different Federal Court

jurisdiction, so you're chasing, chasing, chasing during the life of the patent. It's a very costly operation.

Chairman VITTER. I hear you. Raymond, I don't want to cut you off. We've got to get to other people, but let me give Charles a chance to respond as well.

Mr. ROSEMUSTER. I speak to the Speaker, and I do want to keep up on this, because I don't want to make a commitment for or have any of my associates make a commitment for any kind of operation for which there is no recourse.

Chairman VITTER. Yes. I heard you.

Representative BOUSTANY. Let me just briefly make a few comments. I'm one of the leaders of the House overseeing what's happening with the TPP, the committee and jurisdiction that's focused on it. One of the things we are intent upon is addressing these issues, but not just tariff barriers, but all these other issues dealing with cyber security, dealing with how some of these state-owned enterprises steal American patent secrets and trade secrets and use them to leapfrog or get a competitive advantage. We are all over this issue, and we're going to—we're focused on making sure that whatever the final agreement looks like, has to have very strong protections in it, and these ways of settling disputes that are fair to American business, otherwise we will not agree to this trade agreement.

Chairman VITTER. As we go on to the next question, let me also mention, Raymond, there is proposed patent and copyright reform in Congress. I'm looking at that very carefully. Quite frankly, I have big concerns with the so-called comprehensive bill in the Senate, because I think it would be a setback in significant ways for inventors and innovators, including folks they work with, universities, et cetera; so I'm looking at that very hard. I'm on the relevant Committee judiciary, and I have real concerns with this so-called comprehensive bill.

Charles, do you want to go to the next?

Representative BOUSTANY. Yes, let's go to Terrell Hebert. Terrell asks "do you see cost segregation as an asset for small businesses." Why don't you elaborate on your question?

Mr. HEBERT. Cost segregation is a method of paying taxes on commercial property, and we know big business is always looking to spend money, because they are always, you know, adding, building new buildings, et cetera. Small business, my perception is that most small business people are going to build one building and that's all they are going to be doing. Do you see cost segregation as being beneficial to a small business?

Representative BOUSTANY. Well it could be. It depends on the small business, and what that business is engaged in. Part of what we want to do as we go through tax reform, is to take that deep dive and look at what the impact is on some of these tax provisions and how they work for small business. I can tell you that over the last three years, I remember being in meetings as we were looking at here's current law, here's some options, and there was this big discussion about whether to use accrual accounting and where to start accrual accounting versus, you know, cost accounting, and I was very unhappy with it because what was being proposed was going to actually affect a lot of small businesses here. Cash flow is

king, as far as small business. If we don't pay attention to that, we're going to hurt a lot of people, so I think those are key issues. Making sure we understand the consequences of what we do in tax policy at the ground level is critical, because we will set up a Tax Code that has problems. So when you do tax reform, you know, you start up talking about fairness, simplicity, lower compliance burden, lower rates. That's all fine and good; I think everybody would agree with that. The devil is in the details, and you've got to get a document out there with the real proposal to start a real conversation about it, and so I would welcome a whole lot more information on your perspective on this, and if you want to comment further on it, you know, please.

Mr. HEBERT. Sure. My experience with cost segregation is it's going to be beneficial on a case by case basis. Some people have different reasons for why they need that money up front. We never know what that's going to be. That's between them and their CPA. So, yeah, because as you mentioned, cash flow is critical for most businesses, we are finding that people who will take the opportunity to take a look at it and see, then when they have all the information in front of them, they'll be able to determine yes, it's beneficial, or maybe no, it's not beneficial. We're finding some CPAs have their own reasons why they don't want to utilize it; they don't always go into the details about it. But again, on a case by case basis, some companies need it, most companies need it because they need their money up front.

Representative BOUSTANY. Yeah, I think the key, you hit one key point, and that is, we don't want to generalize when we try to make tax policy. We need to look at the specifics and what's actually happening.

David, do you want to—

Chairman VITTER. Jeff Johnson is asking about Iran. Jeff, why don't you elaborate?

Mr. JOHNSON. Sir, I don't have a question. I just have a statement. By signing the letter to the Ayatollah, you sir are a traitor, a disloyal, un-American traitor. That's my statement.

Chairman VITTER. Well, I appreciate your right to free speech. I wish you would appreciate my right to free speech, because what I did is sent a letter to certain folks in Iran, co-signed by 46 other U.S. Senators, simply stating a fact, and the fact is that is they reach a deal with President Obama, and that deal isn't certified or passed off on or acted upon in some way by the U.S. Congress, it is just that, a deal with President Obama. And it doesn't have long-standing stature beyond President Obama, so that's what I did. So I wrote a letter, 46 other Senators, and I stated a fact. Now, I think the substance of the matter is, what is the deal being negotiated? I'm really concerned that this Administration wants a deal at all costs, and whenever you want a deal at all costs, whether it's negotiated with Iran or doing a business deal, you usually get a really bad deal. We can't afford to enter into a really bad deal with a power like Iran's extreme leaders clearly bent on the destruction of the West, the United States, Israel and others, who are working hard for nuclear weapons, so that's the substance of the matter that I'm very concerned about, and I hope we don't rush into that sort of bad deal.

[Applause].

Charles.

Representative BOUSTANY. No, I would just add that any deal with Iran is going to impact sanctions that were imposed by Congress. That means Congress made that law saying it is the law of the United States to impose these sanctions on Iran by our country. Congress is the only entity that can reverse those sanctions, and so we have to have a full say in what happens in all this at the end of the day. I personally am very skeptical that we'll get to a deal with Iran based on all the reading and studying and briefings I've had on this. It's in the late stage; it doesn't look good, but I will not sit back and be quiet if the Administration tries to push forward a deal that will hurt U.S. interests in the long run. I'm very adamant about this. This is a critical massive security issue, but anything that the Administration decides to do, to accommodate Iran, will involve sanctions law and U.S., which is something we would have to reverse or change, and so that's another reason why Congress has to be involved in this over and above, in addition to the elements that Senator Vitter has laid out.

Chairman VITTER. Charles, do you want to go to the next? Are there any more questions? We have one here. I can't quite make out the name, is it Mel Keatings?

Mr. KEATINGS. Mike.

Chairman VITTER. "Is Congress going to"—I want you to elaborate. I can't make out your handwriting. Are you a doctor? No offense.

Mr. KEATINGS. No offense taken. The big thing for me is in small business dealings and so forth, I do a little business with Columbia and so forth. I'm returned from National Oilwell/Varco. So, I do dabble still in the oilfield, and so forth like that, but my big question is, is there anything on the horizon or changes coming up in the IRS or is there a possibility that we're going to go to a flat tax?

Chairman VITTER. Well, Congress is seriously considering tax reform. Now a few minutes ago, I outlined the focus of the Small Business Tax Bill that I'm working on. That's very specific provisions that are important for small business, but on a broader level, and Charles is very involved in this, because he's on the relevant House Committee, on a broader level there's a big discussion of much more fundamental tax reform, and obviously a flat tax or something close to that is a version of that where we tremendously simplify the Code to lower those compliance costs that I was talking about in the slide show.

