

## **Permanently Extend Built-In Gains Tax Relief – Vote YES on H.R. 4453**

### **Enable Private Companies Access to Own Capital**

*Lead Sponsor: Rep. Dave Reichert (R-WA)*

*Original Cosponsor: Rep. Ron Kind (D-WI)*

#### **Background:**

- S corporations are a cornerstone of the business community, making up more than 4 million businesses in the United States.
- Such corporations are located in every state, participate in a broad range of industries from the agricultural to manufacturing to retail sectors, and employ one out of every four private sector workers.
- In general, as a “pass-through entity,” S corporation income is taxed once at the individual level versus the entity level because all income and losses pass through to shareholders.
- That said, S corporations that have converted from C corporation status must hold on to any appreciated assets (from time of conversion) for ten years or be subject to an additional corporate-level “built-in gains” (BIG) tax.
  - If the business attempts to sell those assets – land, real estate, stock, etc. – recognizing gains before the end of the 10 years (the “recognition period”), the BIG tax is imposed at the highest corporate rate (currently 35 percent) on top of the applicable federal, state, and local shareholder taxes - a tax burden exceeding 60 percent in many states.
  - The BIG tax was originally intended to keep businesses from abusively converting to S corporation status just prior to a sale of assets, solely to avoid the entity level tax.

#### **The Problem:**

- The BIG tax effectively “locks up” capital by preventing thousands of S corporations from accessing their own capital for an entire decade or face a punitive tax burden.
- These private companies are forced to cut back on planned investments or seek credit in tight financial markets – a particular challenge for S corporations as closely-held businesses with limited access to the public markets.
- Congress concluded that 10 years is simply too long to reasonably ask a company to hold a particular asset.
- Rather, it determined that a 5-year recognition period better reflects today’s shorter business planning cycles while retaining the original anti-abuse intent of the rule and extended this relief temporarily several times – most recently at the end of 2012.
- At the end of 2013, the shorter 5-year BIG recognition period expired.

**H.R. 4453:** According to the IRS, tens of thousands of corporations convert to S status each year, so the excessive 10-year recognition period is likely inhibiting job creation and investment by preventing many of these businesses from accessing their own capital. In an economy suffering from a lack of capital, this policy outcome makes little sense. **The bipartisan Reichert-Kind bill would reform this outdated, punitive rule and keep an important avenue for capital open to businesses nationwide by permanently reducing the BIG recognition period to 5 years.**

# **VOTE YES on H.R. 4453**