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TAX REFORM HEARING ON THE BENEFITS OF PERMANENT TAX POLICY FOR AMERICA'S JOB CREATORS

HEARING

BEFORE THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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TAX REFORM HEARING ON THE BENEFITS OF PERMANENT TAX POLICY FOR AMERICA'S JOB CREATORS

TUESDAY, APRIL 8, 2014

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC.

The Committee met, pursuant to notice, at 10:05 a.m. in Room 1100, Longworth House Office Building, the Honorable Dave Camp [Chairman of the Committee] presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

FOR IMMEDIATE RELEASE CONTACT: (202) 225-3625
April 1, 2014
No. FC-18

Camp Announces Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

Congressman Dave Camp (R-MI), Chairman of the Committee on Ways and Means, today announced that the Committee will hold a hearing on those expired business tax provisions that would be extended by the tax reform discussion draft released on February 26, 2014, with a particular emphasis on how permanent tax policy can promote certainty for American businesses and generate additional economic growth. **The hearing will take place on Tuesday, April 8, 2014, in Room 1100 of the Longworth House Office Building, beginning at 10:00 A.M.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing. A list of invited witnesses will follow.

BACKGROUND:

During the considerable public outreach undertaken by the Committee in the course of its work on tax reform, including over 30 hearings, 11 bipartisan Working Groups, and 14,000 public submissions, a recurring concern highlighted by American companies was the uncertainty created by the termination, on a regular basis, of core portions of the Tax Code (generally known as "tax extenders"). For example, according to the Joint Committee on Taxation, there are 55 provisions that expired at the end of 2013, including provisions such as the research credit and expanded section 179 expensing which have been regularly renewed. These provisions have often been allowed to lapse and then have been renewed retroactively.

On February 26, 2014, Chairman Camp released a discussion draft of the Tax Reform Act of 2014, a proposal that makes the tax code simpler and fairer, while increasing economic growth, job creation, and wages. The discussion draft includes numerous provisions addressing tax extenders, including long-term or, in most cases, permanent extensions of certain business tax provisions dealing with research, cost recovery, S corporation rules, and international taxation. In some cases, the discussion draft modifies these extender provisions as part of a trade-off for lower rates and other pro-growth reforms. The discussion draft makes these modifications, however, in the context of a budget-neutral tax reform package that assumes that extensions of long-standing tax policy result in a loss of revenue that should be offset by other tax changes

elsewhere in the overall plan. It is important to note that this assumption is not consistent with recent practice by Congress in its consideration of tax extenders legislation.

In announcing this hearing, Chairman Camp said, **"One major goal of tax reform is to provide stable, predictable rules for businesses so that they can grow, create jobs, and increase wages. Congress must end the practice of short-term tax policy, extending important business tax provisions for one or two years at a time makes it very difficult for employers to plan and adds immense confusion and complexity for taxpayers. The long-standing tax provisions that help businesses grow the economy and create jobs should be made permanent once and for all."**

FOCUS OF THE HEARING:

The hearing will explore the value in having stable, permanent tax policy for employers, as well as the problems caused by tax policies that frequently expire and are extended for short periods of time (and often retroactively). To that end, the hearing specifically will consider those expired business tax provisions that are either made permanent or are provided long-term extensions under the discussion draft of the Tax Reform Act of 2014.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, http://waysandmeans.house.gov, select "Hearings." Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Tuesday, April 22, 2014**. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225-3625 or (202) 225-2610.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the World Wide Web at http://www.waysandmeans.house.gov/.

Chairman CAMP. This hearing will come to order, if everyone will take their seats, please.

Good morning, and welcome to the first Ways and Means Committee hearing on elements of the tax reform discussion draft I released in February.

The draft is focused on two primary goals; making the Tax Code simpler and fairer for families and employers, and strengthening the economy so there are more jobs and bigger paychecks for American families.

As we explore what tax reform means to the American economy and for American families, we must move away from short term tax policy and work toward greater certainty in the Tax Code.

When I released the draft, the first item I asked for public feedback on was the extenders and our revenue baseline.

The question is not only about the merits of the individual policy but how we should treat the revenue gained or lost for either making those policies permanent, reforming them, or repealing them.

Today's hearing will help the Committee find answers to these questions. One thing everyone in this room can agree on is that today's Tax Code is too complex, and one of the best examples of the complexity of our current Tax Code is so-called "tax extenders" and their temporary status.

As such, job creators are left constantly guessing if a group of policies are going to be around next year. Families and employers literally do not know what tax benefits they will be able to take advantage of from year to year, yet when examining some of these provisions, such as the research and development tax credit, we find out that some have been around for 30 years or more.

This is no way to write tax policy, let alone try to run an economy. The United States is the only country in the world that allows such important pieces of the Tax Code to expire on a regular basis.

How can we expect businesses to plan on new hire's or increased wages for workers when they do not know what their operating costs will be from year to year?

Our draft makes permanent seven business tax provisions that expired at the end of 2013. These policies must still be evaluated in the context of pro-growth tax reform and how making those permanent will help grow the economy, simplify the Tax Code, and lower tax rates.

Making some tax policies permanent now will open the door for the economic growth we need by giving consistency and stability to businesses small and large.

Specifically today we will address the research and development tax credit, small business expensing, the active financing exception, depreciation for certain race horses, CFC look-through, and two S corporation provisions.

It is important to note that most of these provisions have had bipartisan support in the past. For example, prior to heading the Committee, Sandy Levin and I sponsored the House bill to extend the research and experimentation tax credit.

The witnesses we have before us today will help ignite an important discussion on the merits of these particular extender policies, specifically how to allow Americans to innovate and create jobs and invest.

By supporting permanent policies, Washington can promote certainty for American businesses and generate additional economic growth.

The Committee's work will not end here. This is just the beginning of the conversation that we must have in order to overhaul the Tax Code so it is simpler and fairer for families.

You have heard from me before and you will continue to hear it, we can no longer accept the status quo. Washington needs to wake up to this reality and start offering concrete solutions and debating real policies that strengthen the economy and help hard working taxpayers, and tax reform is one way we can do that.

I look forward to hearing from our witnesses today and to working with members on both sides of the aisle on legislation we can move forward to address the provisions we discuss today.

At this time I will recognize Mr. Levin for an opening statement.

Mr. LEVIN. Thank you, Mr. Chairman. Welcome, all of you. Today's hearing purports to discuss the benefits of permanent tax policy. I think we all agree that permanent tax policy provides certainty for all taxpayers, individuals and businesses, and is preferable to frequent short term extensions.

What is missing from the agenda today is any discussion of how to pay for making tax extenders permanent. The Republican tax reform proposal that was unveiled six weeks ago set forth a business tax reform plan that made these and other temporary provisions permanent, and did not add to the deficit in the first ten years.

In fact, that was pinpointed, even celebrated by some as a hallmark of the proposal. Yet, the concept of fiscal responsibility has now been left behind with today's hearing focused on making seven of the roughly so-called extenders permanent as they were in the Republican tax reform draft, without discussing the provisions that would offset the costs of such action.

We do not agree that adding more than $125 billion to the deficit to make these seven expired tax provisions permanent or provide them with a long term extension is fiscally responsible, and should take priority over discussing the entire package of tax extenders.

Fiscal responsibility cannot simply be a talking point that is set aside when it comes to providing tax incentives for the chosen few.

We believe that tax policy, including the work on tax extenders, should be done on a bipartisan basis. If the Republicans were truly serious about providing certainty to taxpayers, the topic of this hearing would be a full discussion of the expired tax provisions, and not just these seven tax provisions selected by the Republicans to either make permanent or provide a long term extension.

Whether or not all of the provisions should be extended deserves a full hearing. Instead, the Majority is moving ahead without any action on many important provisions.

Among them, the new markets tax credit, that encourages investment in economically distressed areas. The work opportunity tax credit to support hiring certain groups of hiring. The $250 deduction for teacher classroom expenses that is vital for schools, and the itemized deduction for state and local general sales tax, claimed by millions of individual taxpayers, particularly in states without income taxes.

Reforming our Tax Code so that it is fairer for working families encourages investment in the U.S., and raises an adequate level of revenue in the near and long term which is of vital importance.

Whether the policies put forward in the discussion draft will meet those and other goals deserves a thorough public discussion far beyond what is on tap today.

Chairman CAMP. Thank you. I would just note that in 2009 and 2011, there were many extenders that were passed by this Congress and none of them were offset. If we are going to continue to do that repeatedly, I think it is worth at least having this discussion.

Thank you, Mr. Levin.

Now it is my pleasure to welcome our panel of experts, all of whom bring a wealth of experience from a variety of perspectives. Their experience and insights will be very helpful as our Committee considers the benefit of permanent tax policy for America's job creators.

First, I would like to welcome Judith Zelisko, Vice President of Tax, Brunswick Corporation, based in Lake Forest, Illinois.

Second, we will hear from Bob Stallman, President of the American Farm Bureau Federation here in Washington, D.C.

Third, we will hear from James Redpath, Managing and Tax Partner with HLB Tautges Redpath Ltd. in White Bear Lake, Minnesota.

Fourth, we will hear from Josh Odintz, Partner at Baker & McKenzie LLP in Washington, D.C., and finally, we will hear from Thomas Hungerford, Senior Economist and Director of Tax and Budget Policy at the Economic Policy Institute in Washington, D.C.

Again, thank you all for being with us here today. The Committee has received each of your written statements and they will be made part of the formal hearing record.

Each of you will be recognized for five minutes for your oral remarks, and we will begin with you, Ms. Zelisko. You are recognized and you have five minutes. Welcome.

