NATIONAL RESTAURANT ASSOCIATION®

www.restaurant.org

Profitability and Entrepreneurship:

Business Meal Deductibility

September 2009

Background

Restaurants are often the conference rooms for many businesses. Serving as virtual extensions of formal office space, they provide a venue for countless business meetings, an avenue for building client relationships and the backdrop for making sales, creating jobs and growing the economy. In 1986, Congress reduced the allowable tax deduction for business meals and entertainment from 100 percent to 80 percent. In 1993, Congress again reduced the deduction to 50 percent.

By taking these actions, Congress dealt a critical blow to American businessmen and women, especially those in small businesses settings, the self-employed and traveling sales representatives. Restoration of this deduction is essential to the livelihood of small and independent businesses as well as the food service, travel, tourism and entertainment industries throughout the United States. Research has shown that increasing the business meal deduction would provide a needed boost to our nation's economy, as every dollar spent dining out generates $2.34 in business for other industries.

Talking Points

This impacts small businesses the most. Serving as virtual extensions of formal office space, restaurants provide a venue for countless business meetings, an avenue for building client relationships and the backdrop for making sales, creating jobs and growing the economy. An increase in the deduction will help these small businesses as well as the restaurants where they conduct business.

More business meals mean more jobs. Every dollar Americans spend dining out generates $2.34 in business for other industries – which is especially important in a tough economy. Research shows that an increase in the deduction to 80 percent would grow business meal sales by $6 billion nationwide and create an $18 billion increase in the overall economy. The impact of full restoration of the deductibility on local, state and our national economies would, of course, be even greater. Increased sales in my restaurant mean that I can hire more workers.

While I would like to see 100 percent deductibility, this 80 percent compromise is an important first step. Restoring this deduction is essential to the livelihood of small and independent businesses as well as the food service, travel, tourism and entertainment industries.

This would have a significant economic impact right here in [STATE]. (See chart of the estimated economic impact by state here.)

Climate Change

September 2009

Background

The issue of climate change is more politically visible now than at any time in U.S. history. Just five years ago, leaders were debating the validity of climate change and whether or not humans contributed to it. Today, regulatory and legislative approaches to the issue have moved beyond the debate stage and onto an action strategy, largely centered on two prevailing views about the best approach to regulating greenhouse gas emissions: a cap-and-trade system or a carbon tax.

A cap-and-trade system would establish a ceiling or "cap" on emissions, which would decline over time and help improve the environment immediately and in coming decades, proponents say. Companies and industries that emit greenhouse gases would, collectively, be required to reduce their emissions to levels prescribed by the cap, using government-issued emissions allowances to ensure compliance. Businesses that achieve emissions reductions would be able to sell any surplus reductions to companies that need allowances. These "trades" would be conducted in a regulated market subject to oversight. Because all are at liberty to create (or buy) the lowest cost emissions reductions, advocates say environmental protection will come at the lowest possible cost and with the most positive effect on the economy. Opponents say that a cap-and-trade system would be particularly burdensome for business in an already tough economy and potentially subject to abuse. The alternate approach, a carbon tax, is often likened to a pollution tax in that it would tax companies' greenhouse gas emissions. Proponents of a carbon tax argue that, unlike a cap-and-trade system, a tax is more easily understood; it could be offset by reducing other taxes or funding environmental projects; and it is more transparent, allowing companies to know exactly what they pay for the carbon dioxide they emit.

Opponents of climate change legislation include a wide variety of business and industry groups, largely concerned with current proposals' potentially burdensome impact on businesses, and the consequences of introducing new regulations and costs on business owners in a tough economy. These groups are also concerned about the impact on the U.S.'s ability to compete in a global marketplace.

Talking Points

The proposed Cap and Trade legislation would have a negative impact on restaurants in general and my restaurant in particular by raising the cost of energy that I need to run my restaurant and increasing the cost of food I purchase to serve to my guests.

Studies show that the Cap and Trade legislation would increase energy costs for a typical restaurant by 50 percent, which translates into $30,000 per year. Agriculture costs will increase also, which translates to higher food costs.

Restaurants will benefit from energy conservation, but the Cap and Trade legislation goes too far too fast and will hurt small businesses like mine.

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Profitability and Entrepreneurship:

Credit Card Interchange Fees

September 2009

Background

Today, credit card companies and their banks collect an interchange fee – or "swipe" fee – of roughly two percent each time a credit or debit card is used in a retail transaction. These fees can be raised at any time by the credit card companies, leaving restaurant operators with no control over the fees or their fluctuations. In fact, the fees are one of the *only* costs of doing business restaurateurs cannot negotiate and in most instances they represent one of the highest expenses facing businesses. This is especially troubling since the restaurant industry operates on average profit margins of three to five percent, and because the current economic climate puts restaurant owners in a position in which they can least afford additional strains on their businesses.

