

FOR IMMEDIATE RELEASE: December 10, 2012

**SCHUMER, MENENDEZ TO INTRODUCE COMPREHENSIVE LEGISLATION TO REDUCE TAXES ON THOSE IMPACTED BY HURRICANE SANDY BY THOUSANDS OF DOLLARS OR MORE – WILL ALLOW MORE RESOURCES TO GO TOWARDS CLEANUP AND RECONSTRUCTION**

*Legislation Will Make All Disaster Repair Related Expenses Tax Deductible; Provide Penalty-Free Borrowing from Retirement Account; Enhanced Tax Breaks for Those Who Took In Storm Victims*

*Will Also Increase Tax Credits For Repair Of Homes and Businesses And Give Incentives For Businesses To Keep Paying Workers, Even When Closed*

*Tax Changes Build on Existing Programs To Maximize the Speed With Which Tax Relief Gets To Affected Families And Businesses*

U.S. Senator Charles E. Schumer and U.S. Senator Robert Menendez today announced comprehensive legislation to reduce the tax burden on those financially impacted by Superstorm Sandy. The tax package will include provisions that would allow for a full deduction for expenses paid or incurred as a result of disaster cleanup; waive penalties for individuals who withdraw from their retirement plan early; allows individuals who provided free housing to displaced individuals to claim additional exemptions; a worker retention credit for disaster-damaged businesses that continued to pay their employees' wages even though their business was inoperable; and accelerated depreciation for business equipment.

The senators said the changes build on existing laws and programs to maximize the speed with which aid gets to Sandy victims.

The senators were joined by Ruth Banschick, a resident of Long Beach on Long Island and Carol Greenberg, a resident of Jersey City.

“When recovering from a hammer-blow like Sandy, every bit of support helps, and this legislation will make it easier for families and small businesses affected by the storm to marshal more of their resources for recovery,” said Schumer. “These changes to existing tax law are a common sense and simple way to help disaster victims, and a quick way to get them aid to repair their homes, to recover losses, and to support their businesses.”

“This bill will provide critical tools to help families recover their losses, rebuild shattered businesses and restore communities devastated by the storm,” said Menendez. “I know we’re closer to the starting line in this painful process of recovery than the finish line, but unveiling this bill is an important next step in our region’s recovery.”

Schumer and Menendez’s Sandy Tax Package will contain a number of Superstorm Sandy specific tax provisions that provide relief to people impacted by the storm. The package also includes provisions that will apply to any state that has suffered from a FEMA-declared major disaster this year.

Some of the major provisions in the package include:

- **Deduction for disaster cleanup expenses**—The proposal would allow for a full deduction for expenses paid or incurred as a result of disaster cleanup.
- **Increased Limitation on Charitable Contributions for Disaster Relief**—Under present law, contributions to qualified charitable organizations may not exceed 50 percent of the taxpayer’s Adjusted Gross

Income. Under the proposal, this limitation is lifted for qualified disaster contributions.

- **Relaxed retirement plan distribution rules**—This provision waives the 10% penalty tax that would otherwise apply on an early withdrawal from a retirement plan for withdrawals by victims of Hurricane Sandy. The maximum amount that can be withdrawn without penalty is \$100,000. It also increases the amount that Hurricane Sandy victims may borrow from their retirement plans without immediate tax consequences.
- **Worker retention credit**—This provision would provide a credit for disaster-damaged businesses that continued to pay their employees' wages, regardless of whether they performed services (i.e., the business was not operating, but keeps paying employees). Eligible employers would be those who (1) had active businesses in the disaster area that were rendered inoperable due to damage caused by the severe weather and (2) employed no more than 200 employees per day during the year before the disaster. The credit would equal 40% of the employee's first \$6,000 in wages paid between the date the business became inoperable and the date it resumed significant operations, but before March 1, 2013.
- **Mitigation and preparedness tax credits**—Repurposes unused New York Liberty Zone tax credits (valued at approximately \$2B) into a new tax credit (for individuals and businesses) available for expenditures related to mitigation and preparedness.

A summary of the full package is below:

### **The Hurricane Sandy and National Disaster Tax Relief Act of 2012**

#### **Generally-Applicable for all 2012 FEMA Major Disaster Declarations**

- **Deduction for disaster cleanup expenses**—The proposal would allow for a full deduction for expenses paid or incurred as a result of disaster cleanup.
- **Increased Limitation on Charitable Contributions for Disaster Relief**—Under present law, contributions to qualified charitable organizations may not exceed 50 percent of the taxpayer's Adjusted Gross Income. Under the proposal, this limitation is lifted for qualified disaster contributions.
- **Expanded availability of and reduced limitations for casualty loss deductions**—Under present law, a taxpayer may claim a deduction for any loss sustained during the taxable year not compensated by insurance. These losses are allowable if they exceed a \$100 limitation per casualty or theft and the losses are deductible to the extent that they exceed 10 percent of an individual taxpayer's adjusted gross income. The proposal would waive the \$100 and ten percent AGI limitation for disaster losses not compensated by insurance. Additionally, it would allow taxpayers that do not itemize to increase their standard deduction by the amount of disaster losses not covered by insurance.
- **Extended Net Operating Loss (NOL) carryback**—Generally, taxpayers can carry back NOLs to offset taxes paid over the previous two years. The proposal allows victims a five-year carry back for NOLs attributed to disaster losses.
- **Relaxed mortgage revenue bond rules**—Lifts the current-law requirement that one must not have owned a home in the previous three years to qualify for the mortgage revenue bond program for homeowners who lost their homes in Sandy.
- **Increased business expensing allowances**—Businesses may elect to expense up to a certain amount or dollar limit of qualified disaster assistance property. The proposal would increase the dollar limit that is normally available for a particular tax year by the lesser of \$100,000 or the cost of qualified property placed in

service that year.