STATEMENT OF MS. JUDITH ZELISKO, VICE PRESIDENT OF TAX, BRUNSWICK CORPORATION

Ms. ZELISKO. Good morning. I am Judith Zelisko, Vice President of Tax for Brunswick Corporation. I thank you for the opportunity to appear before the Committee.

Making products in the United States since 1845, Brunswick Corporation is now the world's largest maker of pleasure boats and recreational marine engines, as well as fitness, bowling and billiards equipment.

Although we have been around for nearly 170 years and are one of the long listed stocks on the New York Stock Exchange, you may know us better by some of the brands we manufacture and sell, such as Sea Ray and Boston Whaler Boats, Mercury and MerCruiser marine engines. Life fitness exercise equipment, and Brunswick bowling and billiards equipment.

We are headquartered in Lake Forest, Illinois with offices and manufacturing facilities throughout the country. Indeed, also in Asia, Canada, Europe, and Latin America.

Brunswick ended the year with approximately 15,700 employees around the world, nearly 80 percent of which are employed in the U.S.

During 2013/2014, it began or completed major expansions of several U.S. manufacturing and engineering facilities, including those in Florida, Indiana, Minnesota, and Wisconsin.

We go toe to toe with some of the best competitors around the world, many quite larger than Brunswick. We had nearly $4 billion in sales in 2013, yet we compete with the likes of Japan's Yamaha, Suzuki, and Honda. Sweden's Volvo Penta, and Beneteau of France.

We compete successfully by designing, developing, and introducing high quality products to the marketplace, products that feature innovative technology and styling. We compete by developing and maintaining low cost manufacturing processes.

We do both effectively. We rely heavily on efficient and impactful research and development, the type of innovative work that is greatly enhanced by the R&D tax credit, which we urge you to reinstate and extend, and indeed, make permanent.

To fail to extend the R&D tax credit would be to remove one of the country's most effective tools to encourage investment by business, which counts for the lion's share of R&D done in the country. The R&D tax credit spurs U.S. based innovation and R&D jobs.

As an example, at Brunswick, we have concentrated the vast majority of our design and technological developments for our more than 14 boat brands sold around the world at Merritt Island, Florida. We have a staff of nearly 200 engineers there. Within the past five years alone, the Brunswick Boat Group has secured nearly 100 patents for a number of new and innovative products.

One is called Quiet Ride, and it reduces overt noise by 25 to 50 percent. Vibration was also greatly decreased, which means a more enjoyable and smoother ride.

The R&D tax credit has been vital to our being able to maintain this drum beat and jobs. We find similar examples at Brunswick's Mercury Marine Division, headquartered in Fond du Lac, Wisconsin, this year celebrating its 75th year in business.

Research and development is a way of life at Mercury Marine, where we have approximately 400 engineers with more than 700 patents granted since 1985.

In 2012, Mercury Marine introduced the world's smallest, lightest and most durable 150 horsepower four stroke marine engine. Its popularity along with a number of other new products spurred Mercury to break ground last year for two expansion projects.

Approximately 90 percent of the project work is being performed by Wisconsin companies. These are American jobs for work that is done in America for the benefit of an American company that has been in business since 1845.

A permanent R&D tax credit provides both predictable cash flow to a company, which is important for a company's budgeting of its capital spending and research and development projects, and also prevents unnecessary fluctuations in the company's effective tax rate.

Let me explain this latter point in a little bit more detail. When the company speaks to the investment community, the company forecasts an annual effective tax rate, which the analysts then plug into their discounted cash flow and earning models.

When the tax credit expired, as it did at the end of 2013, the company has to forecast its effective tax rate without the R&D credit, which increases the company's overall effective tax rate.

If the credit is reinstated in the middle of the year and made effective at the beginning of the year, the cumulative to date impact on the R&D credit on the company's effective tax rate becomes a discrete item in the company's financial statement, in the quarter the law is effective.

Generally, analysts ignore discrete items, such items are considered unusual and non-recurring, resulting in the R&D tax credit benefit on the company's annual effective tax rate being significantly reduced for mid-year and whole year.

All this means is the permanent R&D tax credit provides certainty for the company in its annual budgeting and planning process, and results in a more constant, less fluctuating effective tax rate.

Thus, Brunswick shares the position of the R&D Credit Coalition and NAM that the Tax Code should include both a strengthened and permanent R&D tax credit and a current deduction for R&D expenses.

We also support simplifying and strengthening the credit while increasing the alternative simplified credit to 20 percent.

Therefore, we urge the Committee and Congress to reinstate and extend the R&D tax credit for 2014 as early in the year as possible, and beyond one year, to help bridge the gap to a permanent R&D tax credit.

Thank you so much.

Chairman CAMP. Thank you very much. Ms. Zelisko.

[The prepared statement of Ms. Zelisko follows:]

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Statement
of Brunswick Corporation

For the Hearing Record
of the Committee on Ways and Means
U.S. House of Representatives

Hearing on
"Framework for Evaluating Certain Expiring Tax Provisions"

April 8, 2014

(more)

Statement
of Brunswick Corporation

For the Hearing Record
of the Committee on Ways and Means
U.S. House of Representatives

Hearing on
"Framework for Evaluating Certain Expiring Tax Provisions"

April 8, 2014

Chairman Camp, Ranking Member Levin and members of the Committee, thank you for the opportunity to testify at the April 8, 2014, House Ways and Means Committee hearing, "Framework for Evaluating Certain Expiring Tax Provisions." My name is Judith Zelisko, and I am Vice President-Tax at the Brunswick Corporation in Lake Forest, Illinois.

As a manufacturer that depends on innovation to compete effectively in the global marketplace, Brunswick is an ardent supporter of a strong and permanent R&D incentive. The company has advocated for a permanent incentive as a member both of the R&D Credit Coalition and the National Association of Manufacturers (NAM). Brunswick very much appreciates the opportunity to testify before you today on the benefits of making the R&D credit permanent.

Overview
Brunswick Corporation is a leading global designer, manufacturer and marketer of recreation products including marine engines, boats, fitness equipment and bowling and billiards equipment. Brunswick's engine products include: outboard, sterndrive and inboard engines; trolling motors; propellers; engine control systems; and marine parts and accessories. The Company's boat offerings include: fiberglass pleasure boats; yachts and sport yachts; offshore fishing boats; aluminum fishing boats; inflatable boats; pontoon boats and deck boats. Brunswick's fitness products include both cardiovascular and strength training equipment for the commercial and consumer markets. Brunswick's bowling products include capital equipment, aftermarket and consumer goods. The Company also sells a complete line of billiards tables and other gaming tables and accessories. In addition, the Company owns and operates Brunswick bowling entertainment centers in the United States and Canada.

For the year ended Dec. 31, 2013, the Company reported net sales of $3,887.5 million. Its products are sold throughout North America, Europe, Asia/Pacific, South America, Africa and the Middle East.

Its well-known brands include: Mercury and Mariner outboard engines; Mercury MerCruiser sterndrives and inboard engines; MotorGuide trolling motors; Attwood marine parts and accessories; Land 'N' Sea, Kellogg Marine, and Diversified Marine parts and accessories distributors; Bayliner, Boston Whaler, Brunswick Commercial and Government Products, Crestliner, Cypress Cay, Harris FloteBote, Lowe, Lund, Meridian, Princecraft, Quicksilver, Rayglass, Sea Ray and Uttern boats; Life Fitness and Hammer Strength fitness equipment; Brunswick bowling centers, equipment and consumer products; Brunswick billiards tables and table tennis.

Brunswick ended the year with approximately 15,700 employees around the world, nearly 80 percent of which are employed in the U.S. Further, during 2013/14, it began or completed

(more)

several major expansions of U.S. manufacturing and engineering facilities including those in Florida, Indiana, Minnesota and Wisconsin.

In 2014, Brunswick's focus will be to drive consistent, profitable growth through product leadership resulting from investments in capital projects, **research and development programs** and sales and marketing resources in an effort to generate strong earnings and greater free cash flow, thereby increasing shareholder value.

In the **longer term, Brunswick's strategy remains consistent: to design, develop and introduce high-quality products featuring innovative technology and styling**; to distribute products through a model that benefits its partners - dealers and distributors – and to provide world-class service to its customers; **to develop and maintain low-cost manufacturing processes** and to continually improve productivity and efficiency; to manufacture and distribute products globally with local and regional styling; to continue implementing the Company's capital strategy which includes maintaining a strong balance sheet, opportunistically lowering debt and funding pension obligations; and to attract and retain skilled and knowledgeable people.

Further, the **Company believes that it has a reputation for quality in each of its highly competitive lines of business**. Brunswick competes in its various markets by: **developing and promoting innovative technological advancements**; undertaking effective marketing, advertising and sales efforts; **providing high-quality, innovative products at competitive prices**; utilizing efficient production techniques; developing and strengthening its leading brands; and offering extensive aftermarket services.

Strong competition exists in each of Brunswick's product groups, and the following summarizes **Brunswick's competitive position** in each segment:

Marine Engine Segment: The Company believes it has the largest dollar sales and unit volume of recreational marine engines in the world, along with a leading marine parts and accessories business. **The marine engine market is highly competitive among several major international companies** that comprise the majority of the market, as well as several smaller companies including Chinese manufacturers. **Competitive advantage** in this segment is **a function of product features, technological leadership**, quality, service, pricing, performance and durability, along with effective promotion and distribution.

Boat Segment: The Company believes it has the largest dollar sales and unit volume of pleasure motorboats in the world. There are several major manufacturers of pleasure and offshore fishing boats, along with hundreds of smaller manufacturers. Consequently, this business is both **highly competitive and highly fragmented**. The Company believes it has the broadest range of boat product offerings in the world, with boats ranging in size from 10 to 65 feet. In all of its boat operations, Brunswick **competes on the basis of product features, technology**, quality, brand strength, dealer service, pricing, performance, value, durability and styling, along with effective promotion and distribution.

