

campaign strategy for November, he wants the millionaire to receive a \$100,000 tax cut, a tax cut most have not asked for and many do not need. They do it in the name of helping small business.

Do you know how many small business owners are in that category? Three percent. It includes some doctors, some lawyers, and the like. So what we are saying is, let us do something to put money in the economy, tax cuts for those with \$250,000 or less in income, let us help the middle class people in America who have been struggling with an economy that has not been very generous to them over the past decade or two.

Third, let's not ignore the deficit. Senator MCCONNELL's proposal for tax cuts for people making the highest levels of income in America will add \$700 billion to the deficit over the next 10 years, \$700 billion. So for the so-called deficit hawks on the other side, those hawks are circling, but they are blind to the fact that tax cuts to the wealthiest people in America plunges us more deeply into debt and makes it more difficult for future generations that will face this responsibility.

So I listened carefully as the Senator from Kentucky spelled out the Republican plan. We have heard this song before. We have seen this play. We watched all these reruns before. We do not need to see them again. We need to move forward as a nation. The first thing we have to do tomorrow is break the Republican filibuster on the small business bill, this bill supported by the Chamber of Commerce, by the National Federation of Independent Business, and small businesses across America. Tomorrow, with the help of at least one Republican Senator, we are finally going to break this Republican filibuster and we are going to finally send the credit that is needed to Main Street in America so small businesses have a fighting chance to put new people on their payroll and help bring us out of this recession. That is looking forward, not backward.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

TAX INCREASES

Mr. KYL. Mr. President, I wish to also talk a bit today about why Republicans oppose raising taxes on anyone. President Obama and his supporters have repeatedly argued that tax increases will only affect a few of the wealthiest Americans, "millionaires," the President claims, and people "who can afford it," to use his words.

First of all, I do not think the President should be pitting Americans against each other. Class warfare has no place in our debates. Americans agree with President Kennedy's formulation that a rising tide lifts all boats.

Americans believe—it is our basic idea of a country—that we want everyone here to succeed, to do well, and not to pit one group of us against another group.

We all aspire to be in the very top groups of whatever we are talking about, and because of the kind of country we have, we have that opportunity, and people do move from one income tax bracket up to the next one, for example, as we increase our incomes. So we do not want to punish anyone for being successful. That class warfare went out of style when the Cold War ended. I do not think it has a part in our debate.

Second, his assertions about who will pay are patently false. Small business will be among the hardest hit by these tax increases. Let me explain why this is true because, as you have just heard, some on the other side tend to poohpoo this idea. The reason is this. Under the Internal Revenue Code, many small businesses are organized as passthrough entities, meaning they pay taxes at the individual income tax marginal rates. So if you and your wife or you and your husband own a small business, and you are a passthrough entity, you pay your small business income taxes as individuals. That is how this happens. You are not a corporation, you are paying your taxes as people, as individuals, the same as anybody else pays as an individual.

Those who currently pay at either the 33 or 35 percent rate, which is the top two marginal rates, would, under the President's proposal, have their taxes increased so you would then be paying 36 or 39.9 percent, respectively, and if you add in the health care legislation-required taxes, it is closer to 42 percent. So you are going from 35 to 42 percent as an individual paying individual income taxes on the money you make through the small business you and your spouse own, for example.

My colleague from Illinois says: Well, that does not apply to very many people. How many people does it apply to? What is 3 percent of the people with this kind of income? Almost 750,000 people. Almost 750,000, according to the Joint Committee on Taxation—not my number—estimates that in 2011, next year, just about 750,000 taxpayers with net-positive business income will have marginal rates of 36 or 39.6 percent under the President's proposal.

That is 750,000 of the most productive small businesses in the country. The National Federation of Independent Business survey revealed that the businesses most likely to face a tax increase employ between 20 and 250 employees. So we are talking not about insignificant businesses but those that actually employ people. We also know that coming out of an economic downturn, the first jobs that are created are small business jobs.

According to U.S. Census numbers, businesses with between 20 and 299

workers employ more than 25 percent of the entire workforce. So when we talk about, well, it is only 3 percent. Well, the question is, 3 percent of what? How many does that actually amount to? How many of the employees in the entire country does that mean? Twenty-five percent of the employees in the country is, by any measure, a significant chunk of folks.

These are the people whom we want to raise taxes on? I do not think so. Some Democrats have been claiming these tax increases, as I said, would exempt 97 percent of small businesses. Well, let me shed a little bit of light on that number.