Currently, Visa and MasterCard control an overwhelming percentage of the payment cards market and they abuse that market power by refusing to negotiate the rates and rules surrounding these interchange fees with retailers. Additionally, there is a lack of fairness and transparency in the credit and debit card market due to the secret, anticompetitive rules and rates set by the credit card companies for these transactions. Swipe fees are set behind closed doors by the credit card industry, and because refusing to accept credit and debit cards in this plastic-driven society is simply not a realistic option for restaurateurs, these businesses are forced to accept terms or rates dictated by the credit card companies, even when they are harmful to the restaurant's financial viability and unnecessarily increases costs to its guests.

Talking Points

This is an issue of fairness and transparency. As a restaurateur, I have the ability to negotiate all other costs of doing business – like rent or salaries – but I cannot negotiate interchange fees with Visa or MasterCard. Their rates and rules are non-negotiable and they're set in secret; and the credit card companies levy excessive fines for breaking their rules, even when it occurs unintentionally.

Credit card companies should not tell me how I run my business, but they do. Visa and MasterCard's rules prevent me from showing my guests the true cost of interchange fees on their meal. For example, I can not offer discounts for customers paying with cash, thereby demonstrating the difference in cost between cash and credit; nor can I encourage an alternative form of payment to offer guests a better price. I am prevented from asking guests to only use a credit card over a minimum dollar amount, and I must "honor all cards," meaning I can not decline to accept the cards that come with the higher interchange fees (rewards cards).

These fees should be falling, not rising. Visa and MasterCard interchange rates continue to rise in spite of factors that would cause them to fall in a competitive market. As a business owner, I know that things like increased volume and improved technology should drive costs down, not up.

These fees are especially harmful for small businesses like mine. Because the interchange rate fee structure is so complicated, it is difficult for many small business owners – who do not process thousands of card transactions a day – to understand and manage the fees because varying rates apply to varying types of transactions. Case in point: MasterCard publishes 100+ pages of different interchange fee structures.

Employee Free Choice Act

September 2009

Background

The Employee Free Choice Act (EFCA), also known as "card check", was first introduced in Congress in 2003. The legislation represents the broadest effort to overhaul labor law since President Jimmy Carter's proposed reforms were defeated in 1978. The bill would allow unions to organize if a majority of a company's employees sign authorization cards; prevent a company from demanding secret ballots in a union election; require mandatory government arbitration if management hasn't reached an agreement with a new union within 120 days; and strengthen remedies for unions when labor laws are violated. The bill is a top priority for the labor unions, who claim that secret ballot elections put union organizers at a disadvantage because they allow management to coerce workers to vote down union drives. Business groups counter that card check drives invite intimidation from union representatives and eviscerate the liberties protected by secret ballots.

Talking Points

EFCA would expose my employees to intimidation and coercion. Under existing law, workers have a chance to vote for or against unionization in a private-ballot election that is federally supervised. Under the Employee Free Choice Act (EFCA), if more than 50 percent of workers at a facility sign a card, the government would have to certify the union, and a private ballot election would be prohibited — even if workers want one. By forcing workers to sign a card in public — instead of voting in private — EFCA opens the door to intimidation and coercion.

Providing access to my employees during work hours would be extremely disruptive. EFCA's "union access" provision would require employers like me to allow union organizers to regularly approach employees while they are doing their jobs, disrupting a restaurant's service environment for employees and customers alike.

EFCA would allow federal bureaucrats, who know nothing about my business, to dictate workplace conditions in my restaurant. If a restaurant and a union bargaining unit are unable to agree to a contract within 120 days, EFCA would require a federal arbitrator to determine all wages, working conditions and benefits for up to a two-year period. This government-mandated inflexibility is particularly harsh in tough economic times.

EFCA would unfairly punish business owners like me through increased penalties that would apply only to business and not unions. EFCA would impose harsh new penalties on businesses — but not on unions – for violations during the union recognition process. This is particularly unfair to small and medium sized operators, who are unlikely to be familiar with unionizing campaigns or the National Labor Relations Act.

Food Safety

September 2009

Background

Each year it is estimated that foodbourne illnesses are the cause of 76 million illnesses, 325,000 hospitalizations and 5,000 deaths. Ensuring that the U.S. food supply is safe is an ever-present, ever-evolving challenge. In recent years the challenge has been made more complicated by a number of factors, including the globalization of the food supply chain, understaffed and underfunded regulatory agencies, an aging population more susceptible to foodbourne illnesses and consumer preferences, among others.