Fitness Segment: The Company believes it is the world's largest manufacturer of commercial fitness equipment and a leading manufacturer of high-quality consumer fitness equipment. There are a few large manufacturers of fitness equipment and hundreds of small manufacturers. This situation creates a **highly fragmented, competitive landscape**. Many of Brunswick's fitness equipment offerings feature **industry-leading product innovations**, and the Company places **significant emphasis on introducing new fitness equipment to the market**. Competitive focus is also placed on product quality, **technology**, service, pricing, state-of-the-art biomechanics, and effective promotional activities.

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Bowling & Billiards Segment: The Company believes it is a leading worldwide full-line designer, manufacturer and marketer of bowling products and billiards tables. There are other manufacturers of bowling products and **competitive emphasis is placed on product innovation**, quality, service, marketing activities and pricing. The **billiards industry continues to experience competitive pressure from low-cost billiards manufacturers** outside the United States. The bowling retail market, in which the Company's bowling centers compete, is highly fragmented. Brunswick is one of the two largest bowling center operators in the North American market, with Brunswick's bowling retail business emphasizing the bowling and entertainment experience, maintaining quality facilities and providing excellent guest service.

The Company strives to improve its competitive position in all of its segments by continuously investing in research and development to drive innovation in its products and manufacturing technologies. Brunswick's research and development investments support the introduction of new products and enhancements to existing products.

Research and development expenses as a percentage of net sales were 3.1 percent, 2.8 percent and 2.6 percent in 2013, 2012 and 2011, respectively. In 2014, Brunswick forecasts spending about 3.0 percent of its net sales on R&D. Research and development expenses by segment are shown below:

(in millions)

	2013	**2012**	**2011**
Marine Engine	**$70.6**	$61.5	$56.7
Boat	**22.4**	20.2	17.5
Fitness	**21.7**	19.2	17.6
Bowling & Billiards	**4.8**	4.4	4.1
Total	**$119.5**	$105.3	$95.9

R&D Incentives: the Global Outlook
Based on Brunswick's experience—and similar experiences by thousands of other manufacturers—it is critical that any tax reform plan recognize the important role of research and technology investment in the growth of U.S. jobs and innovation. The United States has been a leader in promoting R&D for over 30 years, but **more and more countries have provided greater certainty for businesses in recent years by enacting permanent R&D incentives**. **We strongly support NAM's goal to ensure that manufacturers in the United States are the world's leading innovators. The tax treatment of R&D, including the current deduction for R&D expenses and a strengthened and permanent R&D incentive, are critical to achieving this goal.**

In recent years, more and more countries have realized the importance of R&D and now provide more robust and often permanent R&D incentives. Indeed, **the United States' predominance in science and technology (S&T) eroded further during the last decade**, as several Asian nations--particularly China and South Korea--rapidly increased their innovation capacities. According to a recent report by the National Science Board (NSB), the **major Asian economies, taken together, now perform a larger share of global R&D than the U.S.**, and China performs nearly as much of the world's high-tech manufacturing as the U.S.

Evidence in the NSB's biennial report, *Science and Engineering Indicators*, which provides the most comprehensive information and analysis on the U.S.' position in S&T, makes it increasingly clear that the **U.S., Japan, and Europe no longer monopolize the global R&D arena**.

(more)

Since 2001, the share of the world's R&D performed in the U.S. and Europe has decreased, respectively, from 37 percent to 30 percent and from 26 percent to 22 percent.

In this same time period, the share of worldwide R&D performed by Asian countries grew from 25 percent to 34 percent. China led the Asian expansion, with its global share growing from just 4 percent to 15 percent during this period.

"The first decade of the 21st century continues a dramatic shift in the global scientific landscape," said NSB Chairman Dan Arvizu, who is also the director and chief executive of the National Renewable Energy Laboratory. "**Emerging economies understand the role science and innovation play in the global marketplace** and in economic competitiveness and have increasingly placed a priority on building their capacity in science and technology."

Recognition on the part of national leaders that S&T **innovation contributes to national competitiveness, improves living standards, and furthers social welfare** has driven the rapid growth in R&D in many countries. China and South Korea have catalyzed their domestic R&D by making significant investments in the S&T research enterprise and enhancing S&T training at universities. China tripled its number of researchers between 1995 and 2008, whereas South Korea doubled its number between 1995 and 2006. And there are indications that students from these nations may be finding more opportunities for advanced education in science and employment in their home countries.

In addition to investing in their research and teaching enterprises, these countries have focused their attention on crucial sectors of the global economy, including high-tech manufacturing. **The size of China's high-tech manufacturing industry increased nearly six-fold between 2003 and 2012, raising China's global share of high-tech manufacturing from eight percent to 24 percent during that decade, closing in on the U.S. share of 27 percent.**

Parent companies of U.S. multinational corporations (MNCs) perform over 80 percent of their worldwide R&D in the U.S. However, U.S. MNCs continue to increase their R&D investments in countries such as Brazil, China, and India, both reflecting and further contributing to a more globally-distributed R&D landscape. Majority-owned foreign affiliates of U.S. MNCs, for example, tripled their R&D investments in India and more than doubled them in Brazil between 2007 and 2010, nearly reaching the expenditure levels of the U.S. affiliates in China.

"The United States remains the world's leader in science and technology," said Ray Bowen, NSB member and chairman of its Committee on Science and Engineering Indicators, which oversees development of the report. "**But there are numerous indicators showing how rapidly the world is changing and how other nations are challenging our predominance.** As other countries focus on increasing their innovation capacities, **we can ill afford to stand still. We now face a competitive environment undreamed of just a generation ago,"** said Bowen, visiting distinguished professor, Rice University and president emeritus of Texas A&M University.

R&D Credit: Promoting Innovation, Competitiveness and Jobs
The R&D tax credit spurs U.S.-based innovation and R&D jobs. By design, only U.S.-based R&D may qualify for the credit and 70 percent of the credit claims are for R&D wages. **Since it was first enacted in 1981, the credit has incentivized companies to increase spending on research activities and hire more R&D workers.**

The credit has been renewed 15 times since it was first enacted into law in 1981 and it is critical that Congress act as soon as possible to renew this important innovation incentive, retroactive to January 1, 2014.

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When the credit expired, the cost of performing R&D in the United States immediately rose and effectively increased taxes on companies that use the credit. Furthermore, this **lapsed credit is exacerbating the trend of new R&D investment dollars flowing from the United States to countries offering more reliable and more generous research incentives**.

Thus, **renewing the credit will eliminate the tax increase on companies that perform U.S. R&D and make the United States a more attractive place for both domestic and foreign investment in research activities.**

Moving forward, Brunswick very much appreciates current efforts by Chairman Camp and the Committee to advance pro-growth tax reforms which include a permanent R&D incentive. At the same time, we do have concerns with the R&D provisions included in the discussion draft of the "Tax Reform Act of 2014" released by Chairman Camp on February 26 that include modifications to the R&D credit and require R&D expenditures to be amortized over 5 years.

Maintaining the current tax treatment of R&D expenses along with a strong and permanent R&D incentive will allow the United States to remain competitive in the global race for R&D investment dollars, particularly as manufacturers are courted by other countries with more generous and more stable R&D tax incentives and lower corporate tax rates.

Under current law, a taxpayer can deduct research expenses in the year incurred. In addition, until December 31, 2013, the tax code provided an R&D tax credit for up to 20 percent of qualified research costs over a base amount (or a 14 percent Alternative Simplified Credit ("ASC")); 20 percent of basic research payments; and 20 percent for energy research. If a taxpayer elected to use the R&D tax credit, their deduction for research expenses was reduced by the amount of the R&D credit.

Brunswick shares the position of the R&D Credit Coalition and the NAM that the tax code should include both a strengthened and permanent R&D tax credit and a current deduction for R&D expenses. We also support simplifying and strengthening the credit by increasing the ASC to 20 percent and removing the regular credit option.

Consequently, we are concerned that while the discussion draft would make the R&D tax credit permanent, the credit would be modified in several significant ways. In particular, the credit would be limited to a 15 percent ASC while the traditional 20 percent credit and energy credit would be repealed. The basic research credit would continue, but at a 15 percent credit rate. In addition, computer software and supplies would no longer fall under the definition of "qualified research expenses."

Impact on Brunswick
As previously noted, R&D is extremely important to Brunswick Corporation and its various divisions. R&D is the life blood of new and improved products and features, technological and scientific advancements, unsurpassed product quality and efficient manufacturing operations, among other areas. Here is a brief overview of several key segments.

Engine Segment
The Marine Engine segment is comprised of the Mercury Marine Group, including the marine parts and accessories businesses. Founded in 1939 in Cedarburg, Wisconsin, Mercury Marine was acquired by Brunswick Corporation in 1961. It is the largest division of Brunswick Corporation, with 80 facilities in 22 countries, and more than 5,300 employees worldwide. It is

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the world's largest developer and manufacturer of a broad range of marine propulsion systems for recreational and commercial applications. It has a $2 billion global business (37% of sales are outside the U.S.).

In the U.S., many of Mercury's facilities are located in Wisconsin, including its world headquarters. Specifically, there are four main facilities in "The Dairy State," - Fond du Lac, Oshkosh, Brookfield and Taycheedah.

In all, Mercury has 3,100 employees in Wisconsin in 2014, an employee count that is up 94% (from 1,600) since 2009.

