



April 24, 2008

The Honorable Max Baucus  
Chairman, Committee on Finance  
United States Senate  
Washington, DC 20510

The Honorable Chuck Grassley  
Ranking Member, Committee on Finance  
United States Senate  
Washington, DC 20510

Dear Chairman Baucus and Ranking Member Grassley:

Thank you for the opportunity to comment on the President's proposal to increase tax compliance and minimize the tax gap by requiring information reporting by banks and other entities on reimbursements to merchants that accept electronic forms of payment, including credit and debit cards.

The National Association for the Self-Employed (NASE) understands the current budget situation our country is facing. We support you in your efforts to work towards minimizing the federal deficit and to ensure the passage of effective policy at a reasonable cost to our citizens. We support efforts to improve tax compliance and believe that those who willfully do not comply with their tax responsibilities should be penalized. However, in deliberation over our nation's tax gap we have become concerned that the delicate balance between what is reasonable and what is detrimental has shifted to the latter. We feel that the Administration's proposals relating to the tax gap would hinder tax compliance while also significantly impairing our nation's entrepreneurs.

The NASE represents over 250,000 micro-businesses (ten or fewer employees) and self-employed individuals nationwide. This unique and important demographic of the small business population faces an overwhelming regulatory burden in complying with complex and expansive IRS regulations. According to a 2005 study by the Tax Foundation, individuals, businesses and nonprofits spent an estimated 6 billion hours complying with the federal income tax code, with an estimated compliance cost of over \$265.1 billion. Businesses bear the majority of tax compliance costs, totaling nearly \$148 billion or 56 percent of total compliance costs. Yet despite the substantial time and cost spent on compliance, our nation still faces a tax gap.

The proposal that the Senate Committee on Finance is considering to expand information reporting by requiring credit and debit card issuers to report business owners' annual electronic payment transactions to the IRS is likely to have significant unintended consequences. As they say "the devil is in the details" and this proposal lacks clear details regarding its implementation that must be brought to light to accurately gauge the affect on the micro-business community and our economy.



### Use of Data

One of our chief concerns is the use of the data collected by the IRS. There has been no clear indication of how this information would facilitate tax compliance. The IRS has suggested that the data could be utilized to create industry profiles, taking the total credit card receipts reported for a particular business sector and then extrapolating this information to create industry averages. These new industry profiles stemming from credit card receipts could then be used by the IRS to make judgments regarding other items on the tax return such as estimations on cash payments. If this is the intended use of the data, problems will arise. Our association does not support the use of any collected data for this purpose.

Use of these averages will only provide discrimination against those businesses that have higher than average credit card receipts. This higher average could be a function of the affluence of their community, regional disparities, an owner's efforts in managing cash flow and even the decision of the business on whether to accept a particular credit card. It will be very difficult to determine a relevant, applicable average for a particular small business sector. Therefore, any action taken by the IRS based on these profiles such as examinations, requests for additional information or even tax assessments would be both burdensome to micro-business and most especially, could be irrelevant and frivolous.

### Verification and Withholding

The Taxpayer Identification Number (TIN) verification process and backup withholding required of credit and debit card issuers under this proposal is also ripe for mishandling. The proposal requires credit and debit card issuers to verify the TIN of a business. If this information is inaccurate the issuer must backup withhold 28% of their transactions. Unfortunately, no specifics have been released as to how the IRS plans to work with credit and debit card companies to effectively implement these components of the proposal. There are likely to be reporting errors through this process of verifying TINs yet there is confusion regarding whether a small business owner must contact their credit card company or the IRS to address the problem.

Small businesses should have a reasonable amount of time to correct any errors before backup withholding kicks in. Withholding on gross transactions will create a substantial cash flow problem for micro-business and considerably harm their business. Thus, it is very important that we have a clear understanding of the verification process and procedures outlined in this recommendation.