Mr. KEATINGS. I have one more question for the Congressman. Congressman, since you're on the Tax Committee and so forth, do y'all ever, or your staff, ever review the bureaucrat's writings and laws and things like that. Do y'all ever pull it up and say, wait a minute, this doesn't make sense to the average guy out on the street?

Representative BOUSTANY. Oh, yeah.

Mr. KEATINGS. Because I know in my dealings, and every time I have people come in from Columbia or vice versa, it's a horrendous amount of paperwork. Nothing sticks from yesterday. It's always do it, re-do it, and I go guys, don't y'all have something on file, and they go yeah, but this is a new deal. You know, so I mean,

maybe these large corporations can handle this, but a small individual person cannot. I think this is a horrendous thing that these bureaucrats sit back and write the laws and everything else and it seems like there's no review on it. And then the other thing that I would like to bring up to both of y'all is that these billions of dollars that we spend on educational programs that never change things. Go all the way back to Jimmy Carter, and they're still sitting there monitoring the classroom but they're paying them, and you know this waste has to stop. The businessman is paying for this waste. If we did that in our businesses, or in our [inaudible], we wouldn't exist, and you wouldn't be necessary, because this country wouldn't be what it is for the individual taxpayer. So, I'm asking how close are y'all or are the Democrats aboard on making these changes; are any of them privy to the idea that there has to be some changes made?

Representative BOUSTANY. If I could address that and make a few points. First of all, with regard to what the IRS is doing, we are doing a number of things to truly try to hold them accountable. I spent the last four years chairing the Oversight Subcommittee on the Tax Writing Committee, really pounding them about a number of issues. We have gotten them changed in a few instances, and some they are resistant and we are still in that fight. I have a tax legislative assistant, plus some staff on our committee that review every single regulation that comes out, and we question them, they send letters, we call, we work with them for clarification.

I think the latest case in point, we had Secretary Lew, the Treasury Secretary, in front of our Committee a few weeks ago, and they took this ObamaCare tax provision pertaining to health reimbursement accounts for small businesses, and imposed these monumental penalties on small businesses if they tried to use these, and I pointed this out to the Secretary. I said this is completely and grossly unfair. You're giving unfair advantage to labor unions, to large corporations at the expense of small business, and he looked baffled by it. He turned to one of his technical assistants or advisors who then whispered back to him that I was right. And he said, we're looking at this, and a week later they made a change and they put the whole thing on hold for six months as a result of my question. I have now introduced legislation to get rid of that program, because it's faulty, and it's wrong, and it's very prejudicial towards small business.

The second point I want to make is just more broadly on tax reform. We've been working very hard on the Ways and Means Committee in the House. We've actually formulated a complete re-write of the Tax Code in draft form. There are a number of problems with it, and we are still working on it. Under Paul Ryan's leadership, who chairs the Committee, and I chair one of the subcommittees, we are really focused on this to do a number of things. To eliminate all—you know, get rid of the seven tax brackets for individuals and go to two, simplify; 25 and 10, combine a bunch of things. For instance, things like raising the Standard Deductions significantly so that you have fewer people having to itemize all this complexity. A simpler form for filing. Taking all the education tax credits that are out there, and combining them down to three. A lot of simplification. We are not finished with it. We want to get

the simplicity, flatness, we want to lower rates, and we want to make this Tax Code fair and easy to navigate to really markedly lower your compliance costs. The more we have gotten into it, the more I realize this is pretty complex, because you don't want to create unintended consequences, you know, by just generalizing as I said earlier. You've got to really look at the specifics and the interaction of all of this, so technically we are getting closer to having something that we will finalize, and our goal would be to have it completed. We don't think we'd get anywhere with this current administration on it, but we'll tee it up for our Republican nominee, and hopefully they can run with a real tax plan.

Chairman VITTER. Great. Let's drop up with one more question again from Raymond Rosemuster, asking about the national debt, 18 trillion dollars. This is a dire condition. Raymond, I agree. I carry around something with me in my wallet that illustrates how big a problem this can get to when you have debt and economic policy out of control. This is a note that was, when it was printed, a real note in Zimbabwe. It's their 100 trillion dollar note. This was real when it was printed. It's not worth anything anymore—100 trillion dollars. Now, what led to this is out of control economic policy that didn't make sense, including printing money, including spending beyond your means. What's interesting about these 100 trillion dollar notes, about four years before, you know what the exchange rate between Zimbabwe and the U.S. dollar was? One to one. It can happen pretty quickly when you have out of control economic policy. That's why we are trying to address that, including with a real budget.

Just in the last few weeks, both the House and the Senate debated and passed a budget that actually balances at some point in the future, in contrast to President Obama's submitted budget which raises taxes, raises spending, raises borrowing, and never balances. It's not a question of when. It's not a question of it takes too long, it never ever, ever balances.

Mr. ROSEMUSTER. Well, let's start, it looks dire to me, that if you look at the report that we have like 8,000 tons of gold, and the present value of gold, we're only placing it at about 40 trillion dollars. So if we look at the economy as far as what they call velocity within the economy to achieve that, and if you look at the debt, you know, okay, it might be just about even, 40 trillion, that's the gold price right now. But, if you consider other avenues for other ventures where, say like factory costs, two or three percent of factory transactions, say like on credit cards, two or three percent on a trillion dollars is 20, 30 million dollars, and then if you look at the interest on it, on say, credit cards, you have 200 million dollars a year. And then you see what's happening is that you see tax loopholes, but what is happening with say, a quarter trillion dollars a year with factory costs or interest?

Chairman VITTER. Raymond, again, I don't want to cut you off, but we do want to go to the Field Hearing portion of our program. That's what we are going to do right now. So let me begin to introduce our witnesses.

We have four great small business witnesses today. We're going to introduce each one in turn, and they are going to talk about

their personal experience in small business, particularly on tax issues and tax burdens for about five minutes each.

First is Sadie Shamsie. Sadie is the co-owner, the President of Standard Title. That's been in business since September 2001, with their main office here in Lafayette, and now a second office in Lake Charles. Standard Title provides title research, examination, title insurance and escrow services for commercial and residential real estate transactions, and presently has nine employees. Sadie and Standard Title are affiliated with the Louisiana Land Title Association, and other realty and other associations. Sadie, thanks for joining us.

SADIE SHAMSIE, PRESIDENT AND CO-FOUNDER, LICENSED TITLE INSURANCE AGENT, STANDARD TITLE, LAFAYETTE, LA

Ms. SHAMSIE. Thank you, Senator. First, I'd like to thank both Congressman Boustany and Senator Vitter for inviting me here to testify this morning. I truly have a small business. We have nine employees, and undoubtedly the most pressing problem we have is dealing with the complexity of the Internal Revenue Service, the code, the constant change in laws. Because of this, we have to hire a CPA firm that takes care of all our tax issues. I did the calculations this week, and the amount of money I spend paying my accounting firm, I could actually hire one full-time employee.