In Fond du Lac, Mercury also conducts the vast majority of its R&D efforts, and is proud to claim several world-class advanced capabilities, including product development, assembly, casting and machining. Here are some supporting factoids:

- **Mercury has approximately 400 engineers** that work in R&D on all types of products and processes for the Company. They have been quite prolific, having had **more than 700 patents granted since 1985**, and **1,024 total patents when you factor in the addition of Michigan-based Attwood in 2003**.
- **In 2013, Mercury Marine opened a significant addition to its R&D center in Wisconsin** providing the Company with additional dynamometer and test capabilities. It has also expanded its test capabilities to go along with new product lines.
- In 2013, Mercury broke ground for two expansion projects that will provide increased capacity and capabilities, **adding approximately 38,000 square feet to Mercury's 1.5 million square feet of manufacturing space in Fond du Lac**. The total cost for both projects is approximately $20 million. The projects consist of a 20,000-square-foot addition to Mercury's Plant 15 machining center to house next-generation horizontal machining equipment, and 18,000 additional square feet in Mercury's Plant 17 casting facility to house high-pressure die-cast machines. Approximately 90 percent of the project work is being performed by companies in the Fond du Lac area or Wisconsin.

Mercury's significant contribution to Wisconsin and local economies include the following:
- $234MM in annual wages and benefits in 2013
- $250MM paid to Wisconsin-based contractors and suppliers in 2013

Mercury's continued investment in the business:
- $548MM in capital and research & development in new products (2007 - 2013)

Mercury Marine, like all Brunswick divisions, believes that the R&D credit is very helpful in attaining effective results from its R&D efforts. In turn, the products, features and processes that emerge help Brunswick to compete and win in a new and different marketplace by:
- Delivering strong and sustainable revenue and earnings growth;
- Innovating effective solutions to our customers' needs faster and more efficiently than our competitors;
- Differentiating Mercury Marine as the most capable and reliable supplier to the marine industry; and
- Maintaining the highest standards of quality in our products, services, and processes.

Mercury Marine is currently introducing a new significant product every six weeks. Some of the new products and feature advancements that have been spawned by Mercury Marine's R&D efforts include the following:

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2013 - Joystick Piloting for Outboards
Mercury launched Joystick Piloting for Outboards, the first joystick piloting system for large outboard powered boats.

2012 - 150 hp FourStroke
Mercury Marine introduces the world's smallest, lightest and most durable 150 hp FourStroke marine engine. It's the first four-stroke engine to combine traditional two-stroke benefits – low weight, superb power, fuel economy, lower emissions and easy maintenance – with the advantages of advanced technologies. It earned the 2011 IBEX Innovation Award.

2011 - Attwood Marine Fuel Systems
Attwood Marine offers a complete line of fuel system products that exceed new EPA and CARB evaporative emission requirements for Integrated and Portable Fuel applications. Benefits include a reduction of hydrocarbons in the atmosphere and reduced fuel evaporation, keeping fuel where it belongs - in the tank. Attwood provides total system solutions to ensure proper engine operation, performance and safety.

2010 - ECO-Screen
Mercury's ECO-Screen constantly monitors engine rpm, boat speed, fuel consumption and engine trim and automatically calculates and guides boaters to optimal fuel economy settings. Eco-Screen was selected by West Marine as Boating Industry's 2010 Green Product of the Year.

2009 - 8.2L Sterndrive Engine
The Mercury MerCruiser 8.2-liter sterndrive, the first big block to be introduced in the industry in a decade, produces more power and better mid-range acceleration, while catalyst technology reduces total emissions by 70 percent and improves fuel economy.

Celebrating its 75th year in business in 2014, Mercury Marine clearly understands the importance of R&D to its position and performance in the global marine marketplace, and believes its efforts to compete would be harmed if the R&D tax credit was not extended.

Boat Segment
Brunswick Corporation's Boat segment is comprised of the **Brunswick Boat Group**, and includes **14 boat brands**. Those brands include Bayliner, Boston Whaler, Brunswick Commercial and Government Products, Crestliner, Cypress Cay, Harris FloteBote, Lowe, Lund, Meridian, Princecraft, Quicksilver, Rayglass, Sea Ray and Uttern boats.

Brunswick has strong brands with leading market share, which it contributes, in part, to its ability to conduct **effective R&D to develop new products and features** that attract boaters (including families, fishermen, and water sports enthusiasts) and keep them on the water. It has a broad product portfolio known for quality and value, which it offers through an extensive and strong global dealer network.

The Brunswick Boat Group has more than **3,700 employees worldwide**, with the majority in the U.S. It is headquartered in **Knoxville, Tennessee**, with U.S. manufacturing locations in the following:

- Edgewater, Florida
- Palm Coast, Florida
- Fort Wayne, Indiana
- New York Mills, Minnesota
- Lebanon, Missouri, and

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- Vonore, Tennessee.

The vast majority of the Boat Group's R&D effort is conducted at its **Product Development & Engineering Center in Merritt Island, Florida, which is currently being moved to a new, much larger facility also in Florida**. There, the Boat Group employs **more than 200 engineers** and other professionals that design new craft, develop new product features and are responsible for **nearly 100 patents** since 1986.

Over the past two model years, the Boat Group has launched **multiple new models** into its broad brand line-up. **These models accounted for nearly 45 percent of 2014 sales to date.** The Boat Group has also introduced such innovative features as the following:

Quiet Ride
Brunswick's Sea Ray brand recently introduced a new and innovative technology proven to **significantly reduce sound and vibration** aboard the models on which it is offered. Called Quiet Ride, the proprietary combination of acoustical forensics, engineering and sound-attenuation materials is **the result of more than four years of intense research and development**. It is also a winner of the marine industry's prestigious IBEX award.

Quiet Ride is a method of NVH (noise, vibration, harshness) reduction using an exclusive engineering and applications process designed to reduce onboard sound and vibration and improve the ride of Sea Ray boats. It is not bolt-on equipment or an afterthought. Rather, it is **a fundamental change in the build process to reduce sound at the source**.

In connection with achieving its goal of creating a luxury boating experience with less noise and vibration, Sea Ray collaborated with Omni Products on the application of a **patented Tuned Transom® that "short circuits" vibrations created by the engine and outdrive**. This is an exclusive feature that no other boat manufacturer can offer.

Additionally, Sea Ray scrutinized the laminates, joints, components and fasteners it uses in an effort to reduce NVH. As a result, **vibration-deadening materials are laminated into the hull** and **deck of select models to reduce structural tremors and noise**. Bulkheads and acoustical insulation in the engine compartment and key pathways trap and absorb sound. Precise robotic cutting and drilling, which **Sea Ray's advanced production technology** allows it to execute during construction, results in extremely accurate angles and proportions for reduced vibration. Hatches, storage areas and access holes are sealed to diminish noise in the cockpit area. Gaskets, bumpers, grommets and compression latches are used to reduce squeaks and rattles.

The results of **Quiet Ride** are significant. Measuring decibels (dB) in 14 specific areas aboard a Quiet Ride-equipped 250 SLX, Sea Ray recorded an average 6.8 dB reduction in sound throughout the boat. This **represents an overall noise reduction of 25 to 50 percent**. In certain areas of the cockpit, Quiet Ride reduced noise by more than 10 dB. To put these measurements in perspective, **a decrease of 10 dB equals a sound being twice as low**. Vibration was also greatly decreased, which means a more enjoyable and smoother ride.

Dynamic Running Surface (DRS)
Sea Ray also recently introduced a new and **innovative hull technology that optimizes performance and wake shape** aboard the models on which it is offered. The company's new Dynamic Running Surface is currently available as an option on the new Sea Ray 230 & 350 SLX®, standard on the 370 Venture and will be expanded to other models in the near future.

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DRS uses large, triangular trim tabs mounted underneath the hull to **automatically keep the boat level in changing speed and sea conditions**. Controlled by the Auto Glide Boat Control System from Lenco Marine, this technology has been shown to 1) improve acceleration and reduce bow rise, 2) keep the boat at an optimal trim and running list angle and 3) change the effective transom deadrise to significantly impact wake height and shape.

Basically, DRS is a patented system that **automatically keeps a boat running at a proper trim and list angle** from the time it leaves the dock until the time it comes back. Since the tabs are triangular and mounted in a pocket, they have the added effect of changing the transom deadrise and positively effecting wake height and shape without adding additional turbulence from the exposed edges of a rectangular tab.

According to tests performed by Sea Ray on a 230 SLX with six-person load, **DRS improved acceleration to 20 mph by 13 percent and acceleration to 30 mph by 8 percent**. In addition, DRS reduced bow rise by 30 percent. **These results are significant, especially when you consider fuel efficiency and economy.**

Another benefit notable to the test crew was the **roll control function**. Even with a large load on one side, the system automatically brought the vessel to an even keel. DRS also kept the 230 SLX on plane while going through hard turns (which typically cause the vessel to slow). **This allowed the boat to execute more comfortable turns while maintaining speed**. The minimum speed at which the 230 SLX stayed on plane was also improved.

Concealed Outboard Propulsion
Concealed Outboard Propulsion offers the flexibility, efficiency, trimability and increased space of outboards, while maintaining the clean lines and useable transom of sterndrives and inboards. The rewards are quieter operation, better shallow-water capabilities, lower maintenance costs and remarkable onboard space. Concealed Outboard Propulsion is a hallmark of the 370 Venture, an innovative and accommodating express cruiser named Boating magazine's **2012 Boat of the Year** and earned the **NMMA Innovation Award**. With Venture, propulsion is no longer an "either-or" proposition.

Sea Ray's Proprietary system yields a boat with maximized cockpit and interior space. Due to this unique design, the 370 Venture has a large single level cockpit to maximize day boats and a full beam aft stateroom in the cabin. Customers will enjoy quieter operation, reduced maintenance costs. Additionally, trimmable performance provides remarkable shallow-water access and improved fouling protection

OmniView
Brunswick's Sea Ray brand recently introduced a new and innovative technology that will allow the captain of a yacht to have a **better view around the boat during close quarters maneuvering**. Named OmniView, a series of miniature cameras linked through a computer processor knits together multiple images to create one seamless view of the stern, port and starboard sides of the vessel. The system was developed in partnership with ASL 360 and leverages proven technology from on road vehicles.

