STATE CHAMBER OF OKLAHOMA

ISSUE BRIEF

The Cost of Over-Regulation

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Key Facts

- Over-regulation kills businesses, slows job creation and increases cost of living
- Federal regulation is a hidden tax that amounts to almost $15,000 per U.S. household each year
- In 2015, American consumers and the U.S. economy were faced with a $1.89 trillion hidden tax due to federal regulations and intervention
- Last year, 3,410 rules were issued by federal agencies
- Businesses with fewer than 20 employees incur regulatory costs 42 percent higher than larger businesses with up to 500 employees

Background

Discussing regulations and regulatory overreach is enough to make the average American's eyes glaze over. It is not the most exciting issue, but regulations affect all of us. As business owners and consumers, we all pay the price.

According to the Heritage Foundation, the addition of 43 new major rules in 2014 increased annual regulatory costs by more than $22 billion. In 2015, the Federal Register contained 3,410 final rules and 2,342 proposed rules, which helped contribute to the annual $1.89 trillion hidden tax on American consumers and the U.S. economy.

Future regulatory costs include 3,297 rules in the pipeline, 218 of which are "economically significant" rules, which the federal government defines as having an economic effect of $100 million or more each year. The total cost is higher when 'small' rules that do not reach this threshold are added. Of the 3,297 regulations in the works, 674 affect small businesses.

Regulations affect industries across the spectrum—agriculture, energy, technology, health care providers, transportation, insurers, financial institutions, and more. Regulations not only hurt businesses but harm consumers by increasing costs and limiting the choices available in the free market. The advent of new regulation also opens the door to new litigation, which also drives up costs for business owners and consumers.

The sheer number of regulations to consider is staggering. Following is only a brief list of major regulations proposed by federal agencies—outside the control of Congress—that Americans and business owners face in the coming months:

- As of December 1, 2016, the U.S. Department of Labor is updating the overtime regulations, which will automatically extend overtime pay protections to more than 4 million workers within the first year of implementation. The Final Rule sets the standard salary level at the 40th percentile of weekly earnings for full-time salaried workers in the lowest-wage Census Region—currently the South ($913 per week; $47,476 annually for a full-year worker); sets the total annual compensation requirement for highly compensated employees (HCE) subject to a minimal duties test to the annual equivalent of the 90th percentile of full-time salaried workers nationally ($134,004); and, establishes a mechanism for automatically updating the salary and compensation levels every three years to maintain the levels at the above percentiles and to ensure that they continue to provide useful and effective tests for exemption.
- Beginning November 1, 2016, the Occupational Safety and Health Administration (OSHA) will begin enforcing its final rule revising the recording and reporting requirements for occupational illnesses or injuries. One of the new rules seriously restricts the ability of employers to test after an accident to see if the employee was under the influence of drugs or alcohol. To prohibit or even discourage post-accident drug testing, as OSHA has done in their new rules, is a threat to the safety of every worker in the country. OSHA says in their

commentary on the new rule that studies they reviewed indicated that "many workers reported that such post-injury drug testing programs deterred reporting." Those who are "deterred" from reporting an injury because they are concerned about having to take a drug test usually have concerns that go far beyond their injury.

- A few rules that will have a real effect on businesses are the U.S. Department of the Treasury's new anti-inversion rule and proposed earnings stripping rule. According to the Treasury, the new anti-inversion regulations make it more difficult for companies to invert by excluding "stock of the foreign company attributable to assets acquired from an American company within three years prior to the signing date of the latest acquisition." The Treasury's proposed earnings stripping regulations "make it more difficult for foreign-parented groups to quickly load up their U.S. subsidiaries with related-party debt following an inversion or foreign takeover, by treating as stock the instruments issued to a related coporation in a dividend or a limited class of economically similar transactions."

The Facts

The Small Business Administration (SBA) reports that small businesses pay 60 percent more to meet federal standards than large companies. According to the SBA, regulations cost $10,500 per employee, per year. This is consistent with U.S. Chamber of Commerce findings that the average regulatory cost for each employee of a small business exceeds $10,000 per year.

State Chamber Position

For almost twenty years, the State Chamber of Oklahoma has advocated for national policy mandating a cost/benefit analysis for businesses and consumers as part of all proposed federal regulations. The State Chamber will work for regulatory relief for businesses and consumers and policies to help ensure that future regulations will not be unnecessarily burdensome or harmful.

For every one of the 114 laws passed by Congress in 2015, 30 new rules were issued by federal regulators. It is evident that most lawmaking is being done by the unelected. The State Chamber of Oklahoma asks our congressional delegation to take back their authority by requiring congressional approval of any new major regulations that agencies propose. Without real regulatory reform, including the deceleration of new regulations, American businesses and consumers will continue to pay the price at the expense of our economy.