Solutions to that? One of the things, I think, if we could simplify things, and that's what y'all were talking about. A single tax rate schedule for all business income. Reducing the tax burden on small businesses will allow us to reinvest in our company, hire new people. I think a lot of people fail to realize, I have an S-Corp, so I pay individual income taxes. Well, when President Obama increased my personal taxes, it was a tax increase on my business and did affect my business in a negative way. If we want to promote economic growth and fairness between large and small businesses, it needs to be a fair playing ground. It obviously isn't. I mean, big corporations have the ability to hire attorneys and accounting firms, and for us it's just an enormous expense that quite frankly we really can't afford.

Another problem is the continual changes and temporary nature of many of the credited deductions. The example is Section 179. I mean, gee whiz. It almost feels like we are being held hostage by a bunch of lunatics every year.

Chairman VITTER. It's only because you are.

Ms. SHAMSIE. I mean, it's like, you know, do we do, well we don't know. They might extend it, they might not extend it. I mean, you can't run a business that way. I don't even pretend that I understand the tax laws and the compliance issues; just quite frankly, I don't. I mean, sometimes I wonder if my CPA firm even does. An example of that is, these are letters from the IRS. They always happen the same. I get a letter in, it says, we realize you owe more taxes. And then the next letter I get is saying that they received my correspondence, and they are looking at it, but it will take 40 to 60 days to respond, and then eventually, I get a letter in that says, I actually got one in that said, oh sorry. We owe you a refund.

The IRS deals this, I think a lot of us as taxpayers and small business owners, it's almost like when you get that letter back,

says you don't owe anything, it's like whew, thank goodness. But, if I make a mistake on my tax returns, if I sign that, I'm saying that everything in there is correct, I am held accountable for that, and if I make a mistake, guess what? There's a penalty that I have to pay.

The IRS is not held accountable for that, are they? Because even when this, and I have to hire my CPA firm to deal with this, I may not have to pay the taxes I didn't owe to start with, but I have to pay my CPA firm to take care of this. I would love to see maybe if we could get a tax credit when the IRS screws up, and hold them accountable, hold their employees accountable, because it seems to really, really not be the case at all.

Chairman VITTER. Absolutely. Thank you very much, Sadie. Great testimony. Next, we're going to hear from Robert Moring. Robert and his son, Joshua, are owners of Weld Done Design, which manufactures and services residential metal and copper door and window awnings, as well as commercial storefront awnings. They are just north of Carencro, been in business since 2006, serving all of Acadiana and also serving the South Louisiana area from New Orleans to the Texas line. They are an accredited member of the Better Business Bureau, of the Carencro Business Association, State Police Association, and the Louisiana Sheriff's Association Support Group. Robert, welcome.

**ROBERT MORING, OWNER, WELD DONE DESIGN,
CARENCRO, LA**

Mr. MORING. Thank you, Congressman, Senator. Thank you for welcoming my testimony here. The Senate Committee on Small Business and Entrepreneurship focuses on the Federal tax burden on America's small businesses. When I say I have a small business, I have a rather small business, and just like Ms. Shamsie was saying, I think the biggest burden here is the expenses that us small business people have to incur with our CPAs as a result of the IRS complexity. I'd like to share my thoughts and opinions on what I feel are key areas of concern. The area of concern that I'd like to address is the complexity of the IRS Tax Code, Social Security, tax legislation, and the future of our small businesses.

My primary concern is the complexity of the IRS Tax Code. The Tax Code for small businesses is very complex and makes it difficult for me to handle the administrative part, like I was saying, so we have to outsource that to a CPA. CPAs charge a lot, they really do. Maybe I should become a CPA. It takes time for me to prepare my documents. When I first went in business, my CPA was doing everything for me, and I learned real quickly that I could hire two more people if I would just lower that cost. I figured it out; I can't lower that cost. I managed to get it minimized as much as I could. I file as much as I can, I try to handle as many forms as I can, but you know, the fear of the IRS comes into play. The IRS, we've all watched the movies with the mobs, and if they don't get them on the murder charge, they're going to get them on the tax evasion part. So, it's true, and you know, like Ms. Shamsie was saying, when I get to the mailbox and I see a letter from the IRS, I don't even make it back to my office, because you know it's not

good. It's negative, so the connotation of the IRS is bitter in a small business person's mind, it really is.

Personally, I worked for my competitor at one time, and he got in trouble with the IRS, and this is a true story. His brother was working with him, and he wasn't even at—his brother was working at a different business, and because he was limited, he was listed on the LLC as a corporation, he was liable for that tax burden as well. The penalties and interest went well over a million dollars for that very small business. It was crushing; it was crushing.

I feel the average small business owner has a great burden of research and to try to untangle the Tax Code for just a simple purpose to operate its software. The cost of the software is very expensive in itself, and the updates and the upgrades and to do the payroll modules, that's to be able to handle what we can do that we don't want our CPAs to bill us for. The IRS has a threatening presence. You know, it's pretty fearful that you might accidentally miss a deadline or file the wrong form, send it to the wrong address, didn't file it on line correctly. It gets complicated, and I'm talking specifically just of Federal tax, but it's all taxes that we have to deal with, but the Federal gets a little precarious at times, especially if the EFTPS website is down. You know, we have to make our monthly deposits, [inaudible] quarterly files, whereas it just gets confusing. I feel that a separate Tax Code and lower tax rates would help me expand my business, bottom line.

Another one of my great concerns is the Social Security matters. When we talk about Federal taxes, I don't know if the—I don't hear much about Social Security. Social Security is probably one of the largest concerns for us, for me and my son, and for our business and for most families. You know, where are these monies going, and will it be available for me and my employees when it comes time for us to be able to collect what we contributed. As a business owner, I'm responsible for matching that contribution and sending it in. I can tell you personally, my Social Security tax with matching contribution is three times what my Federal tax is. That's crushing to a small business, thus creating a strain on the system. You know, we hear this, about the Social Security system, there's a strain, there's going to be a collapse or a downfall. What I would like to see better communications and answers given to the Social Security questions from the Legislature and from the IRS and the Social Security Administration. We hear nothing but the negative. It's kind of like the taxes. So the Social Security Administration is now becoming one of those evil doers as well, you know.

I feel the complex tax laws are not all the fault of the IRS alone, but legislation as well. With laws constantly changing, it's very difficult for the small business owner like myself to make and follow a plan and make an important decision, like the ones, the Section 179. Absolutely crazy. The bonus depreciation was a law that was designed to stimulate the economy, and was put into place for several years; however, in 2014 small business owners were told not to rely on that bonus depreciation any longer, so we planned accordingly. We planned our expenses, our fixed assets. For some reason, that I've yet to understand, the legislation was passed in December as an economic stimulus. It was supposed to help small business owners that was no help whatsoever. It's like having a toy

and you can't take it out until December, and when you take it out in December, they say oh, you could have played with it all year long! It just doesn't make any sense.