Recognizing these factors, and incited by a surge of high-profile food scares—peanuts, infant formula, tomatoes/peppers and spinach—President Obama and Congressional leaders have made enhancing food safety a top priority. Industry groups, including the National Restaurant Association (the NRA), have also called for reforms to the current food safety system, stating that more effective safeguards needed.

Talking Points

The safety of the food I serve to my customers is my number one priority. From training and certification to equipment to process design, our industry has spent literally hundreds of millions of dollars to do all we can to enhance the safety of the food supply.

I am pleased President Obama and Congress are now debating important enhancements to further improve the safety of the food coming to my restaurant.

It is vital that food safety enhancements focus on the areas of greatest risk and not place costly reporting and record keeping requirements that do little to reduce foodbourne illness on my restaurant.

Jobs and Careers:

Health Care

www.restaurant.org

September 2009

Background

At any one time close to 50 million Americans have no insurance. Covering 50 million uninsured Americans could cost as much as $1.5 trillion over a decade, but President Obama has cited the crippling impact on the economy of soaring health care costs and society's long-standing need to resolve the problem. Obama and his allies say they want to lower costs, ensure choice and provide coverage to those who are uninsured. Unlike the 1990s, when business groups and the insurance industry fervently opposed most elements of the Clinton health care bill, many natural adversaries have broadly supported reform, even if they have objected to specific proposals put forth in Congress.

Talking Points

My employees are like family and I support reforms that will make health insurance more affordable and accessible for my employees and my business.

Each year, I watch the cost of health care coverage increase, in part because of unnecessary diagnostics performed to protect against frivolous lawsuits. Congress needs to include tort reform as a means of lowering costs and improving care.

The labor costs of my restaurant are already very high. Including a costly per capita tax on employees that is insensitive to high labor costs and low profit margins of the restaurant industry will further add to my costs and hurt my ability to efficiently and effectively run my business.

The responsibility of health care coverage should not automatically fall to me as the employer. Employer mandates will likely have the negative result of hiring fewer employees over time. This is not good for employees or the economy.

Restaurant employees are often part time with multiple employers. Legislation to reform our health care system must appropriately take this type of employee into account and not unnecessarily burden employers.

Immigration

September 2009

Background

Shortly after taking office, President George W. Bush proposed an overhaul of immigration laws, centered on a guest worker program. Bush postponed immigration reform after the events of September 11, 2001, but following the 2004 election, he moved aggressively to resurrect his plan for comprehensive immigration reform. In 2005, Sens. John McCain (R-Ariz.) and Edward Kennedy (D-Mass.) sponsored legislation to allow immigrants to apply for legal residency after working six years in the temporary worker program without having to leave the country. While Congress and the public were deeply divided over proposed reforms, the sharpest divide fractured the Republican Party. On one side were moderates who advocated tougher enforcement of current laws and a pathway for millions of illegal immigrants to citizenship. On the other side was a large group of conservatives, mostly in the House, who aimed to lock down the borders and deny illegal immigrants citizenship. As the 2006 elections neared, it was clear that House conservatives had gained the upper hand. Rebuffing compromise, House GOP leaders framed plans to widen legal entry as amnesty and passed three enforcement bills. Reform appeared more likely with the election of a Democratic Congress in 2006, but in June 2007 an immigration overhaul effort in the Senate died. Immigration largely receded as an issue during the 2008 election. The election of Barack Obama and his selection of Arizona Gov. Janet Napolitano to head the Department of Homeland Security raised hopes that the new administration would submit early legislation to create a pathway for legal status for illegal immigrants.

Talking Points

The only way to meet the labor demand of the restaurant industry over the next 10-15 years is through comprehensive immigration reform. By 2019, the restaurant industry as a whole is projected to employ 14.8 million people – an increase of 2 million jobs (or 14 percent) over the next 10 years. During that same period, the total U.S. labor force is projected to increase only 9 percent, while the bulk of the industry's historical workforce, teenagers and young adults (16 to 24-year olds), is expected to decrease by 7 percent. This leaves the potential for up to 500,000 job openings that could be filled by reforming our nation's immigration system.

Congress must get behind comprehensive immigration reform and fix our current, broken immigration system. Without comprehensive reform from Congress, restaurants like mine are being increasingly threatened by action in the states. State and local laws are often harsh, targeting restaurants with aggressive enforcement, new penalties, mandates and paperwork, even threats to revoke business licenses. As we try to comply with the law, we face a moving target of bewildering and punitive laws across the country – laws that fail to resolve fundamental problems with the U.S. immigration system.

