

NFIB Pennsylvania

National Federation of
Independent Business

STATEMENT OF THE
NATIONAL FEDERATION OF INDEPENDENT BUSINESS/PENNSYLVANIA
BEFORE
THE HOUSE FINANCE COMMITTEE
OCTOBER 26, 1989

REPRESENTATIVE TRELLO, REPRESENTATIVE VROON AND MEMBERS OF THE
COMMITTEE, MY NAME IS JOHN J. FRITZ, JR. I AM A SHAREHOLDER IN THE
ACCOUNTING FIRM OF SHERRIDAN AND FRITZ HERE IN HARRISBURG. I AM
ALSO A MEMBER OF THE NFIB STATE GUARDIAN ADVISORY COUNCIL AND AM
HERE TODAY TESTIFYING ON NFIB'S BEHALF.

NFIB PENNSYLVANIA IS THE STATE'S LARGEST SMALL BUSINESS
ORGANIZATION, REPRESENTING OVER 21,000 MEMBERS ACROSS THE
COMMONWEALTH. OUR MEMBERS ARE FROM ALL SECTORS OF THE PENNSYLVANIA
ECONOMY. THEIR COMMON TIE IS THEIR SIZE--THEY ARE ALL SMALL,
INDEPENDENTLY OWNED BUSINESSES.

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The Guardian of
Small Business

WE APPRECIATE THIS OPPORTUNITY TO EXPRESS OUR SUPPORT FOR HOUSE BILL
921, THE PROPOSED SPOUSAL EXEMPTION UNDER THE STATE INHERITANCE
TAX. WE FEEL PENNSYLVANIA SHOULD BE CONSISTENT WITH OTHER STATES IN
ITS TREATMENT OF THIS TAX; A TAX WHICH SIGNIFICANTLY AFFECTS MANY
SMALL BUSINESSES.

AS YOU ARE NO DOUBT AWARE, PENNSYLVANIA WAS THE FIRST STATE TO ADOPT AN INHERITANCE TAX. IT WAS FIRST IMPOSED IN 1826 AS A TAX ON INHERITANCES RECEIVED BY COLLATERAL RELATIVES. THE LAW HAS BEEN AMENDED SEVERAL TIMES SINCE 1826 AND NOW APPLIES TO DIRECT RELATIVES AND OTHER BENEFICIARIES. THE INHERITANCE TAX IS IMPOSED ON TAXABLE TRANSFERS OF PROPERTY AT A RATE OF 6% FOR TRANSFERS TO LINEAL BENEFICIARIES AND 15% TO ALL OTHERS.

SMALL BUSINESSES ARE A MAJOR EMPLOYER IN PENNSYLVANIA. THEY CONTINUE TO BE A MAJOR SOURCE OF NEW JOBS AND ARE A MAJOR SOURCE OF STATE AND LOCAL TAX REVENUE. WE ARE IN SUPPORT OF HOUSE BILL 921 BECAUSE PENNSYLVANIA'S CURRENT INHERITANCE TAX PROVISION IS PARTICULARLY ONEROUS ON SMALL FAMILY BUSINESSES AT A MOST TRAUMATIC PERIOD--AFTER THE DEATH OF A SPOUSE.

USUALLY, WHEN THE OWNER OF A SMALL BUSINESS DIES, THE BUSINESS IS THE PRINCIPAL ASSET OF THE ESTATE. UNDER CURRENT PENNSYLVANIA LAW, UNLESS THE BUSINESS WAS JOINTLY HELD BY BOTH SPOUSES, THE DEATH OF THE OWNER CAN GIVE RISE TO SUBSTANTIAL PENNSYLVANIA INHERITANCE TAX LIABILITY. THIS LIABILITY ARISES EVEN IF THE SURVIVING SPOUSE SIMPLY WISHES TO CONTINUE TO HOLD AND OPERATE THE FAMILY BUSINESS. A SIGNIFICANT INHERITANCE TAX LIABILITY CAN POSE A FINANCIAL DILEMMA THAT COMPOUNDS THE FINANCIAL, EMOTIONAL, AND OTHER DIFFICULTIES TYPICALLY EXPERIENCED BY THE SURVIVING SPOUSE. TO GIVE AN IDEA OF THE SIZE OF THIS TAX CONSIDER THAT IN AN CASE WHERE A SURVIVING SPOUSE INHERITS A BUSINESS VALUED AT \$500,000, THE FEDERAL GOVERNMENT IMPOSES NO TAX, 47 STATES IMPOSE NO TAX, ONE STATE IMPOSES A TAX OF APPROXIMATELY \$4,000, ANOTHER STATE IMPOSES A TAX OF \$18,000, BUT PENNSYLVANIA IMPOSES A TAX OF \$30,000. AND, WHEN THE SPOUSE DIES, HER ESTATE WILL AGAIN PAY TAX ON THE SAME

ASSET. IN EFFECT, AN ELEMENT OF DOUBLE TAXATION EXISTS. IT IS QUITE OBVIOUS, THEREFORE, THAT PENNSYLVANIA'S INHERITANCE TAX IS NO FRIEND TO SMALL BUSINESS.

PENNSYLVANIA'S INHERITANCE TAX ON SPOUSES, PARTICULARLY WHEN A BUSINESS IS THE MAJOR ASSET OF THE ESTATE, IS UNFAIR TO THE SURVIVING SPOUSE. SHAREHOLDERS OF PUBLICLY HELD BUSINESSES OR CORPORATIONS CAN MORE READILY, IF NECESSARY, SELL SOME OF THEIR STOCK TO COVER THE TAX. IN CONTRAST, A SMALL FAMILY OWNED BUSINESS MAY NOT BE ABLE TO BE DISPOSED OF QUICKLY AT A FAIR PRICE TO RAISE THE TAX DOLLARS NEEDED. THE RESULT MIGHT BE A NECESSITY ON THE PART OF THE SURVIVING SPOUSE TO BORROW FUNDS OR SELL SOME OF THE BUSINESS ASSETS TO COVER THE TAX PAYMENT. ALL OF THIS, WHEN IN REALITY THE FAMILY BUSINESS IS NEVER REALLY CHANGING OWNERSHIP FOR ECONOMIC CONSIDERATION AND IT IS STILL HELD IN THE SAME ECONOMIC UNIT.

WE FEEL THAT THE INHERITANCE TAX ON A SURVIVING SPOUSE IS AN UNWISE AND UNFORTUNATE TAX POLICY. PENNSYLVANIA SHOULD NOT BE FORCING SURVIVING SPOUSES TO DEplete RESOURCES, OR IN THE WORST CASE, SELL THEIR FAMILY BUSINESS TO PAY THE INHERITANCE TAX. TO THE CONTRARY, IT MAKES GOOD ECONOMIC SENSE FOR THE STATE TO ENCOURAGE SURVIVING SPOUSES TO CONTINUE OPERATING A PRODUCTIVE BUSINESS.

FINALLY, IT SHOULD BE NOTED THAT IN GENERAL, PENNSYLVANIA WILL ULTIMATELY COLLECT THE INHERITANCE TAX AT THE DEATH OF THE SURVIVING SPOUSE, SO THAT THIS PROPOSED LEGISLATION NOT ONLY DEFERS THE COLLECTION OF THE TAX, BUT IS ALSO EQUITABLE IN THAT IT ELIMINATES THE DOUBLE TAXATION.

AGAIN, THANK YOU FOR THIS OPPORTUNITY TO EXPRESS THE VIEWS OF SMALL BUSINESS.