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June 26, 2024

The Honorable Steve Samuelson
208 Irvis Office Building
P.O. Box 202135
Harrisburg, PA 17120-2135
via electronic submission

RE: HB 1404 (Topper) Repeal Accelerated Sales Tax

These comments are submitted on behalf of the National Federation of Independent Business in Pennsylvania (NFIB PA). NFIB is the nation's leading small business advocacy organization, representing nearly 13,000 members in Pennsylvania and about 300,000 members throughout the United States. Founded in 1943 as a nonprofit, nonpartisan organization, NFIB's mission is to promote and protect the right of its members to own, operate, and grow their businesses.

NFIB is fully supportive of HB 1404 (Topper) which would repeal the accelerated sales tax prepayments made by small businesses. Not only do small businesses collect and remit sales tax to the Commonwealth, but they are also asked to do so in advance, based on last year's revenues. It is NFIB's belief that businesses should only pay on tax liabilities once they are realized.

This policy was enacted under the Tax Reform Code provisions of Act 48 of 2009 because of an anticipated budgetary shortfall. By establishing the prepayment requirement, the Commonwealth expected to receive approximately \$250 million in accelerated sales tax revenues, helping to plug some budgetary holes.

I don't need to tell you, but the Commonwealth is in a much different fiscal position in 2024, with approximately \$14 billion in the Rainy-Day Fund. It's time to end this practice.

Though the influx of dollars gave the state a one-time boost of revenue, this prepayment requirement has been an accounting nightmare for small businesses for two reasons:

1. The estimation of what may be owed to the state; and
2. The reconciliation after the payment is made to ensure they are accurate.

These prepayments are particularly troublesome for small businesses because the tax prepayments do not match their actual cash flow. In addition, small businesses now must spend more time and money figuring out whether they overpaid or underpaid, and ensuring their books are balanced.

These provisions are especially burdensome to non-retail businesses -- like equipment and industrial suppliers -- who do not use point of purchase sales. For these industries, sales fluctuate significantly from month to month.

One NFIB member who sells and installs industrial material handling and storage equipment, (lifts, racks, cranes, cabinets, workstations, modular buildings, platforms) provided a very useful illustration of the problem.

His company does not have any physical inventory. His invoices are dated when the product ships from the manufacturer -- not the date when the invoice is printed. It takes up to three weeks after a product ships for his company to receive the notification that the product is on its way to the customer.

The new law requires his company to estimate his sales tax liability using last year's figures. He said his company's estimates of actual sales tax liability are nothing more than wild guesses. This causes them to grossly underestimate or overestimate sales tax liability. Additionally, this employer reported this procedure costs an additional 30 minutes of accounting time each month. This does not include time spent reviewing paperwork and maintaining records. Remember, at about \$100 per hour, tax paperwork is the costliest paperwork burden reported by small employers.

This NFIB employer noted that sales taxes collected monthly varies as much as 100-percent or more. Unfortunately, overpayments are not automatically applied to the taxpayer's account. The employer must apply for a refund. These requests are reviewed and posted manually by the department -- and can take as long as 120 days to be applied to the account.

Even though this employer was owed a \$5,000 refund, he was notified that his account was in arrears due to underpayment the next month, all the while assessing his account penalties, interest, and removing his 2% on-time payment credit. This taxpayer then had to pay his accountant to review his books and call the Revenue Department to verbally request that his overpayment credit from the prior month be manually reviewed so that the account could be corrected.

As you can see this process is time-consuming, costly and poses an unfair burden to small businesses in Pennsylvania.

The small-business members of NFIB appreciate the efforts by the Finance Committee to improve the climate for small employers and entrepreneurs in Pennsylvania. I would be happy to meet with you and the administration to discuss this issue in more detail.

Thank you again for the opportunity to comment on behalf of Pennsylvania's small and independent businesses.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Moreland', with a stylized flourish at the end.

Gregory B. Moreland
NFIB PA State Director