The OmniView system was introduced during the 2014 Miami International boat show and is initially available on the 650 and 510 Fly models. Sea Ray has plans to launch this new technology on several other models in the next year.

Hydraulic Swim Steps
Brunswick's Sea Ray brand is **making it easier and safer to access and enjoy the water** via an hydraulically actuated swim step that deploys from below the integrated swim platform. Sea

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Ray's proprietary design utilizes heavy-duty stainless steel mechanisms coupled with Mercury Marine hydraulic systems to deploy either a single or double step system.

Inboard Joy Stick Docking System
Brunswick's Sea Ray brand has recently introduced a new Joystick docking system for shaft driven inboard engine powered vessels. Partnering with key suppliers, this control system **lets boaters pilot their craft with a joystick control**, like they would with Pod drive systems but at a lower price point. The system links together the propulsion engines and Vetus extended run time bow and/ or stern thrusters to seamlessly control the vessel during tight quarters maneuvering and docking. With it a boat can go in whatever direction the pilot wants, including tight circles and even sideways like parallel parking a car. No more worries about embarrassing yourself while docking.

M Hull Design
Brunswick's Bayliner brand has introduced a new family of **affordable boats** called Element, which retail for about $12,000 complete with engine and trailer. The most distinctive aspect of Element's design is its signature M hull. Bayliner's engineering team sought to create a running surface that delivered exceptional stability and superior passenger comfort while at rest and under way. The team ultimately moved away from a traditional V hull in favor of an innovative (patent pending) M-hull design that maintains exceptionally level flotation even when passengers step on gunnels while boarding. Much like a car or tri-tube pontoon boat, Element takes turns like it's riding on rails, with very little of the pitching and yaw commonly associated with V-hulled craft.

Fitness Segment
Brunswick's Fitness segment is comprised of its Life Fitness division (Life Fitness), which designs, manufactures and markets a full line of reliable, high-quality cardiovascular fitness equipment (including treadmills, total body cross-trainers, stair climbers and stationary exercise bicycles) and strength-training equipment under the Life Fitness and Hammer Strength brands.

Many of Brunswick's fitness equipment offerings feature **industry-leading product innovations**, and the **Company places significant emphasis on introducing new fitness equipment to the market**. Competitive focus is also placed on product quality, **technology**, service, pricing, state-of-the-art biomechanics, and effective promotional activities. **Since 1997, Life Fitness has earned 100 patents.**

As is the case with Brunswick's marine businesses, it is Life Fitness' ability to innovate and produce a **steady stream of new products** that resonate and excite the fitness equipment marketplace, both commercial and for the home, that have played a key role in Life Fitness' success. For example, the extension of the Synrgy360 line, the popular multi-purpose training system, offered more scalable solutions for both large and small facilities. Life Fitness' Track+ Console, introduced in 2013, is compatible with devices using Apple or Android operating systems, and allows users to customize and track their workouts using popular fitness apps.

As the **technology frontrunner** in the fitness equipment industry, Life Fitness' goal is to enhance the workout experience by giving exercisers a more customizable, enjoyable experience by incorporating the use of personal mobile devices with its machines.

Here are some other new products that are the direct result of Life Fitness' recent R&D efforts. These include:

LFopen: With its recent release of an open API (Application Programming Interface), Life Fitness became the first fitness equipment maker to open its product platform. This new access

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for developers, called LFopen, enables third-parties, such as fitness facilities, to create unique, new applications that work directly with Life Fitness equipment. The Life Fitness open platform products enable developers and our customers to create fitness solutions specific to their exercisers and will allow for endless possibilities. Throughout the year, a number of providers have developed apps to work with Life Fitness equipment.

LFconnect: This is a complementary cloud-based computing resource that enables seamless exerciser workout - and product-personalization -- as well as product display customization for facilities and asset management capabilities to build a stronger facility brand experience. In addition to allowing exercisers to track their workout progress and choose equipment settings, LFconnect helps facilities track equipment activity. In 2013, LFconnect was made compatible with the new Elevation™ Series Discover™ Tablet Consoles. LFconnect links the equipment, end-user and facility, syncing the exercise equipment with multiple devices including personal computers, smartphones and tablets.

Synrgy360 Phase 2: Synrgy360, the popular multi-purpose training system, became more accessible in 2013 with three new customizable, modular configurations. The expansion to the Synrgy360 line offered more scalable solutions for facilities pursuing Synrgy training, a unique and connected fitness experience. To accommodate the demand for equipment that would suit both large and small facilities, Life Fitness developed new configurations to support a range of training needs. Synrgy360 serves as a hub for performing dynamic, state-of-the-art, total-body exercises in one efficient space, accomplishing a wide variety of training goals through one system.

The Benefit of a Permanent Tax Credit

A permanent R&D tax credit provides both predictable cash flow to the Company, which is important for the Company's budgeting process for its capital spending and research and development projects, and also prevents unnecessary fluctuations in the Company's effective tax rate. Let me explain this latter point, the impact on the Company's effective tax rate, in more detail.

When the Company speaks to the analyst community, the Company forecasts an annual effective tax rate which the analysts then plug into their discounted cash flow and earnings models. When the R&D tax credit expires, as it did at the end of 2013, the Company has to forecast its effective tax rate for 2014 without the R&D tax credit, which increases the Company's overall effective tax rate. A higher effective tax rate on the same level of earnings translates to lower EPS, i.e. earnings per share. Lower EPS times the same multiple the marketplace gives to the Company can mean a lower share price.

If the R&D tax credit is reinstated in the middle of the year, and made effective as of the beginning of the year, say January 1st, the cumulative to date impact of the R&D tax credit on the Company's effective tax rate becomes a "discrete" item in the Company's financial statement in the quarter the law is effective. The Company can factor in the R&D tax credit in its effective tax rate for the remaining part of the year, but only for the period subsequent to the effective date of the change.

Generally, analysts ignore discrete items since such items are considered unusual and non-recurring, resulting in the R&D tax credit's benefit on the Company's annual effective tax rate being significantly reduced for a mid-year enactment, with only a small benefit remaining for the Company's effective tax rate for the remaining part of the year.

Reinstatement of the R&D tax credit during the year retroactive to January 1, 2014 does increase the Company's cash flow, because it results in a reduced tax liability for the Company

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for the whole year. An R&D tax credit reinstated during the year has less of an impact on the Company's effective tax rate, however, from the analysts' perspective given how analysts view discrete items.

All of this means that a permanent R&D tax credit provides certainty for the Company in its annual budgeting and planning process and results in a more constant, less fluctuating, effective tax rate.

Thus, Brunswick shares the position of the R&D Credit Coalition and the NAM that the tax code should include both a strengthened and permanent R&D tax credit and a current deduction for R&D expenses.

We also support simplifying and strengthening the credit by increasing the ASC to 20 percent, removing the regular credit option and maintaining the current definition of "qualified research expenses," which includes computer software and supplies.

Absent permanency, an extension of the R&D tax credit as early in the year as possible and beyond one year will help to bridge the gap to a permanent R&D tax credit.

Therefore, we urge the Committee and the Congress to reinstate and extend the R&D credit for 2014 and beyond one year to help bridge the gap to a permanent R&D credit. Thank you, for this opportunity.

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Supplemental Sheet

Statement
of Brunswick Corporation

For the Hearing Record
of the Committee on Ways and Means
U.S. House of Representatives

Hearing on
"Framework for Evaluating Certain Expiring Tax Provisions"

April 8, 2014

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Chairman CAMP. Mr. Stallman, you are recognized.

STATEMENT OF MR. BOB STALLMAN, PRESIDENT, AMERICAN FARM BUREAU FEDERATION

Mr. STALLMAN. Chairman Camp, Ranking Member Levin, Members of the Committee, my name is Bob Stallman and I am a cattle and rice producer from Columbus, Texas, and serve as the President of the American Farm Bureau Federation, representing farmers and ranchers from all across America.

Thank you for the opportunity to speak today about the importance of Section 179, Small Business Expensing, and more broadly about the merits of a stable Tax Code.

I also thank you for your leadership on tax reform. Until our Tax Code is rewritten in a simple and transparent way, it is appropriate to provide taxpayer certainty by reinstating important provisions that expired at the end of last year.

While my oral statement is about Section 179, Small Business Expensing, the Farm Bureau also supports the extension of other expired provisions, as outlined in my filed statement.

Section 179, Small Business Expensing, allows a taxpayer to deduct all or part of the cost of new or used business property in the year purchased rather than depreciating the cost over multiple years.

Qualifying property must be used in an active trader business and deduction and investment limits apply.

Farming and ranching is a capital intensive business. In order to remain competitive and profitable, farm equipment, buildings, and storage facilities must be continually upgraded and replaced. This allows agricultural producers to reduce maintenance costs, take advantage of labor saving improvements, become more energy efficient, and adopt technology that is environmentally friendly.

Smart business planning anticipates and budgets for such annual capital improvements. However, this proves challenging for farmers and ranchers because they operate on tight and unpredictable profit margins.

The immediate expensing provided by Section 179 allows farmers and ranchers to cash flow purchases that otherwise might be delayed, or that would require them to take on more debt absent that provision.

The pressure to buy capital goods at a predictable net cost is greater than ever. Newer equipment is both more energy efficient and often gentler on the environment.

We all have an interest in seeing such improvements move from the show room to farmers' fields. However, the volatile nature of farm profitability can make such investments challenging. Uncontrollable weather impacts crop yields, and unpredictable markets set the price of goods sold.

