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Volume 7, Issue 12, March 28, 2007



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### House Small Business Committee Hearing Examines Unfair Withholding

The U.S. House Small Business Committee March 22 heard testimony from a number of small business owners on the potential impact of section 511 of the Tax Increase Prevention and Reconciliation Act of 2005, which requires that 3 percent be withheld on all payments for goods and services made to federal, state and local contractors starting in 2011.

During the "New Hidden Tax on Small Business" hearing, witnesses testified that while well-intentioned, the proposed withholding has a number of unintended consequences that could prove disastrous for small businesses, particularly in the construction industry.

In testimony submitted for the record, Rich Shavell, president of Shavell and Company, P.A., Boca Raton, Fla., and chairman of ABC's Tax Advisory Group, warned that the 3 percent withholding will "dramatically impact the cash flow of the construction industry and increase the cost of construction for governmental projects."

"The construction industry operates with a very low net margin," Shavell stated. "The industry has been historically known for low net income margins and the implementation of Section 511 will negatively impact this already cash-tight industry. A reduction of cash flow will further stymie the economic viability of contractors performing work for the governmental entities who do not always have adequate cash flow and equity. While we certainly do not believe it is the intent of Congress to cause small businesses to go out of business, that may be an unintended effect of Section 511."

Shavell also warned that there will be "hidden costs" for implementing Section 511, including "upfront information technology costs," and "ongoing annual costs."

"In the aggregate, for all jurisdictions across the country, as well as the federal government, this could be a significant amount of money that is impacting the entire economy and all governmental entities. As a result, these additional costs will need to come from somewhere and this will only mean additional budget constraints and potentially additional taxes at state and local levels.

"We believe this law has unintended effects that have not been fully considered, and...the cost, uncertainty and cash flow impact to the construction is untenable," Shavell stated.

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