My final thought and concern is about the future of our small business. My son is an important contributor to my business. It's just me and my wife and my son who have any dealings with this business. My son has a great a great entrepreneurial spirit. He has great dreams of expanding our business every day. In fact we're putting a new building up today that I had to fork out of my pocket to do. At the same time, he sees the daily struggles and the efforts it takes to operate a business, and I'm fortunate that he has a positive attitude and a drive to succeed. I also realize that he is rare. I have met several young would-be entrepreneurs that have decided to just give up the dream of owning their own business with the difficulty of building and managing a business primarily when they see what the involvement is with the taxes, the Federal tax, State tax, school board and what have you. We need to see—will we continue to see the American entrepreneurial spirit in the next generation? It's a great concern of mine, not just my son but for my grandson.

Again, I thank you for allowing me to voice my thoughts and opinions in this Field Hearing, and I hope that my small contribution might plant a seed that Americans who operate small businesses will benefit and thrive through the efforts of this Senate Committee. Thank you.

[The prepared statement of Mr. Moring follows:]

Mr. Robert Moring, Owner

Weld Done Design, L.L.C

512 Braquet Road

Carencro, LA 70520

Thank you for welcoming my testimony at the field hearing for the Senate Committee on Small Business & Entrepreneurship that focuses on reducing the federal tax burden for America's small businesses. My name is Robert W. Moring, and I am a small business owner from Carencro, LA. I would like to share my thoughts and opinions on what I feel are key areas of concern. The areas of concern that I would like to address are: the complexity of the IRS tax code, Social Security, tax legislation, and the future of small businesses.

My primary concern is the complexity of the IRS tax code. The tax code for small businesses is very complex, making it very difficult for me to handle the administrative part of the business. I do not have an accounting department, which makes me have to outsource this part of my business to my CPA. The time it takes me to prepare business documents, in addition to the cost of using a CPA, are setbacks in time and finances. I feel the average small business owner has a great burden of researching to try to "untangle" the tax code just for the simple purpose of operating software and communicating with his/her CPA in order to understand how taxes are affecting our businesses. The IRS has a threatening presence which adds to my difficulty of owning a small business. There is an ongoing fear that I may accidentally miss a deadline or submit a wrong form that will result in heavy penalties and interest. It is my understanding that the *Tangible Property Resolution*, is a newer law and caused a ruckus in the accounting community and was perhaps one of the major happenings in tax laws since the Reagan

administration, yet it was never publicized in the news. This casts more doubt and fear of the unknown complexity of taxes. All the aforementioned issues become worsened as the tax code constantly changes and becomes more complex. **I feel that a simpler tax code and lower tax rates would help me expand my business.**

Another one of my great concerns is the Social Security monies. My concern is basically, where this money is actually going, and it will it be available for me and my employees when the time

comes for us to collect what we have contributed? As a business owner, I am responsible for matching the contribution of my employees. I have often heard talk about the "draining" of the Social Security system, and it is not being run as it was initially set up to operate, thus creating a strain on the system that will result in its collapse and downfall. I would like to see better communication and answers given to the Social Security questions from my legislators.

I feel that the responsibility of the complex tax laws are not the fault of the IRS alone, but on the legislation as well. With laws constantly changing, it is very difficult for the small business owner like myself to make and follow a plan and make important decisions concerning our businesses. It is my understanding that the *Bonus Depreciation* law was designed to stimulate the economy and was put into place for several years now. However, in 2014, small business owners were told not to rely on the Bonus Depreciation any longer, so we planned accordingly. For some reason, that I haven't yet to understand, the legislation was passed in December as an economic stimulus. What was supposed to be a help to small business owners was no help whatsoever. It was far too late in the year to have any impact, and provided very little economic stimulus. Section 179 is very similar to the bonus depreciation, although it deals with expensing. It is truly irrelevant when not spelled out at the beginning of a tax year, but instead passed in Dec, and retroed back.

My final thought is a concern for the future of small business. My son is an important contributor to our small business. He has an entrepreneurial spirit and has great dreams of expanding our business. At the same time, he sees the daily struggle of the efforts it takes to operate a business. I am fortunate that he has a positive attitude and a drive to succeed. I also realize that he is rare. I have met several young, "would be" entrepreneurs that decided to just give up the dream of owning their own businesses due to the difficulty of building and managing a business because of taxes. If owning and operating a small business continues as it currently is, will we continue to see the American entrepreneurial spirit in the next generation?

Again, I thank you for allowing me to voice my thoughts and opinions at this field hearing. It is my hope that my small contribution might plant a seed, and that American's who operate small businesses will benefit and thrive through the effort of this Senate Committee.

With kindest regards, I remain

Robert W. Moring

Chairman VITTER. Thank you very much, Robert.

Representative BOUSTANY. David, next we'll hear from Mr. Alan Hebert. Alan is a partner in a well-established accounting firm here in town, Thibodeaux, Hebert, Deshotels and LeBlanc, LLC. In addition to being a very accomplished accountant, Alan has been very involved in business consulting, is an owner in several small business ventures in a wide range of areas. I think Alan, with your background, you bring a very unique perspective to this debate and discussion from an accounting and a small business perspective, so Alan, by all means, let's hear your testimony.

**ALAN D. HEBERT, PARTNER, THIBODAUX HEBERT DESHOTELS
LEBLANC, L.L.C., LAFAYETTE, LA**

Mr. HEBERT. Sure. Congressman Boustany, Senator Vitter, thanks for inviting me today to address this hearing. I've heard some of the earlier testimony, and as a CPA I share the concerns because I deal with those things every day, you know, on their behalf, in addition, to some of the businesses that I own, and I understand the problems. During my 37 years as a CPA and a business consultant, I spent countless hours listening to and addressing business concerns with clients. As a small business owner, I have experienced the issues first hand and through the entities that I own covering a wide spectrum from oil field services to rice milling.

Small business more than ever must rely on professionals such as myself to meet the heavy burden presented by the complexity of our tax laws and the related compliance requirements. Many times, when they should be focused on running their business to the best of their ability, they are focused on tax and compliance issues and end up making decisions that they would not make otherwise. The days of my grandfather who had a auto parts store where he and my uncle and father worked, he prepared every form himself with a Number 2 pencil. Those days are gone.

Just to illustrate, and you've heard about Section 179. Various methods can be used just to deduct the cost of an asset as one example of the multi-layered web of rules that the average small business owner has trouble understanding. The business owner must decide whether to use IRS Code 179 expensing, bonus depreciation, regular depreciation, and if that wasn't enough, in 2013, the Minimis Safe Harbor Rules were passed that govern the immediate write-off of small assets. Most small businesses can only write-off assets under \$500. This limit is way too small, and requires additional compliance time recording these assets on the depreciation schedule, deciding which of all these expensing options are available, and then tracking them for years to come. Additionally to comply, taxpayers are required to file and adopt a capitalization policy, and make an election every year going forward. Extenders, you've heard about the 179 and bonus depreciation. Extenders are great but tax law needs to be permanent. Until Congress decides that there needs to be a change, all these extenders drive business people crazy, and they cannot plan.