These forces can create significant fluctuations in farm income and profitability. It is not uncommon for an agricultural producer to have a very profitable year followed by multiple years of negative income.

When farmers and ranchers have good years, Section 179, Small Business Expensing, helps them to maximize available cash so they can invest more for equipment replacement.

This is why it is so important that the maximum deduction be maintained, a deduction of at least $500,000 with a phase out threshold set at $2 million.

A $500,000 limit is more modest than many might think, just as the scale of modern farming is so much larger than it once was, so too is the machinery needed to run that farm. Farmers, for instance, can easily spend more than $200,000 for a tractor or $350,000 for a combine, plus another $100,000 for a header to go on the combine to cut the crop.

Because of the sporadic profitability of most farms, investment is equally uneven. A farmer might well bunch several years of normal investment into one year if conditions warrant and sufficient cash is available. This averages out against the poor years when cash flow is not available to invest.

This reality allows farmers to make their businesses more efficient and sustainable for the long term, if the necessary tax policies are in place.

Farmers' upgrades and improvements made using Section 179 deductions help to provide some input cost certainty during periods of unpredictable profitability.

In conclusion, Section 179, Small Business Expensing, provides many benefits to small businesses, including farming and ranching. Those benefits are erased when the deduction lapses even for short periods of time.

Even as we meet here today, farmers and ranchers are holding off decisions to make capital investments given the uncertainty about renewing the expensing provisions of Section 179 that were available in 2013. There is not a lot of incentive to make these purchases if the maximum amount of $25,000 can be expensed under current law.

The Farm Bureau believes that Congress should end its practice of extending important tax provisions for just one or two years at a time. Farm and ranch business planning, which is already difficult, becomes nearly impossible with an ever changing Tax Code.

Tax uncertainty means farmers cannot truly make long term plans as long as the continuation of this provision and others remains in question.

For all these reasons, the Farm Bureau supports a permanent Section 179 small business deduction with a maximum deduction of at least $500,000, reduced dollar for dollar, when investments exceed $2 million.

Thank you for allowing us to present our views. I will be glad to take questions later from the Committee.

Chairman CAMP. Thank you, Mr. Stallman.

[The prepared statement of Mr. Stallman follows:]

Statement of the American Farm Bureau Federation

TO THE HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS

REGARDING TAX REFORM AND THE BENEFITS OF PERMANENT TAX POLICY FOR AMERICA'S JOB CREATORS

Presented by Bob Stallman
President

April 8, 2014

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AFBF is the unified national voice of agriculture working through our grassroots organizations to enhance and strengthen the lives of rural Americans and to build strong, prosperous agricultural communities.

Farm Bureau represents more than 6,000,000 member families across the nation and Puerto Rico with organizations in approximately 2,500 counties.

Farm Bureau is an independent, non-governmental, voluntary organization of families united for the purpose of analyzing their problems and formulating action to achieve educational improvement, economic opportunity and social advancement and, thereby, to promote the national well-being.

Farm Bureau is local, county, state, national and international in its scope and influence and works with both major political parties to achieve the policy objectives outlined by its members.

Farm Bureau is people in action. Its activities are based on policies decided by voting delegates at the county, state and national levels. The American Farm Bureau Federation policies are decided each year by voting delegates at an annual meeting in January.

The American Farm Bureau Federation believes that tax policy should encourage private initiative, domestic economic growth, equity and simplicity. We commend the Ways and Means Committee for holding this hearing to hear firsthand how permanent tax policy can promote certainty for American businesses and generate additional economic growth. While the focus of this testimony is Section 179 small business expensing, we support the extension of other tax provisions. A fact sheet with a brief overview of these provisions is attached.

One of the major goals of tax reform should be to provide stable, predictable rules for businesses so that they can grow and create jobs. Farm Bureau believes that Congress should end its practice of extending important business tax provisions for one or two years at a time. This practice makes it very difficult for farmers and ranchers to plan and adds immense confusion and complexity. Long-standing tax provisions, like Section 179 small business expensing which help farm and ranch businesses cash flow, should be made permanent at the 2013 level.

Section 179 allows a taxpayer to deduct all or part of the cost of new or used business property rather than depreciating the cost over a longer period of time. Qualifying property must be used in an active trade or business which in the case of agriculture means by a taxpayer who cultivates, operates or manages a farm for gain or profit or a taxpayer who receives a rental payment based on farm production. Farmers can use Section 179 for single-purpose livestock or horticultural structures, petroleum storage facilities, property contained in or attached to a building such as milk tanks, automatic feeders, or barn cleaners; facilities used for storage of bulk commodities like grain bins; livestock including horses, cattle, hogs, sheep, goats and fur-bearing animals and for machinery and equipment. For 2013, the maximum deduction was temporarily $500,000 of purchased property reduced dollar for dollar when investments exceeded $2 million.

The list of Section 179 eligible purchases illustrates that farming and ranching is a capital intensive business. In order to remain profitable and be competitive, farm equipment, buildings, and storage facilities must be continually upgraded and replaced. Upgraded equipment and facilities allow farmers and ranchers to reduce maintenance costs, take advantage of labor-saving advances, become more energy efficient and adopt technology that is environmentally friendly. Smart business planning that anticipates and budgets for annual capital improvement proves challenging for farmers and ranchers because they operate on tight profit margins. While farm and ranch expenses continue from year to year with some variation, this is not true for farm income. Whether caused by unpredictable weather that affects crop yields or uncontrollable markets that set the price of goods sold, it is not uncommon for farmers and ranchers to have years with little or no taxable income. The immediate expensing provided by Section 179 allows farmers and ranchers to cash flow purchases that otherwise would be impossible or that would require them to incur debt expense when purchases cannot be delayed.

Uncontrollable weather and unpredictable markets create huge fluctuations in farm profitability. When farmers and ranchers have good years, Section 179 helps them to maximize their income to invest for a higher level of equipment replacement. This averages out against the poor years when cash flow isn't available to invest, making their businesses more efficient and sustainable in the long term. This has occurred over the past three years when farmers benefited from relatively high commodity prices and many farm businesses had the receipts to make a major

purchase, for example, a combine for $350,000 or a tractor for $200,000. But during this same time period, crop input costs and machinery costs also increased. Now crop prices have dropped significantly while the costs of production and machinery remains relatively high with profit margins predicted to be much tighter in the future. The upgrades and improvements that farmers were able to make using $500,000 Section 179 deduction will help provide some input cost certainty during a period of unpredictable profitability.

Finally, under a progressive tax rate system, farmers and ranchers with incomes that fluctuate widely from year to year will pay more total taxes over a period of time than taxpayers with more stable incomes. The use of management tools like Section 179, which allows farmers and ranchers to target an optimum level of taxable income, not only allows agriculture producers to manage their tax liability but inserts fairness into the tax code.

In conclusion, Section 179 small business expensing provides many benefits to small businesses including farming and ranching but they are erased when Congress allows the expanded deduction to lapse even for short periods for time. Farm and ranch business planning, which is already difficult, becomes nearly impossible with a temporary and uncertain tax code. For these reasons, Farm Bureaus supports a permanent Section 179 small business deduction with a maximum deduction of at least $500,000 reduced dollar for dollar when investments exceed $2 million.

TAXES – EXPIRING TAX PROVISIONS SUPPORTED BY AFBF

Background:

The start of 2014 brought with it the expiration of many temporary tax provisions important to farmers and ranchers. Prompt congressional action is needed to reinstate and make permanent these policies that improve the economic viability and stability of food, fiber and fuel production.

Issues:

Section 179 Small Business Expensing

- The maximum amount that a small business can immediately expense when purchasing business assets instead of depreciating them over time is $25,000. Last year the maximum amount was $500,000 reduced dollar for dollar when expenditures exceed $2 million.

Bonus Depreciation

- An additional 50 percent bonus depreciation for the purchase of new capital assets, including agricultural equipment.

Cellulosic Biofuel Producer Tax Credit

- The $1.01 per gallon income tax credit for cellulosic biofuel sold for fuel plus the additional first-year 50 percent bonus depreciation for cellulosic biofuel production facilities.

Biodiesel

- The Biodiesel and Renewable Diesel $1.00 per gallon Tax Credit;
- The 10 cents per gallon Small Agri-Biodiesel Producer Credit; and
- The $1.00 per gallon Tax Credit for Diesel Fuel Created from Biomass.

Alternative Fuel Refueling Property

- The 30 percent investment tax credit for alternative vehicle refueling property.

Other

- The Production Tax Credit, which provides an income tax credit of 2.2 cents per kilowatt-hour for the production of electricity using wind energy;
- The Community and Distributed Wind Investment Tax Credit, which gives the option to take an investment tax credit in lieu of the Production Tax Credit;
- Fair market test for Unrelated Business Income Tax;
- Provision Encouraging Donations of Conservations Easements;
- Fifty Percent Railroad Track Maintenance Credit for Short Line Railroads;
- Enhanced Deduction for Donated Food;
- Deduction for state and local sales tax; and
- Deduction for tuition and fees for higher education will all expire at the end of 2013.

Chairman CAMP. Mr. Redpath, you are recognized for five minutes.

STATEMENT OF MR. JIM REDPATH, MANAGING AND TAX PARTNER, HLB TAUTGES REDPATH, LTD.

Mr. REDPATH. Chairman Camp, Ranking Member Levin, and other Members of the Committee, thank you for the opportunity to testify today.

My name is Jim Redpath. I am the Managing Partner and a Tax Partner at HLB Tautges Redpath, a 125 person accounting firm serving clients in the Midwest.

I have been a tax accountant for over 30 years, working primarily with closely held businesses, many of which are S corporations.

Let me begin by thanking the Committee and in particular the Chairman for his hard work to improve the Tax Code.

