

TESTIMONY BEFORE THE UNITED STATES CONGRESS
ON BEHALF OF THE
NATIONAL FEDERATION OF INDEPENDENT BUSINESS

NFIB
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Testimony of Jerol Kivett, Kivett's, Incorporated

The Committee on Small Business

Buried in Paperwork: A 1099 Update

February 9, 2011

Good morning, Chairman Graves, Ranking Member Velázquez, and members of the Committee.

My name is Jerol Kivett, the president of Kivett's Incorporated, and I am pleased to be here as a small-business owner and member of the National Federation of Independent Business (NFIB) – the nation's leading small-business advocacy organization - to discuss the negative impact the expanded 1099 reporting provision will have on my business and small businesses in general.¹

I would also like to thank Congresswoman Renee Ellmers for working with me to participate in this important hearing.

Kivett's Inc., located in Clinton, N.C., is the largest family-owned and operated church pew manufacturer and pew refinisher in the United States. In addition, our company builds and refurbishes other church furniture and fixtures, such as steeples and stained glass windows. We also build and refurbish furniture for courtrooms. Kivett's provides a full range of services – we build new furniture, refurbish existing furniture, and provide both delivery and installation.

Our business was started by my father in 1958 and I took over the business in the early 1970s. At the time we had fewer than 10 employees, but with hard work we grew the business and, at our peak, employed around 160 workers. When business was at its best, we were completing about one church per day.

The last few years, business has been down by about 50 percent. The church furnishing industry is small and very competitive. With the recession, many of our customers saw donations drop, meaning they had less money to spend on renovations and expansions. As a result our current workforce has dropped to about 55 employees and we have made cuts elsewhere.

In the face of the economic challenges facing small businesses like ours, we are confronting daunting new policy challenges as well. Working through a recession is tough, but adding to the burden with cumbersome and confusing new laws and regulations makes a recovery twice as hard. The uncertainty being created by Washington is stifling a small business recovery.

The new healthcare law and the uncertainty it is creating for small-business owners makes it harder for us to determine the cost of running our business. The expanded 1099 reporting requirement included in the healthcare law is a good example of the kind of misguided policy that works against the interest of small businesses.

Tax filing is never a task small-business owners look forward to, but making filing more burdensome only drains resources from already struggling companies. In fact, in a recent *NFIB Small Business Problems and Priorities* survey tax complexity was ranked as the fifth biggest problem for small-business owners.²

¹ Section 9006 of the Patient Protection and Affordable Care Act; P.L. 111-148.

² William J. Dennis, *Small Business Problems and Priorities*, NFIB Research Foundation, Washington, DC series.

This is not a surprise when you consider the time and money a small-business owner has to spend to comply with the tax code. Small businesses spend annually between 1.7 billion and 1.8 billion hours on tax compliance and \$18 billion to \$19 billion on compliance costs.³ Small-business owners also spend, on average, \$74.24 per hour on the paperwork associated with tax compliance – the highest paperwork cost imposed on small business by the federal government.⁴

The expanded 1099 reporting requirement in the healthcare law adds to this already heavy burden and increases the cost of running my business. Prior to passage of the healthcare law, businesses were required to file a Form 1099 for services received from an unincorporated business (sole proprietor, LLC or partnership) of over \$600. The healthcare law expands the requirement in two ways. First, the business must file a Form 1099 for services received from an incorporated business of over \$600 and second, the business must file a Form 1099 for property purchased in excess of \$600.

Over the last three years we filed an average of about 25 Form 1099s annually and, when our business was at its peak, we filed an average of about 50 per year. With the new expanded reporting requirements my filings will increase considerably. We will average about 300 filings based on our business activity over the last three years. If we reach our peak again, we will have to file about 600 forms. I will have to dedicate additional time and money to ensure that I comply with this new requirement, diverting resources away from the core functions of my business.

The burden cannot simply be measured in the number of forms, but also in the information that we will have to compile to complete the forms. We will have to track all of our purchases with each vendor to determine when or if we meet the \$600 threshold. In addition, we will have to take the time to request the taxpayer identification numbers of all our vendors, as well as the correct address to send the final forms. The expanded requirements create a flood of new paperwork and record-keeping for us to manage.

The new reporting requirements also apply to my customers, meaning that we will receive requests for information and more 1099s for the work and property we supply. We will have to send W-9 forms with our taxpayer identification numbers to our customers, meaning more forms for us to fill out.

Our customers – mostly churches – could pose a unique problem for a business like ours. Churches are not sophisticated taxpayers, so it is likely that we will spend more time working with them to ensure they properly fill out the new forms. This means more resources being dedicated to filling out forms, and less dedicated to serving our clients and growing our business.

Our business will also be forced to correct filing errors and, with increases in the number of forms, mistakes are more likely to occur. Mistakes such as incorrect taxpayer identification numbers or the wrong name of the business will require us to answer more questions from our customers and could eventually lead to inquiries from the IRS. On top of that, a failure to file a

³ Donald DeLuca, Scott Silmar, John Guyton, Wu-Lang Lee, and John O'Hare, "Aggregate Estimates of Small Business Taxpayer Compliance Burden," Proceedings of the 2007 IRS Research Conference.

⁴ *Paperwork and Record Keeping – NFIB Small Business Poll*, NFIB Research Foundation; Washington, DC; Volume 3, Issue 5; 2003.

proper Form 1099 also requires businesses to withhold on the contract, which will drain even more capital from businesses.

The problems created by the new 1099 burden are not unique to our business. In fact, other members of the NFIB have raised similar concerns about the increased burden and number of forms they will have to file.

A restaurant supply company in Raleigh, North Carolina noted they buy from over 600 vendors and would face an explosion of paperwork. The owner stated that efforts to comply with all of the new paperwork would take away from their business.

A bookbinding business in Denver, Colorado would see an increase in 1099 filings from less than a dozen last year to more than 1000. The business does not have an in-house accountant and would have to consider hiring a part-time employee just to complete the forms. The owner said, "If I have to hire a part-timer, I don't want them filling out government forms, I want them to be binding books."

The owner of a family-run collision repair shop in Louisiana told a similar story with an increase in 1099 filings from four to several hundred. The owner expressed the sentiments of many small-business owners, "This just doesn't make sense."

In the end, this new reporting burden falls especially hard on already struggling small businesses. Unlike larger firms, most small businesses lack an in-house accounting department to handle tax filings. For the smallest businesses, increased paperwork is often handled by the owner. The new 1099 requirement will also place small businesses at a competitive disadvantage. A larger business might be able to offer services to handle the 1099 filings for their customers. I do not have the resources to offer such a service. This could mean that many businesses may look to move to larger vendors that can handle this new burden for them, taking customers and opportunities away from small businesses.

We started our business to do something we enjoy – making and refurbishing church furniture. Through hard work and dedication, we expanded our business and created dozens of jobs. The new 1099 requirements will force us to spend more time completing forms, tracking information and dealing with the IRS, and less time focusing on the core functions of our business, serving our customers and growing so we have a reason to hire again.

The expanded 1099 reporting requirement places an unnecessary and onerous burden on small-business owners. It is time for Congress to repeal this provision before it goes into full effect next year.

Thank you for the opportunity to appear before the committee and I look forward to any questions you may have.