There has been much discussion lately about corporate tax reform. While there is much room for improvement in that arena, I don't think a change in corporate rates will affect many small businesses as the vast majority pass through entities bounding as part-

nerships, S-Corporations, disregarded entities which pass through the income to the owner's individual tax return. It would be helpful to the small business owners to simplify the rules regarding income and deductions at the company level. The tax burden will only be affected if rates were changed at the individual level. Compliance and related penalties create a daunting task for any business owner navigating the complex and ever increasing matrix of deadlines or quarter income tax estimates, income tax returns, payroll tax reports, and payroll tax deposits, not to mention all of the local sales tax and the local requirements.

Penalties are assessed by the IRS when the computerized system detects an error before asking the taxpayer for additional information to clarify discrepancies. The long and expensive task of proving that information was reported correctly begins. Of course, it's nearly impossible to contact anyone by phone and correspondence is not answered for 90 days, so notices cross in the mail. I have on multiple occasions corresponded with the IRS for years without resolution while the taxpayer continues to receive penalty notices and threatened seizure of assets and liens on bank accounts.

In summary, my testimony only covers a few areas of the tax law. It does not even venture into the bizarre areas of alternative minimum tax, tax credits, limits on capital losses, and of course corporate requirements to report according to ObamaCare now. The small business owner who has taken risk with the opportunity to own their business, provide jobs for others, and purchase the goods of fellow entrepreneurs who are providing jobs usually does not realize that in addition to worrying about payroll, rent and mortgages, they now must face the task of worrying about complex tax laws and regulations. Every business owner understands their activity must be reported and taxes must be paid, paid to fund government services, but bad for a simple and fair system of taxation in compliance. Thank you.

[The prepared statement of Mr. Hebert follows:]

April 2, 2015

The Honorable David Vitter, United State Senate
The Honorable Charles Boustany, Jr. M.D., United States House of Representatives

Testimony to Senate Committee on Small Business and Entrepreneurship

Alan D. Hebert
Certified Public Accountant
Certified Valuation Analyst
Small Business Owner

Dear Sirs:

Thank you for allowing me to address you at this hearing. During my 37 year tenure as a certified public accountant and a business consultant I have spent countless hours listening to and addressing the business concerns of clients. As a small business owner, I have experienced the issues first hand in entities covering a wide spectrum including oilfield services and equipment rentals to electronics manufacturing and from radio stations to rice milling and rice farming.

The role that small business plays in the United States of America both in economic impact as well as job creation is well documented and is the catalyst to most jobs and to achieving the American dream. Because small business does not always have the ability to staff up with high level financial personnel they rely on professionals such as myself or on their own ability to meet the heavy burden presented by the complexity of our tax laws and the related compliance requirements. Many times when they should be focused on running their business to the best of their ability, they are focused on tax and compliance issues in order to avoid penalties and end up making decisions that they would not make otherwise.

PURCHASE OF ASSETS AND THE RELATED DEDUCTIBILITY

A review of the rules associated with the deductibility of cost as it relates to the purchase of assets reveals a multi-layered web of rules that the average small business owner has trouble understanding. Here is an overview of some provisions:

- Assets can be expensed in their entirety utilizing Code Section 179 assuming the business has not purchased too many assets during the year.
- Bonus depreciation allows the business to deduct 50% of the asset cost in the year purchased.
- Regular depreciation is allowed on the remainder of the asset.
- De minimis safe harbor rules were issued in late 2013 governing the immediate expensing of small assets but the deduction limit varies depending on whether the business has audited financial statements. If the company is not audited, it can only write off assets with a cost of less than \$500. This limit is much too small and requires additional compliance time recording small purchases on a depreciation schedule, deciding which of the above expensing or depreciation methods must be used and tracking their existence over years to come. Additionally, to comply taxpayers are required to file and adopt a Capitalization Policy to be eligible for the De minimis safe harbor rules and will be required to make an election every year going forward.

To further complicate planning and management, the Section 179 deduction and the Bonus Depreciation deduction were not extended until December 19, 2014 to be effective January 1, 2014. Taxpayers were excited to see the extension, however operated during the entire year not sure if those provisions would be extended or not.

TAX RATE BURDEN

There has been much discussion lately about corporate tax reform. While there is much room for improvement in that arena I don't think a change in corporate rates will affect many small businesses as the vast majority are pass-through entities filing as Partnerships, S corporations or Disregarded Entities which "pass-through" the income to an owner's individual tax return. It would be helpful to the small business owner to simplify the rules regarding income and deductions at the company level but the tax burden will only be affected if rates are changed at the individual level.

COMPLIANCE AND REPORTING ISSUES

Compliance and the related penalties have received much attention throughout history but wrestling with the complex and ever- changing list of regulations especially multiple deadlines can be daunting for any business owner.

Corporate income tax returns are due by March 15 but partnerships are due April 15.

Individual income tax returns are due by April 15 but state due dates can differ.

Quarterly income tax estimates are due on April 15, June 15, September 15 and January 15.

These deadlines do not include deadlines for payroll taxes or state and local taxes.

Penalties are assessed by the Internal Revenue Service when the computerized system detects an error before asking the taxpayer for additional information to clarify discrepancies. The long and expensive task of proving that information was reported correctly begins. Of course, it is nearly impossible to contact anyone by phone and correspondence is not answered for 90 days so multiple notices cross in the mail. I have on multiple occasions corresponded with the IRS for years without resolution while the taxpayer continues to receive penalty notices which threaten seizure of assets and liens on bank accounts.

CLOSING

In summary, my testimony only covers a few areas of tax law and does not even venture into the bizarre areas of Alternative Minimum Tax, Tax Credits or the fact that a taxpayer must pay tax on 100% of a capital gain but can only deduct \$3,000 of a capital loss.

When the small business owner hears "tax reform" they cringe as the IRS tax code has grown from approximately 26,000 pages in 1984 to 74,000 pages in 2013, not including the volumes of precedent set by Revenue Rulings, Tax Court Cases and Memorandums.

The small business owner who has taken risk for the opportunity to own their own business, provide jobs for others and purchase the goods of fellow entrepreneurs (who provide jobs) usually does not realize that in addition to worrying about payroll, rent and mortgages they now must face the daunting task of worrying about complex tax laws and regulations. Every business owner I have known understands that their activity must be reported and taxes must be paid to fund government services but beg for a simple and fair system of taxation and compliance.

Chairman VITTER. Thank you.

Representative BOUSTANY. Next we will have Mr. Dan Feibus. Dan is a newcomer to Louisiana. He's the Chief Executive Officer of Zagis, USA. Dan's business is something new in Jeff Davis Parish, and what he's done is brought diversification to that area. They buy cotton. They fabricate it and manufacture it into yarn, and sell about 80% of it overseas, so it's a new type of business. What, 80 jobs now, Dan? So we welcome. We look forward to you testifying.

**DAN FEIBUS, CHIEF EXECUTIVE OFFICER, ZAGIS USA,
LAFAYETTE, LA**

Mr. FEIBUS. Thank you Senator Vitter. Thank you Congressman Boustany. A little but about our company. It's called Zagis, USA which is a partnership between myself and some former textile executives that they grew the Zagis Group out of Mexico. Our customers are large brands like Hanes or Fruit of the Loom that you are probably familiar with. We commissioned our plant in 2009, and since its opening, we have almost doubled our production investing somewhere in the neighborhood of 30 million dollars in CAPEX and construction. We employ about 80 full-time hourly associates in addition to our operations management team. There are only three people in the company who are transplants on the Carolinas, and two of those are competent of the third. We export over 80% of what we manufacture, and we purchase all of our raw material which is cotton in bail form through the Mid-South region. We are the largest customer of our electrical co-op, Jeff Davis Co-Op. We use approximately five megs of power, and we are a proud member of our local community.