In our firm, we help hundreds of closely held businesses make better decisions that create value and jobs. Those efforts are hindered by a Tax Code that is simply too complex.

The rules governing S corporations are a good example. The S corporation promotes private business, capital investment, and increased employment. They are subject to various restrictions that adversely impact ownership, capital, and growth.

The Chairman's discussion draft helps mitigate some of these restrictions. I will start with the built in gains provision. In 1986, the Tax Reform Act repealed the General Utilities Doctrine and the related Section 337. These policies allowed C corporations to sell their assets and liquidate their business by paying a single level of tax. The repeal meant that for the first time there would be double tax on the sale of corporation assets followed by a liquidation.

The Tax Reform Act was a wonderful piece of bipartisan legislation, but this repeal was not. The House version included a two year rule designed to prevent avoidance of this new double tax. The Senate version had no repeal at all.

One would expect negotiations to result in an anti-avoidance rule somewhere between zero and two years. However, the final bill enacted the built in gains tax with a ten year anti-avoidance rule. This is referred to as the "BIG tax."

The purpose of the final rule was similar to the House provision, to prevent a C corporation from converting to an S corporation when a sale was eminent just to avoid the double tax.

The impact went well beyond that purpose. Today if an S corporation sells certain property or collects certain types of income before the end of the recognition period, the combined tax can be as high as 60 percent. No company willingly triggers the "BIG tax."

I find BIG tax causes many S corporations to hold unproductive assets. For example, I work with a road contractor who is sitting on old equipment out in the bone-yard rusting away that could be sold to raise capital for expanding the business and hiring more people. That investment potential is being stymied by the BIG tax.

Other clients would like to sell their businesses to up and coming entrepreneurs or employee groups, but cannot because of the prohibitive tax.

The IRS says tens of thousands of corporations convert to S corporations each year. The BIG tax effectively locks up for a decade some of the capital of these companies, limiting new investments and the creation of jobs.

Congress recognized that a ten year recognition period is too long, and has voted to reduce it three separate times, but each time the reduction has been temporary. A temporary extension forces many businesses into a difficult position. Should they sell assets or the business prematurely to take advantage of a temporary window or hold off and hope Congress extends it again?

Making the five year recognition period permanent is good tax policy, and it will provide S corporations stability and certainty so they can make business decisions that are best for the company, its owners, and stakeholders.

The other S corporation extender made permanent by the Chairman's discussion draft has to do with charitable contributions. For most taxpayers, gifts of appreciated property produces a deduction equal to the property's fair market value. S corporations who donate appreciated property will incur a future tax liability because of the way the current rules work.

This unintended result was remedied as part of the 2006 Pension Reform Act. This provision was temporary. While Congress has extended it numerous times, it expired again at the end of 2013.

Making this provision permanent would help ensure that S corporations' owners fully benefit from the value of their donations to charities.

Beyond these two extenders, there exists a significant opportunity for improving the S corporation rules to ensure that S corporations can compete with other entity types.

The provisions are part of the bipartisan S Corporation Modernization Act sponsored by Representatives Reichert and Kind.

I am pleased that the Chairman's tax reform discussion draft makes permanent several of these reforms.

Mr. Chairman, let me close by saying making permanent the five year built in gains recognition period preserves the original intent of the 1986 Tax Reform Act, and it is critical to helping corporations deploy locked up resources.

I appreciate the Chairman and the Committee for considering this provision along with all other S corporation reforms, and I look forward to your questions.

Chairman CAMP. Thank you, Mr. Redpath.

[The prepared statement of Mr. Redpath follows:]

TESTIMONY BEFORE THE COMMITTEE ON WAYS & MEANS UNITED STATES HOUSE OF REPRESENTATIVES

James S. Redpath, CPA
April 8, 2014

Chairman Camp, Ranking Member Levin, and other members of the Committee, thank you for the opportunity to testify today.

My name is Jim Redpath. I am a certified public accountant and the Managing and Tax Partner at HLB Tautges Redpath, Ltd., a 125 person full-service accounting firm serving clients in the greater Minneapolis/St. Paul metropolitan area since 1971. I have been a tax accountant for over 30 years, working primarily with closely held businesses, many of which are S corporations or C corporations considering S corporation status.

Let me begin by thanking the Committee, and particularly the Chairman, for his hard work to improve the tax code. At our firm, we help hundreds of closely held businesses make better decisions that create value, create jobs and contribute to the stakeholders' well-being. Those efforts are hindered by a tax code that is too complex, offers conflicting incentives, and creates temporary windows of opportunity that encourage tax motivated decisions rather than good business decisions.

The rules governing S corporations are an excellent example. The S corporation is a fantastic concept that promotes private businesses, capital investment and increased employment. However, there are restrictions on S Corporations. Since their inception in 1958, S corporations have been required to 1) be domestic enterprises, 2) have a limited number and type of shareholders and 3) have a single class of stock. A violation of any of the above mentioned restrictions, whether intentional or inadvertent, results in a termination of the S corporation status.

Similar to an S corporation, an LLC enjoys liability protection and is subject to a single layer of tax. However, unlike an S corporation, there are few, if any, limitations on the structure or ownership of LLC's. LLC's can have foreign or corporate shareholders and multiple classes of ownership.

As you might expect, this flexibility makes the LLC very popular with business start-ups. Last year, our firm was involved in creating many business entities for clients. Of those, virtually all were LLCs. The advent of the LLC has created, in many cases, a superior business structure. That said, there are numerous reforms Congress can enact to help level the tax treatment of these two business structures.

S Corporation Extenders

I have clients that would certainly benefit from several items that would be permanently extended in the Chairman's discussion draft, including the R&D tax credit and small business Section 179 limitations.

Today, however, my testimony will focus solely on those provisions particular to S corporations.

The Built in Gains Tax 5-Year Recognition Period

In 1986 Congress repealed the General Utilities Doctrine and the related Section 337, both of which allowed C corporations to sell their assets, liquidate and pay a single level of tax. The result was that, for the first time, the tax code would impose a double tax on the sale of corporate assets followed by liquidation.

The House version of the 1986 Tax reform Act included a two year rule "designed to prevent avoidance" of this new double tax. The Senate version had no anti-avoidance rule. One would expect a negotiation between the two bodies to result in a holding period somewhere between zero and two years. The final bill, however, went well beyond that scope by enacting the Section 1374 built-in gains (BIG) tax, with a *10-year* recognition period. The stated purpose was similar to the House-passed bill: to prevent a C corporation from converting to an S corporation, when a sale is imminent, to avoid the impact of the repeal of the General Utilities Doctrine and Section 337.

As a result, if an S corporation sells property it owned prior to conversion before the end of the 10-year recognition period, the BIG tax applies to the extent of the gain existing on the date of the conversion. Normal S corporation flow-through taxation also applies to the gain. The combined tax rate ranging from 50% to 60% is punitive enough to ensure that no company knowingly triggers the BIG tax.

The BIG tax was meant to treat the S corporations like C corporations and subject them to double taxation. However, the BIG tax is generally worse. The double taxation occurs whether or not the profits are distributed to the owners and the second level of tax may be at ordinary rates, not dividend rates.

I find the BIG tax provision causes many S corporations to hold onto unproductive or old assets that should be replaced. Ten years is a long time and certainly not cognizant of current business-planning cycles. Many times I have experienced changes in the business environment or the economy which prompted S corporations to need access to their own capital, that if taken would trigger this prohibitive tax. This results in business owners not making the appropriate decision for the business and its stakeholders, simply because of the BIG tax.

This distortion of business behavior is widespread. Most C corporations who want to be taxed as a flow-through entity convert to S corporations. Converting to an LLC is probably preferred (see above), but such a conversion is a taxable event which makes it prohibitively expensive. In my experience, no one is willing to go through that tax pain to gain LLC status. So converting to S corporation is the only real option. According to the IRS, tens of thousands of corporations convert to S Corporations each year. The BIG tax effectively "locks up" the capital of these companies for an entire decade following conversion, prohibiting access to capital to make new investments and create jobs.

In fact, I have several clients right now that have locked-up capital due to the BIG tax. For example, I work with a road contractor who is holding old equipment and rigs, sitting out in the bone-yard, which could be sold and reinvested to expand the business and hire more people. That investment potential is being stymied by the BIG tax. This is just one of many examples.

Also, many clients would like to sell their business to up and coming entrepreneurs and employee groups, but can't because of the prohibitive BIG tax

Congress recognizes that 10 years is simply too long. It has passed temporary legislation reducing this 10 year period three times in recent Congresses. This change both preserves the original intent of the law to prevent getting around the repeal of the General Utilities Doctrine and Section 337 and removes punitive restrictions allowing S corporations to deploy their assets earlier. The most recent 5 year recognition period expired at the end of 2013, so now these businesses are faced with a snap-back to the untenable 10 year recognition period.

Having a 5 year BIG holding period is just plain good tax policy, but routinely enacting tax law on a temporary basis is not. Making the shorter holding period *permanent* is critical.

A temporary extension of the 5-year recognition period only provides a window of opportunity for S corporations. Although much better than the 10 year recognition period, the temporary extension results in tax motivated transactions as the expiration date approaches that may not be in the best interest of the company or its stakeholders.

Making the 5-year recognition period permanent would preserve the original intent of the 1986 Tax Act and provide S corporations stability and certainty, so they can make business decisions that are best for the company, its owners and stakeholders.

Basis Reduction for Charitable Contributions by S Corporations

Another area of imbalance between S corporations and other pass-through business structures is the treatment of charitable contributions of appreciated assets. For most taxpayers, gifts of appreciated property produce a deduction equal to the property's fair market value. S corporations who donate appreciated property, however, will incur a future tax liability because of the way the current rules work.