In a recent Wall Street Journal article entitled, "The Small Business Tax Hike and the 97 Percent Fallacy," two economists, well respected, Kevin Hassett and Alan Viard, explained that anyone who reports business income on Schedule C of their tax return is counted as a small business.

So if someone makes a little money selling a product on eBay and reports that as business income, they are counted as a small business.

What is the result? Obviously, we have a lot of folks counted as small businesses who are not really the kind of small businesses we think of as employing folks, these companies that employ between 20 and 299 workers. The other group just reports schedule C income and are not the kind of small businesses creating jobs. This is a very important number to keep in mind.

According to the IRS, Hassett and Viard write, "fully 48 percent of the net income of sole proprietorships, partnerships and S corporations reported on tax returns went to households with incomes above \$200,000 in 2007. That's the number to look at."

So when we talk about these small businesses, these corporations whose owners report their income as individual income, 48 percent of the net income of sole proprietorships, partnerships, and S corporations reported on tax returns went to people above the \$200,000 mark. Those are the small businesses that are employing people. Those are the folks who will be hardest hit when this tax increase is put into effect. Frankly, it is many of these businesses that are the most profitable small businesses, and they are the ones that will be creating the new jobs to bring us out of the economic doldrums we are in. Americans know this. That is why I think the key to economic recovery being new jobs depends upon what we do to punish the people who create the new jobs. We don't need more government spending. That is the old plan of the Democrats. It has clearly failed. What we need is new jobs.

The President recently proposed a package of temporary tax credits that includes, among other things, a write-off for all business capital purchases in 2011. Obviously, this concedes the economic point that tax relief can spur job

growth, but there is cognitive dissonance about what the rate increases will mean for small businesses.

I turn again to an op-ed in the Wall Street Journal by Michael Fleischer who is a small business owner in New Jersey. He wrote an op-ed entitled, "Why I am Not Hiring." We want to know the answer to that, if we are going to figure out how to help him hire more people.

He added up all of the costs of government when he hires somebody new, particularly the tax cost. He also included regulatory costs and other mandates. His conclusion:

A life in business is filled with uncertainties, but I can be quite sure that every time I hire someone my obligations to the government go up. From where I sit, the government's message is unmistakable: Creating a new job carries a punishing price.

What price is he talking about, looking at this potential tax increase I have been talking about? He estimates over \$75,000 to hire somebody who makes \$44,000. So I think his cost was close to \$78,000. That is the punishing burden we put upon businessmen such as him just to hire more people. Some big businesses can stand that. The small businesses that would bear the brunt of this tax increase cannot. That is precisely why small businessmen such as Michael Fleischer are not hiring today.

Why would we increase the burden he bears in hiring more people? What we ought to be doing is ensuring that the tax rates that have been in effect now for 10 years can continue forward so people have certainty about what they will be paying, and those very small business folks who are hiring the people we want to go back to work would not have to pay an additional burden in the form of a higher income tax rate.

The President and some of our friends on the other side have argued that if taxes don't go up, those in the top brackets will just save more; that will do little for job creation and economic growth. This is the one that really bugs me. It is as if we can't appreciate what happens when somebody saves money. Do my colleagues know of anybody who buries money in their backyard? I don't. Any person who saves money either puts it in a bank where it is lent out to somebody, usually a business so it can hire more people or buy equipment, or they invest in a stock or a bond, equities usually. What is that investment? It is providing capital to business. What does business do with capital? It either hires people or buys equipment, which generally requires people to make it, and therefore they get hired as well.

The bottom line is, yes; it is fine for people who immediately go out and spend their money. That does have an indirect effect on job creation. If enough people spend enough money, somebody will have to go back to work

to make the products. But the truth is, money that is saved has a direct impact on job creation because it directly provides capital to businesses so they can expand. Saving doesn't mean throwing one's money in a mattress or burying it in the backyard. It means investing it in our economy. If taxes go up, less money is available for those investments and for job creation.

A final note: Supporters of the pending tax hikes have frequently cited the booming economy of the 1990s to strengthen their case. They say if the economy performed so well under President Clinton, what is the big deal about returning to Clinton era income tax rates? First, they don't want to return to Clinton era income tax rates on anybody except millionaires, these people who make over \$250,000 a year. But in any event, the argument misses the point. The question is not whether it is possible to have strong economic growth with higher income tax rates, though it is less likely that occurs. Rather, the question is whether we should be raising taxes in the aftermath of one of the worst recessions where some people are talking about having a double-dip recession, and it is clear we are not out of America's worst financial crisis and recession since World War II. I don't know of an economist who says that is a good idea.