- **Increase in New Markets Tax Credit allocation for Community Development Entities serving in disaster areas**—This provision allows an additional allocation of the new markets tax credit in an amount equal to \$500 million each year (for three years) to be allocated among qualified community development entities to make qualified community investments within in a federally declared major disaster area.

- **Disaster mitigation payments**—IRC Section 139 exempts certain disaster mitigation payments from taxable income. Payments made under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and the National Flood Insurance Act qualify for this exemption. This provision extends this exemption to state and local flood management and mitigation programs.

### Sandy-Specific Relief

- **Relaxed retirement plan distribution rules**—This provision waives the 10% penalty tax that would otherwise apply on an early withdrawal from a retirement plan for withdrawals by victims of Hurricane Sandy. The maximum amount that can be withdrawn without penalty is \$100,000. It also increases the amount that Hurricane Sandy victims may borrow from their retirement plans without immediate tax consequences.

- **Housing exemption for displaced individuals**—This provision allows individuals who provide free housing for at least 60 consecutive days to persons displaced by Sandy to claim personal exemptions for those persons. The exemption is \$500 per person, with a maximum of four exemptions per year. In order to qualify, the displaced person must have had a principal place of abode on October 27, 2012, in the Hurricane Sandy disaster area.

- **Discharge of indebtedness (mortgage cancellation relief)**—This provision allows victims of Hurricane Sandy to exclude non-business debt that was forgiven by a governmental agency or certain financial institutions if the discharge occurred between October 27, 2012, and January 1, 2014.

- **Worker retention credit**—This provision would provide a credit for disaster-damaged businesses that continued to pay their employees' wages, regardless of whether they performed services (i.e., the business was not operating, but keeps paying employees). Eligible employers would be those who (1) had active businesses in the disaster area that were rendered inoperable due to damage caused by the severe weather and (2) employed no more than 200 employees per day during the year before the disaster. The credit would equal 40% of the employee's first \$6,000 in wages paid between the date the business became inoperable and the date it resumed significant operations, but before March 1, 2013.

- **Work Opportunity Tax Credit**—This provision allows the work opportunity credit to be claimed for wages of Hurricane Sandy employees. Eligible employees are individuals who had a principal place of abode in the core disaster area on October 27, 2012, and either (1) are hired during the 2-year period beginning on that date for a position in the area or (2) were displaced by the hurricane and are hired between October 27, 2012, and January 1, 2013.

- **Lookback rule for Earned Income Tax Credit/Child Tax Credit earned income determination**—To ensure working families whose hours or wages were affected by the disaster don't also lose access to important tax provisions, this proposal permits taxpayers impacted by Hurricane Sandy to look at prior year's income for purposes of calculating the Earned Income Tax Credit and Child Tax Credit.

- **Increased low-income housing tax credit availability**—The low-income housing tax credit allows owners of qualified residential rental property to claim a credit over a 10-year period that is based on the costs of constructing, rehabilitating, or acquiring the building attributable to low-income units. Owners must be

allocated the credit by a state. Each state is limited in the amount of credits it may allocate to the greater of \$2,525,000 or \$2.20 times the state's population. For 2013, 2014 and 2015, this provision will permit affected states to allocate additional amounts for use in the disaster area of up to \$8.00 multiplied by the state's disaster area population. Additionally, it provides an increased credit value for areas impacted by Hurricane Irene in 2011.

- **Increased rehabilitation credits**—This provision would increase the rehabilitation tax credit from 10 percent to 13 percent for the rehabilitation of buildings within the disaster zone that were constructed prior to 1936. For the rehabilitation of certified historic structures in the disaster zone, the credit was increased from 20 percent to 26 percent. Applies to expenditures made no later than December 31, 2014.

- **Recovery Zone bonding authority**—Allows disaster states to issue tax-exempt Sandy bonds between date of enactment and January 1, 2018. The provision would allow affected states to issue tax-exempt bonds to finance (1) qualified activities involving residential rental projects, nonresidential real property, and public utility property located in the disaster area; and (2) below-market-rate mortgages for low- and moderate-income homebuyers whose principal residences were damaged by the disaster. It would also permit affected states to issue tax credit bonds to pay the principal, interest, or premiums on qualified governmental bonds or to make loans to political subdivisions to make such payments.

- **Tax-exempt advanced refunding**—For governmental and qualified 501(c)(3) bonds outstanding on the date of Hurricane Sandy and not otherwise permitted another tax-exempt advance refunding, one additional tax-exempt advance refunding would be allowed to be issued by or on behalf of the states and their political subdivisions. In addition, exempt facility private activity bonds which cannot be advance refunded under tax law restrictions and which were issued by such issuers for governmentally-owned airports, docks and wharves located within the reconstruction zone would be permitted one tax-exempt advance refunding.

- **Increased depreciation allowance**—This provision would allow businesses in the disaster zone to use bonus depreciation for capital expenditures associated with constructing commercial properties and residential rental properties. The provision increases the deduction to roughly 50% of the basis or the value of the property during the first year the property is placed in service. (Is it possible to put an allowance that if congress were to pass bonus, this provision would then kick up to 100%? Not for this sheet obviously but something I've been thinking about)

- **Mitigation and preparedness tax credits**—Repurposes unused New York Liberty Zone tax credits (valued at approximately \$2B) into a new tax credit (for individuals and businesses) available for expenditures related to mitigation and preparedness.

- **Medicaid**—Provides funds to affected states for reimbursement of providers' medical costs as a result of the disaster.

###