I am very grateful to the Committee for inviting me here today to share with you some of the impact of Federal taxation regulation, on the growth and health of our business and businesses that we interact with. In general, I strongly believe in tax reform that will lower corporate and individual tax rates substantially, and that will diminish the effects of the differential rates, earned income and unearned income, and capital gains. I believe there is a simpler and more transparent approach to taxation that will minimize compliance costs, and get businesses focused on investing and growing business, as opposed to developing tax compliance and minimization strategies. I also believe that our tax policies should be more neutral, instead of trying to pick winners and losers to the tax code. I think that we all win with taxes that are lower and require less compliance.

In regards to the industry that I am part of, the impact of trade legislation before the Congress and President, the TPP, will be felt for a long time to come. This is something that we need to get right as a country, because often in the past my industry has been viewed as having had its best year or something that is no longer an area where we have a competitive advantage. This could not be farther from the truth. Our industry as a whole employs over 400,000 full-time employees in the United States, with their numbers growing. The productivity gains in the industry that I am a part of have been nothing short of remarkable. We could make more pounds in less space with fewer people who are better paid

than ever before. As an industry, we are in the process of a major re-investment with new entrant coming into the market and hundreds of millions of dollars of new plant equipment being added in the last year alone. These facilities add value to rural communities, stabilize the power grid, and add value to our planters of cotton and growers. Every pound of cotton that we grow here is one less pound that requires government assistance and [inaudible] of GSM export support and results in better margins for our farmers and better opportunities for our rural communities. I would strongly encourage the Committee to take into account the impact of taxation and regulatory policy on our industry, specifically as mentioned tax reforms with lower rates will make compliance earlier, customs reforms to modernize and streamline the system which is antiquated and has been just really a mess. Continue support for programs like new market tax credits and ED5 with a view to having them be more effective as a support to permanent manufacturing and job creation as opposed to safe harbor real estate investments and achieving a TPP agreement that does not penalize my industry. An awareness to government mandates, and particularly when they are in effect hidden, taxation has an impact on all of us as citizens, business owners and participants in this economy.

I would also like to take this opportunity to point out to the Committee how important the USDA B&I Guaranteed Loan Program has been to our startup business and how it impacts rural communities that they can reach for economic growth. This program allows local banks to provide credit support necessary for businesses located and expanding in their communities. This program as well as the great work done by the SBA, especially on Export Finance, allow the world of small businesses to compete globally. At Zagis, we were fortunate to be able to secure USDA B&I loan when we started out, and it was extremely helpful in getting it [inaudible]. I am very grateful for this opportunity, and I thank you both for inviting me.

[The prepared statement of Mr. Feibus follows:]

Statement to Small Business Committee Field Hearing

My company is Zagis USA which is the product of a partnership between me and Grupo Zaga. We take bales of cotton, primarily from the Mid-South and manufacture it into yarn which we sell to major apparel brands, like Hanes and FOTL. They take this yarn and make fabric and eventually apparel.

We commissioned our plant in 2009 and since its opening we have almost doubled our production investing tens of millions of additional dollars in Capex and construction.

We employ over 80 full time hourly associates in addition to our operations management team. There are only three people in the company who are transplants from the Carolinas, for the rest of our team we have been fortunate to find a great workforce locally.

We manufacture about 35 million pounds per year of yarn, on a 4 shift 24/7 basis 350+ days a year.

We export over 80% of what we manufacture and we purchase all of our raw material (cotton) from the mid-south region. We are the largest customer of our electrical coop and a proud member of our local community.

I am very grateful to the Committee for inviting me here today to share our views on the impact of federal taxation and regulation on the growth and health of our business.

In general, I strongly believe in tax reform that will lower corporate rates substantially and that will diminish the effects of differential rates earned income and capital gains. I believe that a simpler and more transparent approach to taxation will minimize compliance costs and get business focused on investing and growing the business as opposed to developing tax compliance and minimization strategies.

I also believe that tax policy should as a whole be more neutral. Instead of picking winners and losers through the tax code I think that we all win with taxes that are lower and require less effort to comply with.

In regards to the industry that I am a part of. The impact of the TPP will be felt for a long time to come. This is something we need to get right as a country because often in the past my industry has been viewed as having had its best year or something that is no longer an area where we have a competitive advantage. This could not be farther from the truth. The textile industry still is a major employer and creates high quality manufacturing jobs. There are over 400,000 full time textile workers in the United

States and their numbers are growing. The productivity gains in my industry have been nothing short of remarkable. We can make more pounds in less space with fewer people who are better paid than ever before.

As an industry we are in the process of a major reinvestment with new entrants coming in to this market and hundreds of millions of dollars of new plant and equipment being added in the last year alone. These facilities add value to rural communities, stabilize the power grid, and add value to our planters and growers. Every pound of cotton that we grow here is one less pound that requires government assistance for GSM –and results in better margins for our farmers and better opportunities in rural communities.

I would strongly encourage the committee to take into account the impact of taxation and regulatory policy on our industry: –

- Specifically as mentioned, tax reform to lower rates and make compliance easier.
- Customs reform to modernize and streamline the system
- Continued support of NMTC and EB5 programs with a view to having them be more effective as a support to permanent manufacturing jobs as opposed safe harbor real estate investments.
- And achieving a TPP agreement that does not disadvantage my industry.
- An awareness that government mandates and particularly when they are, in effect, hidden taxation has an impact on business and the economy as a whole.

Again I am very grateful for this opportunity and I thank you for your time.

Dan Feibus

Chairman VITTER. Thank you very much, Dan. Now we are going to go into a discussion, questions and answers, to explore some of these points further. In starting, let me say as I mentioned toward the beginning, we are working on a focused Small Business Tax Bill, and I really encourage and appreciate all of y'all specific suggestions about that. We do raise that, the Minimis number, which is way, way too low. I think it's \$500 which you mentioned, to \$2,500 for small business. We also mandate to the IRS, once we pass this, you got to come back to us within a certain period of time with specific proposals to dramatically reduce small business compliance cost, and have a number attached to each proposal so it's real, and it really does that, and we are going to mandate that there can be panels with small business representatives to actually impact, to access the impact, particularly of their proposed regulations.

Let me ask, Sadie certainly made the point that a lot of small businesses are pass-throughs, right? They are not corporations, so you are paying the individual rate. I just want to note, we hear a lot in national debate about the rich need to pay more, the top rate needs to be higher. I mean, that is basically the small business rate, for the most part. So a lot of the small businesses, because of the size of their operations, are paying the top individual rate. It doesn't mean the owners are ultra-wealthy, but that is the small business rate. I just want to ask for y'all's reaction to that, and so that the impact of that, when we have any of these debates that are often on the left of us on increasing substantially the top rate. Anybody want to react?