Peter Orszag, the President's last OMB Director, just had a big op-ed in the New York Times in which he said this is not the time to raise taxes, when we still have these economic difficulties—on anybody. Indeed, the timing of President Obama's proposed tax increases could not be worse.

I just cite the example of Japan during the so-called lost decade. They suffered a massive financial collapse in the early 1990s. One of the responses was to actually reduce taxes and boost economic activity. And it did. They began to come back. Then for reasons that elude me, they decided in 1997 to raise taxes again and, sure enough, the economy fell back into recession. I should think Japan's experience provides a cautionary tail about the dangers of increasing taxes amid a very shaky economic recovery.

In their comprehensive survey of financial meltdowns across the globe, economists Carmen Reinhart and Kenneth Rogoff tell us that recoveries following such meltdowns are typically quite slow. The current U.S. recovery is no exception. America's unemployment rate has been above 9 percent for more than a year. Speaking to the Federal Reserve's annual symposium in Jackson Hole, Reinhart said that based on the history of past financial crises, it is conceivable that U.S. unemployment could stay at 8 or 9 percent for another 7 years.

If that is the case, why on Earth would anybody be talking about raising taxes on anyone, most especially

the small business folks who will be the first to hire coming out of this economic downturn? It is beyond me.

Obviously, the way to avoid that bleak scenario is to reject the tax increases proposed by the President and some on the other side of the aisle.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. JOHANNIS. Mr. President, never before in history has an administration claimed to have so much love for small businesses. In fact, the President recently stated:

This is as American as apple pie. Small businesses are the backbone of the economy. They are central to our identity as a nation. They are going to lead this recovery.

It seems virtually every news story, every speech, every forum includes something about standing up for small business. Small business owners should love that; right? Yet they are up to their eyeballs with this administration. They are so darn angry they could spit fire. Why? Because they are tired of the President and others saying one thing and then doing another.

A perfect example, a prime example, is the 1099 paperwork mandate in the health care law. Why on Earth would the administration bury businesses in costly paperwork while claiming publicly to support them. I am talking about, of all things, section 9006 of the new health care law. It is buried in the health care bill at page 737. This provision illustrates this administration is absolutely tone deaf to the plight of small businesses.

It says, if a business purchases more than \$600 of goods or services from another business, they will be required to provide the business and the Internal Revenue Service with a 1099 tax form. The new mandate will affect all kinds of businesses, not to mention nonprofits, local governments, and State governments.

For example, I received a letter from the Society of American Florists asking for help. Here is how it will affect their daily business:

Small retail florists . . . will have to issue 1099's to their wholesalers, landlords and gas stations. Wholesalers purchasing flowers and plants from growers will need to issue 1099's. Growers who send staff to trade shows will have to issue a 1099 to the hotel in which those staff members sleep.

Increased paperwork, of course, means increased costs. One small business owner in Nebraska said this will cost him \$23,000 a year. That may not sound like much in Washington where we talk about trillions, but to a small business in Nebraska that is a lot of money. It would go a long way to hiring another person.

One would assume there is a great benefit that makes it worthwhile to bury our job creators in this paperwork. But, sadly, this is not even the case. A division of the IRS predicts there will be little benefit and big

headaches. The IRS's National Taxpayer Advocate projects high costs to businesses and the IRS, along with a mess of erroneous tax penalties.

To my left is a quote from the IRS. This is what they say: The IRS "will face challenges making productive use of this new volume of information."

It goes on:

... it is highly likely that the IRS will improperly assess penalties that it must abate later, after great expenditure of taxpayer and IRS time and effort.

Not even the IRS wants this information. Simply put, it is an expensive mess without a lot of tax dollars to show for it.

So we are going to stifle job creation. We are going to hammer businesses and ultimately increase incorrect tax penalties, according to the IRS. Now we begin to understand why business owners are spitting mad. It makes no sense whatsoever. That is why my amendment is so terribly important. It fully repeals this section of the law. It is paid for. Countless small businesses have advocated for a full repeal of this language.

According to the National Federation of Independent Business:

It is clear there is bipartisan agreement that the 1099 provision contained in the health care law will have a direct negative impact on small businesses.

The House Democratic leadership recognized the job-stifling, job-killing provision and proposed a full repeal of this new 1099 requirement. Of 239 House Democrats, all those voting except one supported a full repeal of this portion of the new health care law. House Democrats recognize that the 1099 mandate is absolutely misguided and downright damaging to job creation.