### Cost Concerns

Overall implementation of this proposal will clearly require substantial financial and human capital resources by both the IRS and the credit/debit card companies. Questions abound



regarding whether the IRS has the infrastructure to create a streamlined verification system and can handle the volume of paperwork they will receive should this proposal become law. We think it is prudent for the Senate Committee on Finance to work with the IRS to determine what the cost estimate would be to prepare and administer this new proposal. This will facilitate a cost/benefit analysis to determine the value of this proposal as it compares to its projected revenue.

Additionally, credit and debit card companies are likely to pass on the cost of compliance to their micro-business merchants in the form of higher user fees. Increased fees will have a negative impact on revenues and sales of micro-business owners, forcing them to either minimize their acceptance of credit cards or increase prices of their goods/services. This could have significant consequences on our weakening economy. We encourage the Committee to reach out to these companies to determine the ultimate financial impact on consumers before moving forward with this proposal.

#### Overall Effectiveness

In conclusion, a key question is whether this proposal will increase tax compliance. Capturing information can have a positive impact particularly in light of those taxpayers who consciously choose to avoid reporting income. However, the NASE believes that this proposal will be collecting information that is likely already reported. The taxpayer who willingly underreports income would not knowingly choose to exclude credit card receipts since those items show up on their bank statements. It is clear that transactions via credit and debit cards are well documented and would be revealed upon review, so it is unlikely that those amounts would be the key source for intentional underreporting. Therefore, the NASE is concerned that this approach may not be effective at addressing the tax gap and could serve to increase the costs associated with credit card usage without identifying any additional taxable income that would not have already been reported.

The National Association for the Self-Employed does not support the passage of this proposal and strongly urges the Senate Committee on Finance to consider alternate solutions to increase tax compliance. Our recommendations for less burdensome approaches to tax compliance can be found on our website: [http://advocacy.nase.org/issue\\_briefs/2007/FairnessInTaxCompliance.asp](http://advocacy.nase.org/issue_briefs/2007/FairnessInTaxCompliance.asp)

We believe efforts to address the tax gap and compliance must be balanced and effective. There are ways to increase and encourage compliance that are not excessively detrimental to entrepreneurs. The focus should be on overall simplification, eliminating issues of inequity within the tax code, and enhancing taxpayer education and outreach. The majority of small business taxpayers want to comply with existing tax laws, thus making tax regulations easier to understand rather than adding new levels of regulatory burden is the most effective and equitable way to improve compliance and to reduce the tax gap.



Please find attached a few comments from NASE micro-business members in key states which offer a personal perspective on this recommendation. We have collected numerous comments on this specific proposal from micro-business owners across the country. For more information, please contact Kristie Darien, executive director of NASE's legislative offices, at (202) 466-2100 or via e-mail at [kdarien@nase.org](mailto:kdarien@nase.org).

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Hughes", written in a cursive style.

Robert Hughes  
NASE President



## **Micro-Business Perspectives on the Tax Gap Proposal to Increase Information Reporting Requirements on Electronic Payment Card Transactions**

**Thomas Kuntz**, owner of Kuntz Construction in Belgrade, Montana is concerned that if this recommendation is passed the small companies he purchases items from may stop taking credit cards or charge high prices which would hurt his business. He feels that it will cost more to the government to implement this proposal and monitor these transactions than what they would gain. He believes these payments are already well documented. Mr. Kuntz said the following regarding the withholding component of this proposal, "For those of us paying estimated taxes, the government would be holding over 50% of our income that we need to operate our business." Overall, he feels that this effort would not increase tax compliance.  
Belgrade, MT

**Nancy Miller**, owner of **Lolo Glass LLC** in Lolo, Montana thinks this idea is "just another accounting nightmare. It would not do any good to do this other than cause more headaches for small business."  
Lolo, MT

**Eric Gislason**, a chiropractor from Whitefish, Montana operates Gislason Family Chiropractic Inc. He feels that "it is difficult enough for small business to stay in business and keep up with all the rules and regulations. We do not need one more thing to comply with."  
Whitefish, MT