Mr. FEIBUS. It always seems to me that it's crazy that you have a completely different tax system for the LLC as opposed to just fixing the corporate tax or having the tax rates that applicable to everyone. It's a deep threat. I mean, if you look at it, you know, we're involved and we did a new market tax credit deal a while back, and basically those are credits that allow—it's a really complicated system, but the buyers of those credits tend to be large banks, like J.P. Morgan or General Electric, and the idea that the large corporations have a tax rate that they are able to effectively pay a lower rate because of the way the system is so complicated, is bizarre. It's just crazy. It should be transparent and understandable.

Chairman VITTER. Yes. Anybody else?

Mr. HEBERT. I'd just like to say, you mentioned a lot about the pass-through entity so it doesn't—it is affected at the individual level, and not only just income tax, but then what people don't realize is the self-employed person is the employment tax, which is Social Security, Medicare, now ObamaCare, on top of income tax. I've hear a lot, you know, in the news about the rich getting richer. What I've seen over my 37 years is there used to be corporations and there were individuals. With the tax law changes, there are been a lot of flow through entities, so I think it's a misguided number that they're looking at individual returns and thinking people are getting wealthier and what actually is happening is they are reporting the income of their business on their personal tax return. They are no longer two separate entities. So I think it is a very misguided look at it. The other thing people don't realize is, income

does not equal cash flow. So if you have—you make a million dollars and it flows through your personal return, that does not mean that you got a million dollars. It means the business had a net income of a million. They could have given you two hundred thousand dollars of cash to pay taxes, and used the rest to buy assets. So for those that don't prepare returns and don't understand that system, income reported has nothing to do with cash flow.

Chairman VITTER. And Alan, related to this broad issue, let me ask you this. There is some discussion in Congress about perhaps doing a more focused tax reform bill on the corporate side, corporate tax reform, lowering corporate rates because our top corporate rate is way out of kilter with the rest of the world. It's a competition issue. I have a big concern about that because of this thing we're talking about here, leaving our small business, you're increasing this disparity. If a focused corporate tax reform bill were done, which I have misgivings about, would there be a simple way to make sure that flow through income is also treated at that rate?

Mr. HEBERT. Well, I think you could do it, but it may be a little complex because now you have to treat that income differently. Just like capital gains is treated differently than earned income. Now you have a—

Chairman VITTER. So you could do it, but it's another complication.

Mr. HEBERT. Right. I would say in Acadiana there are very few businesses of any size that are still C-Corporations paying tax, and all that came about when the law was changed 20 or 30 years ago to where you'd get double-taxed if you sell the assets of your company. When that happened, that change was made, that if you have a C-Corporation, and you pay double taxation if you sell your company, everyone immediately went to flow through entities, and so the corporate tax rate in 90% of the businesses in this area have no impact.

Chairman VITTER. Okay.

Charles.

Representative BOUSTANY. David, this is really good testimony because it's right at the heart of what we need to do with tax reform. There's been a lot of talk in Washington about corporate tax reform as David said, because we currently have the highest corporate tax rate in the world, but yet many of these big corporations have tax planning offices that actually lower their effective tax rate to a significantly lower level than that 35%, whereas small businesses don't have a whole lot of options.

All of you have done a really good job of pointing out the problems with the uncertainty related to temporary tax measures, and the complexity of compliance and costs that you bear. I want to tell you, I've heard you, and I know a number of us on the Ways and Means Committee in the House have heard the cry from small business about the uncertainty. In fact, we were very close in December to having an agreement to make Section 179 expensing permanent, bonus depreciation permanent, and a number of other small business tax related items permanent to give you that kind of relief. It fell through at the end of the year. The Administration put up opposition and we were not able to get it done. In fact, one

of the rare times the Senate Majority Leader at the time, Harry Reid, agreed, was with us on this, and the President intervened.

We've started early this year. We've already passed legislation in Committee to move it forward to the House floor to make those items permanent. Let me ask you this, since there's a lot of talk about corporate tax reform in Washington, if we were to sort of take Senator Vitter's lead on this, and we did something with corporate tax reform but also brought into it, making a number of these items permanent, does that give adequate relief? Frankly, I'd like to do the whole shooting match, where we get parity with the players, bring the corporate rate down, maybe in the mid-20s, but also flatten the Code on the individual side, with maybe two rates, 25 and 10. Simplify and do a lot of these things that we talked about earlier. Do you think, I mean, as a temporary measure, trying to get to full tax reform, is it sufficient to do a corporate tax rate reduction plus add in making permanent 179 expensing, allow for more cash full accounting, many of the things Senator Vitter has laid out, cost depreciation and make that permanent? Any of you want to comment on that?

Mr. HEBERT. Let me just say, you know, anything you could make permanent, to me if it's important, make it permanent. You could, you know, it doesn't mean it's permanent; it means it's permanent until you change it again. These extenders for one or two years just drive people crazy. With regard to changing the corporate rate, like I said, that won't affect 90% of the corporations in this area. I'm sure it's really for large corporations, and with regard to different tax rates at the corporate level and individual, people make—they don't just sit still. They make decisions about the differential in the rate, so you have to be very careful and have different rates for corporations and individuals because there could be a substantial change in the way they do business, so—and I will look at, you know, a list of these [inaudible], but we talk about Section 179, bonus depreciation minimis, that doesn't even drill down to regular depreciation where over the years it's been straight line MACRS, ACRS; there needs to be substantial reform in the write off of assets and consolidate all that, and come up with one method. Maybe combine Section 179 and bonus into a much simpler arena and get rid of all of the old code. I mean, I'd like to know, I should have looked, at how many there are just on depreciation but it's huge.

Representative BOUSTANY. Yeah, the depreciation issue, based on my reading of it, as to regard to tax reform, is just mind boggling. I can't imagine, you know, having to deal with it day in and day out. Alan, you also mentioned AMT, and I'm sure this has affected some of our small business owners here. It is something we would like to get rid of, repealing AMT, putting that to rest once small, because it started as something, I think it was back in the Johnson Administration, targeting a handful of wealthy people and this thing has just grown out of proportion affecting small businesses all across this country. Have any of you been affected adversely by the application of AMT?

Mr. HEBERT. The AMT affects either mainly folks that, you know, sell capital, items that have capital gain most of the time. So, you have these tax laws that say if you have certain kinds of

income it's taxed at one rate, but if you have capital gain, it's taxed at a lower rate because you've already been taxed on that money, but just in case you make too much, too big of a percentage of your income, it's capital gains that they take away from you because you have this alternative minimum tax. So you have all these rules that supposedly meant to really spur investment and to compensate people for taking risks, but then you take it away if they do too good at it, so really people don't understand it's very complicated. You make them add back State income taxes. It just was, in my opinion, it's a very bizarre calculation and it's like, we're going to give you all these things but then we are going to take them away at some point.

Representative BOUSTANY. One final question, Sadie and Robert, both of you mentioned the cost of complying with the Tax Code and how it's not only a nightmare, a headache, you have to deal with the IRS, but both of you would reinvest in your business and hire more people if you didn't have to deal with it. Can you elaborate a little further on this?