Unfortunately, in the Senate, there is a Democratic-proposed alternative that only partially repeals the mandate, and all it does is add confusion to try to accomplish political cover. Instead of actually solving the problem, it picks winners and losers with thousands of businesses still subject to the job-killing mandate.

Businesses with 26 or more employees are still subject to the mandate—I might ask, what is the wisdom of 26? Why not 25, 24?—for transactions totaling \$5,000 or more. So what does that mean? According to the Census Bureau, the Democratic amendment will still subject 415,391 businesses in the United States to a job-killing paperwork mandate that not even the IRS wants, and over 93 million workers are employed by these businesses.

Now, what does that mean to individual States?

Let's take a look. In the State of California, 18,960 businesses would still be subject to the mandate under the side-by-side amendment. Does anybody want to go to these businesses in California and say: We are burying you in paperwork for no useful purpose to try

to pay for the health care bill? In Florida, more than 11,000 businesses have more than 25 employers; Texas, 14,208 businesses. I could go on and on. Furthermore, it will continue the paperwork nightmare.

Governments, nonprofits, and businesses will still have to track everything and collect the tax information from their vendors because they do not know if they have made the first purchase going to \$5,000 or the last purchase that will not tangle them up in this requirement.

It will also discourage businesses from expanding and hiring. Why would we want to say to businesses: You are OK if you are at 25; but if you get to 26, we hammer you? It makes no sense whatsoever.

One of the most discouraging aspects of the alternative by my friends on the other side is that it favors Wall Street over Main Street. It exempts certain payments from big businesses that have fancy systems to comply with tax laws, but it severely hurts the mom-and-pop enterprises on Main Street.

Businesses that are not exempt will find ways to limit the number of 1099s. They might buy some supplies from the big box retailers and avoid the mom-and-pop retailer on Main Street to avoid the government-imposed 1099 mandate.

As our Chamber of Commerce said:

Governments, nonprofits and businesses would have a choice, to buy supplies from Joe's Stationary and report to the IRS or buy from the national chain and not have to report at all . . . small businesses will become second class citizens since they will be the ones that will lose out.

You see, with all due respect to my colleague, this side-by-side amendment brings a patchwork of exemptions for businesses to sort through.

Under this amendment, property is exempted. Yet there is no definition of "property." It leaves business owners in the lurch, crossing their fingers, hoping the IRS will exempt transactions. This is not certainty. It is utter confusion.

All businesses will have to track their transactions until the IRS figures out what "property" is. Even after "property" is defined, it will lead to a patchwork of exemptions. Every time a business owner wants to buy something, they have to call their accountant.

This amendment also claims to soften the blow by exempting credit card transactions.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. JOHANNIS. Mr. President, I ask unanimous consent for another minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHANNIS. But the truth is, the IRS has already announced steps to implement that exact same policy. The

unfortunate thing about this exemption is that it will cause more problems, not fewer: pay by check, pay by credit card; property, nonproperty; 24 employees versus 26 employers; and on and on. It was all done to finance the health care bill on the backs of American businesses.

I ask my colleagues to support my effort to repeal this job-killing mandate in its entirety when we have an opportunity to vote tomorrow.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. CARDIN. Mr. President, I ask unanimous consent to speak for up to 10 minutes in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NEW START TREATY

Mr. CARDIN. Mr. President, I rise today to express my support for START, the nuclear arms reduction treaty pending before the Senate.

This week, the Senate Foreign Relations Committee, on which I have the privilege of serving, will convene to vote on this New START Treaty. Since the treaty was signed by the United States and Russia in April, both the Foreign Relations and the Armed Services Committees have conducted more than a dozen hearings, both open and classified, to examine the essential goal of this treaty: to advance the national security of the United States.

After hours of testimony from some of the most knowledgeable people in and out of government, as well as public statements of support from countless experts, we can say with great confidence that the Senate's ratification of the START Treaty is in our national interest.

Witnesses who testified before the committee come from wide backgrounds of the government, academia, and private industry. Former government officials, both civilian and military, who have held positions of the highest responsibility for our national defense and nuclear security—including former Republican administration officials who had negotiated and implemented previous START treaties—were among those who testified and called for the treaty's speedy ratification.

All have been experts, with years, if not decades, of experience in the field of national security and arms control, and all have strongly endorsed ratification of the treaty.

In addition to its contribution to America's security, one of the most compelling reasons for the full Senate to ratify this treaty, and move quickly to do so, is to regain our insight into Russia's strategic offensive arms. Since START I expired last December, we have had no comprehensive verification regime in place to help us understand Russia's strategic nuclear forces.