The restaurant industry has a long history of welcoming immigrants and providing needed employment. As such, we also face challenges of false or deficient documentation of potential employees. We support efforts to enforce of our borders, while also protecting employers who are trying to do the right thing. We also support finding a realistic pathway toward citizenship for those undocumented workers who are already here and have become vital to our businesses. The process must ensure a level playing field for those who are here now and those who we look forward to welcoming in the future.

As employers we need to be – and want to be – partners in the immigration reform. As employers, restaurant owners are partners in economic growth and job creation, not adversaries in the immigration debate. Together with our employees, businesses have a vital role to play in immigration reform, and we want to work with government to find the right solutions.

NATIONAL RESTAURANT ASSOCIATION

Food and Healthy Living:

Obesity

www.restaurant.org

September 2009

Background

In the last thirty years, obesity rates in the United States have spiked dramatically. Since 1980, obesity rates for adults have doubled and rates for children have tripled. According to the Centers for Disease Control and Prevention (CDC), more than one-third of adults and 16 percent of children are now considered obese. The obesity epidemic is viewed not only as a health problem, but as an economic issue as well. Health care spending is 42 percent greater for obese people than for individuals of normal weight.

Numerous signs indicate that obesity will become a much hotter legislative and regulatory issue on the Obama Administration agenda in the months ahead. The President has remarked that preventing obesity could save the health care system $1 trillion, and first lady Michelle Obama is expected to choose child nutrition/obesity as one of her platforms. Perhaps most important, Dr. Thomas Frieden—who oversaw New York City's trans fat and menu labeling initiatives—now sits at the head of the CDC. In a keynote speech at a July 2009 CDC obesity conference, Dr. Frieden stated, "In the past 20 years we have broken the back of big tobacco. We need to apply the same knowledge to the obesity epidemic." It is expected that the current CDC will wield more influence on decisions of the current Administration and Congress than in the years past.

Talking Points

We are finding more innovative ways to provide nutrition information so that customers can make informed healthful choices.

In fact, our industry supports federal legislation that would ensure restaurant chains with 20 or more locations provide nutrition information in a consistent manner. Under this legislation, calories would be on the menu or menu board of these restaurant chains.

Our industry is exploring new ideas to make it easier for those customers who want more healthful options including such efforts as recipe modification, changes in supplier specifications and changes in serving sizes.

I cannot support unnecessary taxes (such as that being proposed on sugary beverages), expensive mandates and burdensome regulations that do little to change American's eating habits, but are very costly to my business.

NATIONAL RESTAURANT ASSOCIATION®

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Profitability and Entrepreneurship:

Restaurant Depreciation

September 2009

Background

With 133 million Americans patronizing restaurants each day, restaurant buildings experience a daily human "assault" unlike those borne by any other type of retail building. As a result, restaurateurs must constantly make changes to keep up with the structural and cosmetic wear and tear caused by customers and employees. The federal tax code generally allows business owners to depreciate their original building costs over a 39 ½ year depreciable life. The same timeline generally applies to costs for renovations or improvements to commercial buildings. The National Restaurant Association (NRA) achieved a shorter, 15-year depreciation schedule for new restaurant buildings placed in service in 2009, in addition to an extension of the 15-year schedule for leasehold and restaurant improvements placed in service in 2008 and 2009. While Congress has permanently changed these rules for some industries, including businesses that directly compete with restaurants, it has not taken permanent action to place the restaurant industry on equal footing. Making this accelerated schedule permanent is the top tax priority for the NRA.

Talking Points

Shorter depreciation schedules create jobs and fuel economic activity. When restaurateurs like me invest in new locations and renovate old ones, the impact spreads through the economy. In 2007, the restaurant industry spent over $10 billion on new construction, fueling economic activity and creating thousands of jobs in construction-related industries. This spending creates an even bigger ripple effect — it is estimated that every $1 spent on construction generates another $2.38 in economic activity, while every $1 million spent in the construction industry creates 28 jobs in the overall economy. In 2007, the restaurant industry construction spending created 280,000 jobs in the overall economy.

This directly impacts my bottom line. By shortening the depreciation schedule it allows restaurateurs like me to access the given tax benefit over a shorter amount of time. As the shorter schedule more accurately reflects the true life of the property inside my restaurant, the tax treatment is more fair and accurate. Shorter depreciation schedules also mean access to cash flow to reinvest in our businesses, allowing us to expand restaurants, create jobs and contribute to our communities. In an industry with median profit margins of 3 to 5 percent, every penny counts.