Ms. SHAMSIE. Absolutely. Absolutely I would. I'm so fearful of the IRS, and like I said, it just amazes me some of the letters I receive from them. My CPA firm, they handle everything, okay. I don't, I gave that up. The time it would take me, and time is money, the time it would take me, my time is better spent trying to grow my business. I honestly could hire a full time employee, and we looked at possibly hiring someone fresh out of college with an accounting degree and I talked to a couple of friends, and they said, and I'm sure you had suggested, they said bad idea. It's too complicated. All you're going to do is get yourself in trouble and waste this money, stick with what you have. But, gee, I pay my accounting firm a lot of money and still, we—up until a couple of months ago, I honestly thought, I was starting to doubt, but we've been with the same CPA firm as long as we've been in business, that they were doing a bad job because of all these letters I was get sent, oh you didn't pay. Then I found out from all the other small business owners, like oh, no, we get the same thing. So this happens to everyone. Yeah, it's—gee wiz, it is complicated, it really is. For me it is, and I have a degree in Political Science; I don't have an accounting background. Yeah, it's just, and eight employees, nine employees, I have a small business. It's way over my head.

Chairman VITTER. And Sadie, if I could jump in just to put a little more meat on the bone. These letters get held up and those issues and questions when often the IRS is wrong, and you figured that out dollars and months or years later. In a year, how many of those sorts of matters from the IRS might you get, number one? Number two, an individual letter, if you put a dollar cost on that in terms of your cost hiring accountants, et cetera, what might it be for one of those letters?

Ms. SHAMSIE. I know of one instance specifically, they were saying that there was like \$325 I owed them in back taxes, and I was going to pay it, because my accountant said, I can take care of it, it'll cost you \$150, \$200. Also I was advised, don't pay it. Red flags are going to go up. It's a mistake on their part. I kid you not, you know, I get so many of these letters is what I do now is I just stack them and I bring them to the accountant at the end of the month.

In a month's time, I promise you I always get at least one from the IRS.

Chairman VITTER. Per month?

Ms. SHAMSIE. Per month, yes.

Chairman VITTER. And one of the more complicated or cumbersome letters, what might the final bill to your business have been?

Ms. SHAMSIE. We had one that reporting 1099-S to the IRS when we started doing it electronically. We spent several thousand dollars because they waited two years to tell us that they didn't receive the data, and we were like, oh no, we emailed it timely. We have the email confirming it, but they said the file is corrupt. Well it took them two years, so I had all these back taxes for not reporting these 1099-S. I spent several thousand dollars to clear the matter up, and it took about two years and more penalties, more penalties, and then finally at the end of it all—at one point it was over \$60,000 they said we owed, and at the end of it all, I had what was, I think, \$326; \$265, and I was like let's pay this, but several thousand dollars I spent.

Chairman VITTER. Right.

Charles.

Representative BOUSTANY. That's all I have.

Mr. HEBERT. She brings up a good point. The IRS never issues notices quickly, so there's a three year statute of limitations. Normally their notices come between the second and the third year. By then the penalties have racked up and the information is cold, and they never, ever, ever send you a notice like six months after you the return, two years later.

Mr. MORING. I think that's one of the biggest obstacles with the IRS is the lack of communication. You can't even get anyone on the phone, for one thing. You know going back to that bonus depreciation, that was—even the media didn't report that. From what I understand, that was probably one of the largest tax changes we've had in this country since the Reagan Administration, and you never heard word of it. Communication is key for a small business person. I think that going back to the bonus ending, 179 making it permanent, I think yes. But to answer your question, I think it's going to be advantageous to us. Anything that we can do to lower the cost of the CPA, and that we have to outsource. I understood, one time my CPA told me, and I wanted to share that with y'all, is that there's a form out there. It's 80, 3115, or something like that, something to do with the bonus that was retro back, kind of mishandled by the IRS, that form is estimated an 84 hours to fill it out. I don't know about y'all, but I can't afford 84 hours to my accountant's time to fill one form out that I don't even understand so, you know, I'm sitting here on the side of Sadie, that we don't understand a lot of it, we just outsource it. But we do know the bottom line is that if we can get the taxes lowered, and I think that's the reason why we're both S-Corps right now, is because that was the lesser of the evils for us to choose.

Chairman VITTER. And another theme I certainly hear is certainty, predictability; right? Know what the rules are and know it is going to be permanent. Know what's coming.

Mr. MORING. Amen.

Chairman VITTER. And we have a number of these things like Section 179, that are almost certainly going to be extended, but they're only done at the last minute, or even retroactively. Now Alan, let me ask you, when Congress does that, when Washington does that, you know, these are provisions that are supposed to spur investment and spur activity, but if we do that at the eleventh hour, or at the thirteenth hour and do it retroactively, aren't we essentially throwing most of that spur impact out the window?

Mr. HEBERT. You absolutely are. That really makes no sense, but they were, as I understood, they were designed to spur activity, to buy equipment, to get manufacturing going, but when you pass it, I think on December 19, retroactive to January 1, that doesn't do a whole lot of good. As we are staring it in the face again, what's it going to be in the future? People don't always just make decisions for that year. They make long term decisions also. I heard a lot about needing to hire extra people or accountants. A lot of clients have CPAs, CFOs, and they can't, they don't understand the tax law, so they still have to hire us. We're more like a tax firm now because the laws are so complicated and so ever changing, and the 3115 he was talking about has to do with the Minimis rules. You have to fill out a change in accounting policy. That's an 8-page form, and it took a lot of time. They have made some changes, though. It only applies to a few people, but when we first got it, the rules were such that everyone, every business was going to have to file one of those.

Chairman VITTER. Right. Well, we're going to wrap up. First, let's all thank our great witnesses for giving us insight into these issues. Thank y'all very much.

[Applause].

I really appreciate your being here. You gave very compelling testimony about what it's like in the real world dealing with this stuff. Also, I want to thank my colleague, Charles Boustany. Charles, thanks for co-hosting this event. Even more important, thanks for all your work on these issues, including on the Ways and Means Committee.

Representative BOUSTANY. Well, thank you, David. Thank you for your leadership.

Chairman VITTER. Thank you. And we want to thank the City/Parish for hosting us today, and last but certainly not least, thanks to all of you for coming out and directly participating. As I said at the beginning, when I became Chair of the Small Business Committee, the first thing I wanted to do was to take the Committee to the real world, not keep it in a bubble in Washington. Take it to the real world, including Louisiana; talk to people in the real world; understand the real challenges of small businesses and make the count in terms of the IRS, Small Business Administration, and other things. So this forum was really helpful in that regard. Thank you for coming out and being a key part of it. Finally, I want to keep in touch with you on an ongoing basis. If you have a handout from me here, please keep that handy, because the blue column on the left side of the page has all of my contact information, including our Lafayette office, including our website, which has easy email access. So please use all of that to stay in touch. Thank y'all very much.

[Applause].

[Whereupon, at 9:32 a.m., the hearing was adjourned.]