**Jim Ferguson** is the owner of IOMEGA, Inc., a consulting firm in Montana. Jim opposes requiring credit/debit card companies annually report to the IRS his business transactions and believes that the best way to close the tax gap is to "change the federal tax structure to something simple and fair to all."  
Dayton, MT

**Laura Meissenburg** is the owner of Electric Avenue Gifts, a retail store. Laura believes that the use of industry profiles to make determinations on whether business owners are accurately reporting their gross receipts is unjust because "anything that creates an accounting burden on one business but not the other is discrimination."  
Big Fork, MT

**Michael Simpson**, owner of Michael Simpson Health Insurance Sales, does not think that increasing information reporting on credit/debit card transactions will be of any help to closing



the tax gap. He thinks that the government should be looking at big businesses as well in making sure companies comply with tax regulations.  
Manchester, IA

**Daniel Wagner** owns Golden Circle Commercial Roofing, LLC. Daniel predicts that if increased information reporting on credit/debit card transactions is made into law, he will probably be forced out of business due to the inevitability of having to raise prices and thus losing customers.  
Dallas Center, IA

**Sondra Daggett** is the owner of Integrated Communications Strategies, which is a marketing firm in Iowa. Sondra believes that increased information reporting and the possibility of increased credit card fees will “wreak havoc with small retailers who are scraping to get by as it is.”  
Cedar Rapids, IA

**Keith Kaufman** owns a small business that receives approximately 60 percent of its transactions through credit or debit cards. Keith is worried about the additional financial burden that this policy would place on his business. Because he cannot charge more for credit card transactions, he’d have to “eat” the additional charges which hurts his bottom line (which he feels is “already taxed to death”). He does not think this regulation will increase tax compliance if it became law.  
Camp Verde, AZ

**Janice Kajanoff** is the owner of Kajanoff Custom Clothiers, a small retail store that receives approximately 60 percent of its business through credit or debit card transactions. Janice is skeptical about the ability to create accurate profiles. She explains that, “Anytime you use generalities, you are going to misjudge and hurt somebody--usually the most independent, the most creative.” She is concerned with additional costs associated with this proposal that would be incurred by her business. Janice does not think this regulation will increase tax compliance if it became law.  
Seattle, WA

**Richard Wyatt** is the owner of the Act Corporation, which receives approximately 40 percent of its business through credit or debit card transactions. He is worried about the costs to his business associated with this proposal.  
Tooele, UT

**Dorothy Hand** is the owner of Poor Taste, a small business selling arts and crafts, which receives approximately 20 percent of its business through credit or debit card transactions. Dorothy has two issues with this proposal. To begin with, she thinks that there would be logistical problems with establishing a profile, especially for small businesses, which must be



“flexible and adaptable. Additionally, she is concerned with complying with another regulation on her small business. Dorothy does not think this regulation will increase tax compliance if it became law.

Bandon, OR

**Michael Thayer** is a small business owner. Michael feels that this proposal would be another example of the government overstepping its bounds and violating the privacy of its citizens. He does not think that this will increase tax compliance.

Seekonk, MA

**Thomas Scalf** is the owner of Stonefox Productions, Inc, a small video productions company that does nearly all (99%) of its business through credit or debit card transactions. Thomas does not like the paperwork that would be involved with this proposal, stating, “The regulations and paperwork just to do one's taxes are so far out of control now that to add to that will only make things worse.” He does not think that this recommendation will increase tax compliance.

Albuquerque, NM

**David Specht** is a veterinarian at Broadway Estates Veterinary Clinic in Littleton. He is worried that the administrative costs imposed on credit card companies by this proposal will eventually trickle down to his business, which will force him to increase fees. He does not think that this proposal will increase tax compliance.

Littleton, CO

**Mark Harrison** is the owner of The Framing Alternative, which receive about 80 percent of his business through credit and debit card transactions. He says that the proposal “seems very time consuming and labor intensive, costly and irrelevant.” If enacted, the proposal would be would be irrelevant because the differing demographics of business will make accurate profiles impossible. Michael does not think that this recommendation will increase tax compliance.

York, ME