Restaurant buildings experience wear and tear unlike other commercial buildings. With 133 million Americans patronizing restaurants each day, restaurant building structures experience a daily human "assault" unlike that borne by any other type of retail building. Restaurateurs must constantly make changes to keep up with the structural and cosmetic wear and tear caused by customers and employees. This heavy use accelerates deterioration of a restaurant building's entrances, lobbies, flooring, restrooms and interior walls.

The tax code should not pick winners and losers. Congress has permanently changed the rules for some industries, including some businesses that directly compete with restaurants, but it has not taken permanent action to place the restaurant industry on equal footing. Food outlets in amusement parks, for example, get a seven-year depreciation schedule for what they spend to build and improve their facilities; and gas stations and convenience stores qualify for a 15-year schedule.

NATIONAL RESTAURANT ASSOCIATION®

Food and Healthy Living:

Sodium

www.restaurant.org

September 2009

Background

Since 2005, there has been growing concern among public health groups, nationally and internationally, about increased consumption of sodium. In addition to the Center for Science in the Public Interest (CSPI), the City of New York has stated its concerns about sodium, announcing a goal to reduce sodium in restaurant foods by 25 percent over five years. A similar goal has been set for processed foods. Other cities, like Baltimore, have started to discuss sodium reduction. There is consensus among the public health community that high sodium intake affects hypertension, which can lead to heart attack and stroke. Recent data shows that the median intake of sodium among adult men and women age 31 to 50 is 4,300 mg and 2,900 mg of sodium per day, respectively—U.S. guidelines recommend 2,300 mg per day. Of the sodium that Americans ingest, it is estimated that 77 percent comes from salt that is added to food during processing. In comparison, 6 percent is added at the table and 5 percent is added during cooking. Sodium is used for much more than flavoring food, but as a preservative and stabilizing agent in processed foods.

Talking Points

We are an industry of service – service to our community, our country and especially our customers.

My customers are looking for a variety of experiences when dining out. Providing them with choice, allows all my customers to find what they are seeking.

Our industry is working closely with those in the supply chain to identify innovative ways to provide lower sodium alternatives that maintain flavor and quality.

Sodium is an important ingredient in the safety, quality and taste of my menu items. My ability to make changes will in large part be dictated by finding affordable alternatives to these key challenges.

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Profitability and Entrepreneurship:

Travel Promotion Act

September 2009

Background

While international travel around the globe has boomed over the past several years, with 48 million more overseas trips taken in 2008 than in 2000, the United States has actually lost visitors, welcoming 633,000 fewer overseas travelers during the same period of time. This is despite the fact that the dollar has been relatively weak and America was considered to be a "bargain" destination for international travel. The decline in overseas travel to the United States appears to be directly linked to the mistaken but widespread perception that visitors are not as welcome as they may have been previously and that many new post-9/11 security policies are intrusive and unnecessary. According to a 2006 survey by the Discover America Partnership, potential travelers are more concerned about treatment by U.S. immigration officials than crime or terrorism. Additionally, the United States has no means of direct communication with overseas travelers; leaving all messages and communications about new security policies and improvements to the travel process to be filtered by the foreign media. America's competitors are spending billions of dollars in promotion programs to attract visitors, and yet the United States spends zero.

Talking Points

Restaurateurs, like me, depend on travelers. Some segments of the industry can attribute as much as 40 percent of annual sales to visitors. Half of all travelers dine out when they travel and eating out is one of the most popular activities to do when you travel. All visitors are important but we especially want to attract more international travelers to the United States because they spend more per person, per visit to the United States – on average $4,500.

More travelers mean more jobs in the restaurant business. Sales generated by visitors are critical because such a sizable percentage of sales come from these guests in my restaurant. Tourism dollars are critical to my business and the American economy because they create jobs and drive growth. Small businesses like mine are the engine of job creation in America. The Travel Promotion Act is designed to do just that – attract more visitors to the United States and create jobs. If signed into law, the bill would create 40,000 jobs or more *per year* nationwide and reduce budget deficits by almost a half a billion dollars over the next 10 years (Congressional Budget Office).

We need the U.S. to reclaim its portion of the international travel market. As a result of the decline in international travel to America, we've lost travelers, their spending dollars, the taxes they pay for goods and services, and the jobs that support tourism. We must reverse the trend. To do so, we must market the U.S. as a top notch travel destination and clearly communicate to the rest of the world that America welcomes them to her shores.

The U.S. has not made promoting travel the priority it should be. The United States is vastly outspent by nearly every developed nation around the globe when it comes to promoting travel. The U.S. spends relatively little with a national tourism budget of $6 million while Greece, at the high end, spends over $150 million (World Travel Organization, 2005). The U.S. Government and private sector must partner together to communicate the right messages and attract more visitors.