

**David Kirkham, President of Kirkham Motorsports**  
**Testimony for the Senate Finance Committee's June 28, 2011 Hearing on**  
**"Complexity and the Tax Gap: Making Tax Compliance Easier and Collecting**  
**What's Due."**

Mr. Chairman, Ranking Member Hatch, and Members of the Committee, I'm David Kirkham, President of Kirkham Motorsports in Provo, Utah. Kirkham Motorsports is a small business. The great majority of our customers are small business owners that I speak to every day. We all share similar concerns outlined here.

Small firms make up 99.7 percent of all employer firms and employ over half of all private sector employees in our economy. Small business is all about creating productive jobs that make all of our lives better. Our government's job in the economy is to act as a referee and not to choose sides. Our government should make sure everyone plays by the same rules. Our government should not pick winners and losers. Regrettably, both Democrats and Republicans continually introduce innumerable bills which create even further complexity in the tax code by picking winners and losers.

Myriad bills force businesses to make decisions based on tax consequences and not on what would be in the best interest of growing the business. A good example of this is when only a couple of months ago McDonalds hired 62,000 workers because they received a waiver from Obamacare. McDonalds' decision was driven by the waiver, not by its own business needs. It is difficult to grow a business (and create the need for more employees) when all financial decisions must be focused on tax consequences which change on a regular basis only further complicating matters. One of the most unnerving elements to the tax code is the fear of retroactive tax changes which can be enforced at any time.

Our complex tax system creates a very large burden on small businesses in terms of the time and money that it takes to comply with the tax laws. To deal with the tax laws, our small business has to hire a bookkeeper, an accountant, and a professional accounting firm that has both lawyers and accountants. If the tax system were simpler, we would be able to hire more workers with the money we currently use to pay lawyers and accountants. The constantly changing tax laws present an ever-moving target for small business owners. For example, no one has any idea what the tax rate will be from one year to the next. This makes long-term planning extremely difficult. For example, provisions in the code, such as the one on expensing of equipment, are changed frequently--dictating to small businesses when they should buy equipment. In some years it is more advantageous to hire more workers. In other years it is more advantageous to purchase more equipment because the business can write off the entire cost of that equipment in some years and not in others. Our business decisions should

be made based on what will cause our business to grow and create a better world for everyone and not on some tax law that has recently been changed.

Some tax laws that are simply incomprehensible--for example, the 1099 provision in ObamaCare that would have imposed a huge burden on small businesses. I surmise Congress was trying to reduce the amount of the tax gap with that provision, but Members of Congress should think about the burdens they are going to place on small businesses and the American people before they pass laws to try to reduce the tax gap. It is good that the 1099 provision was repealed, but it should never have been enacted in the first place. The tax code should be the tax code. The earned income tax credit is not tax code. Leave taxes to the tax code and let social spending stand on its own merits.

The tax gap.

I believe the vast majority of Americans understand the need to pay taxes and are willing to pay them—if they think the taxes are fair. If people feel they are being treated unfairly, they will try to avoid paying them. Waivers are a pernicious problem because they are not equally applied to all people; consequently, waivers are viewed as little more than bribes to a favored constituency. Waivers granted to special constituents are inherently unfair as they favor one group of people over another. Waivers require favors—which must be repaid. Who decides what must be repaid and from whom will it be taken? When the government loses the trust of the people, they also lose the willingness of the people to pay taxes.

If you want people to comply with the tax laws, they need to be easy and fair to comply with. If you want more revenue, I would suggest you follow the Wal-Mart model and try to gain as many customers as possible by broadening the tax base and making compliance easy so everyone has a stake in our system of government.

Finally, when you choose winners, we all become losers. History teaches us cronyism, confusion, and chaos creates recessions and depressions. Freedom creates prosperity. Let us be free to choose our own path in life and to create our own prosperity. Then, and only then, will you see the unemployment rates plummet, the tax gap shrink, and the recession finally end.

Thank you,

David

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