

Statement for the Record
On Behalf of the
American Bankers Association
For the Hearing on
“Member Day Hearing on Tax Legislation”

Before the
The Subcommittee on Tax Policy
Of the
House Committee on Ways and Means
May 12, 2016



The American Bankers Association (ABA) is pleased to provide a written statement for the record for the Ways and Means Tax Policy Subcommittee Member Day Hearing on Tax Legislation held on May 12, 2016.

The ABA is the united voice of America's hometown bankers; small, mid-size, regional and large banks that together employ more than 2 million people, hold more than \$16 trillion in assets, safeguard \$12 trillion in deposits and extend more than \$8 trillion in loans.

It is estimated that approximately one third of all banks in the United States operate under the provisions of Subchapter S of the Internal Revenue Code (IRC). In addition, there are other small banks that operate under Subchapter C of the IRC that cannot qualify for Subchapter S status for a variety of reasons or choose not to use the provisions due to current restrictions in the IRC. The vast majority of these banks specialize in serving smaller communities and small businesses.

The ABA is supportive of tax policy proposals that assist in creating economic growth and strong banks. To continue to serve communities and meet additional regulatory requirements, banks need additional flexibility in the IRC to operate efficiently and effectively.

Representative Kenny Marchant (TX) has introduced two bills that will make needed changes to the IRC that will help facilitate the additional raising of bank capital and the efficient operation of community banks. The two bills are summarized below.

Capital Access for Small Business Banks Act – H.R. 2789

This legislation will allow banks that are currently operating under Subchapter S of the IRC to expand the number of allowable shareholders from 100 to 500. In addition, the bill provides that an S corporation bank could issue a class of qualified preferred stock, with a deduction for dividends paid, without violating its status as an S corporation.

By expanding both the number of potential shareholders and the type of stock that can be issued, additional opportunities will be available for banks to raise capital. This will result in an ability to make more loans, grow business in the banks' communities and strengthen the capital base for community banks.

Community Bank Flexibility Act – H.R. 3287

This legislation will allow banks organized as limited liability companies (LLCs) to be treated as a bank under Section 581 of the IRC for tax purposes. The LLC structure allows a corporation to achieve tax efficiencies similar to S corporation status by having the income of the corporation taxed only once, at the shareholder level. In addition, as a LLC for tax purposes, banks would not face the same restrictions on the number of shareholders and types of stock that are present where an entity is operating as a S corporation. The legislation also includes provisions for an orderly transition for those banks that would elect to use the LLC tax status.

Similar to the reasons for supporting H.R. 2789, this bill will support a bank's ability to operate in a tax efficient manner and to raise the capital required to serve the needs of the community with a strong capital base.

ABA Support

Rep. Marchant's legislation will provide additional important tax efficient alternatives for banks to raise capital. The ABA supports these two changes to the IRC that will help promote strong banks, encourage growth and stronger, more economically vibrant communities. We urge Congress to consider these important banking tax issues as it continues its deliberations on tax policy.