This unintended consequence was remedied as part of the 2006 Pension Reform Act, and represented a significant improvement in the tax treatment of gifting by S corporations. As with the BIG provision, the charitable provision has been extended by Congress numerous times since its adoption in 2006. It expired again at the end of 2013.

Making this provision permanent would help level the playing field between S corporations and other types of businesses and ensure that S corporation owners are able to fully benefit from the value of their donations to charities.

S Corporation Modernization

Beyond these two extenders, there exists a significant opportunity for improving the S corporation rules to ensure that S corporations can compete with LLCs on a more level playing field. That is the motivation for the bipartisan S Corporation Modernization Act (H.R. 892), sponsored by Representatives Dave Reichert (R-WA) and Ron Kind (D-WI). I am pleased that the Chairman's tax reform discussion draft recognizes the importance of adapting the S corporation rules to today's business environment by including several of these reforms.

In addition to the permanent BIG holding period reduction and charitable deduction provisions, the draft includes the expansion of qualifying beneficiaries for electing small business trusts to include nonresident alien individuals. This provision would allow businesses to continue to be owned and operated by a family even as the family grows beyond the borders of the United States. In addition, this provision would increase S corporations' access to capital and their ability to expand abroad or partner with businesses operating outside the United States.

It also makes modifications to the passive income limitations for S corporations. The provision would conform the current 25% limitation on passive income to the 60% personal holding company limitation. The provision would also repeal the termination event for S corporations who exceed the passive income threshold for three consecutive years. Both of these provisions were recommended by the Joint Tax Committee staff in their 2001 Simplification report.[1] These rules have proven to be a trap for unwary S corporations, penalizing them with a punitive corporate-level 'sting tax' and a possible termination of their S corporation status.

Conclusion

As I mentioned, the items I highlighted above are just a few of the areas in which the S corporation rules could be improved. Extending the built-in gains 5-year holding period and making it permanent is critical, as are the other permanent S corporation changes in the Chairman's reform draft. Adopting these provisions would help S corporations to deploy

[1] Joint Committee on Taxation, Study of the Overall State of the Federal Tax System and Recommendations for Simplification, Pursuant to Section 8022(3)(B) of the Internal Revenue Code of 1986 (JCS-3-01), April 2001, page 385.

locked-up resources, create more jobs and allow them to focus on making sound business decisions for the long term.

Once again I'd like to thank Chairman and the Committee for considering them.

Chairman CAMP. Mr. Odintz, you are recognized for five minutes.

STATEMENT OF MR. JOSHUA ODINTZ, PARTNER, BAKER & MCKENZIE LLP

Mr. ODINTZ. Thank you. Chairman Camp, Ranking Member Levin, and Members of the Committee, it is an honor to appear before you today to discuss the very important topic of two expired tax provisions, the active financing exceptions to SubPart F, and Section 954(c)(6) of the Internal Revenue Code, also known as "CFC look-through."

I applaud the Committee for making significant progress on tax reform, and I urge the Committee to make these two provisions permanent as part of tax reform or outside of tax reform.

I also appreciate that this Committee is willing to receive testimony from a former Senate Finance Committee staffer.

I am a partner in the Washington office of Baker & McKenzie. However, I appear today on my own behalf, and my testimony does not necessarily reflect the views of my firm or our clients.

Generally, the active income of an U.S. owned controlled foreign corporation or CFC, is not subject to U.S. income tax until distributed to U.S. shareholders. Under SubPart F, certain categories of income are treated as passive income and are subject to current U.S. income tax, including dividends, interest, royalties and rents.

Income from the active conduct of a banking, financing or other similar business was exempted from SubPart F until 1986. These exceptions were restored on a temporary basis in 1997.

The active financing exceptions to SubPart F currently exempts, when they come back into effect, certain income from treatment as passive income if the CFC satisfies an entity level test and a qualifying income test. The mechanics of these rules are addressed in my written testimony.

These rules are designed to reflect sound tax policies. First, banks, financing, and other similar businesses earn income that looks like passive income but is derived from an active business.

AFE appropriately treats such income as active income and ensures that such financial service businesses are treated the same as other businesses, such as manufacturers and service providers.

The entity and income rules ensure that only banking, financing, insurance, or other similar businesses receive such treatment. Financial service companies compete across the globe. AFE allows U.S. based businesses to be treated like their foreign competitors. Such competition also creates U.S. headquarter jobs that support those foreign operations.

Many U.S. based manufacturers establish financing subsidiaries that provide financing for goods sold from the United States. AFE allows U.S. based manufacturers to offer competitive financing on U.S. exports. This is a good policy.

CFC look-through provides an exception to SubPart F as well. The provision generally provides that dividends, interest, rents and royalties received or accrued by one CFC from a related CFC are not treated as passive income, so long as the payments are made out of active foreign income.

The legislative history from 2006 states that Congress enacted this provision to remove impediments to business decision-making and allow U.S. based multinational corporations to deploy capital as and where needed without imposing U.S. tax.

Congress recognized that businesses are truly global and will need to deploy active foreign income to expand foreign operations to compete with foreign based multinational corporations.

These rules help U.S. businesses to fund operations in locations with the greatest potential for growth as opposed to resorting to loans from third parties.

Permanence is fundamentally important for all Internal Revenue Code provisions because virtually every corporate decision is taken after a careful review of the after tax return on investment. If the after tax return on investment is uncertain, business decisions are either delayed or not taken.

An Internal Revenue Code run by temporary tax provisions impedes legitimate business decisions and forces behavior that does not make good business sense.

Continuing a band-aid approach to these provisions undermines the congressional justification for them. Permanence is essential for U.S. based financial service sector businesses. A permanent AFE would eliminate great uncertainty regarding future tax liability. It would also allow financial service companies to appropriately price their products and services in foreign markets.

Permanence takes on added importance with respect to CFC look-through. Without look-through, taxpayers incur costs that do not advance anyone's business or make any company more competitive in the marketplace.

Permanence would eliminate these wasted expenses and allow taxpayers to effectively deploy cash where needed, recognizing that Subpart F's entity by entity rules are antiquated.

Thank you. I would be happy to answer any questions you may have

Chairman CAMP. Thank you, Mr. Odintz.

[The prepared statement of Mr. Odintz follows:]

Testimony of Joshua D. Odintz
Partner, Baker & McKenzie LLP

Before the House Committee on Ways and Means

Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

April 8, 2014

Chairman Camp, Ranking Member Levin, and Members of the Committee, it is an honor to appear before you today to discuss the very important topic of two expired tax provisions, the active financing exceptions to subpart F and section 954(c)(6) of the Internal Revenue Code, also known as CFC look-through.[1] I applaud the Committee for making significant progress on tax reform, and I urge the Committee to make these two provisions permanent as part of tax reform or outside of tax reform.

I also appreciate that this committee is willing to receive testimony from a former Senate Finance Committee staffer.

I am a partner in the Washington office of Baker & McKenzie, a global law firm. However, I appear today on my own behalf, and my testimony does not necessarily reflect the views of my firm or our clients.

Background on Subpart F

Generally, the active income of a U.S.-owned controlled foreign corporation ("CFC") is not subject to U.S. income tax until distributed to U.S. shareholders.[2] In 1962, as a compromise with President Kennedy, Congress enacted a series of exceptions to the general rule, which are collectively known as Subpart F. Under Subpart F, certain categories of income are treated as passive income and are subject to current U.S. income tax. One category of Subpart F income is foreign personal holding company income, which includes in part: (1) dividends, interest royalties, rents, and annuities; (2) net gains from the sale or exchange of property that gives rise to such income; (3) income that is equivalent to interest; (4) income from notional principal contracts; and (5) payments that are equivalent to dividends.

There are exceptions to these rules in the case of same-country payments, such as a dividend from one CFC to another where both CFCs are organized in the same country.

[1] All references to sections are to the Internal Revenue Code of 1986, as amended.
[2] A CFC is a foreign corporation that is more than 50 percent owned by 10 percent or greater U.S. shareholders.

Also, certain insurance income earned by a CFC is treated as subpart F income. Subpart F income includes risks that are insured or reinsured by the CFC in connection with risks located in a country other than the CFC's country of organization. For example, under the general rule, if a CFC organized in Germany ensures property and casualty risk in another European Union country, then such income is taxed currently by the U.S.[3]

Active Financing Exceptions

When Congress enacted Subpart F in 1962, foreign personal holding company income did not include income earned from the active conduct of a banking, financing, or other similar business. This exception from Subpart F was repealed as part of the Tax Reform Act of 1986. Congress restored a version of the exception in the Taxpayer Relief Act of 1997, and significantly tightened the exception in the Tax and Trade Relief Act of 1998.

The active financing exceptions to Subpart F ("AFE") exempt certain income from treatment as foreign personal holding company income or insurance income if a CFC satisfies two tests: an entity-level test and a qualifying income test.

Under the entity test, a CFC must demonstrate that it is predominantly engaged in the active conduct of a banking, financing, or similar business. Generally, a CFC must derive 70 percent or more if its gross income directly from transactions with unrelated customers in the active and regular conduct of a lending or finance business.[4] Moreover, a CFC must also conduct substantial activity with respect to the business. The legislative history contains an extensive list of the activities that a CFC must substantially conduct for the generation of income with respect to the business.[5] Most of the activities must be conducted by the CFC's own employees.

If a CFC can satisfy the entity test, then only those items of income that are qualified banking or financing income are not treated as foreign personal holding company income. The income test is also strict, as it requires that: (1) the income must be derived in the active conduct of a banking, financing, or similar business; (2) the income must be derived from one or more transactions with customers located in a

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[3] For a more complete discussion of these provisions, see *Description of Expiring Business-Related Tax Provisions Made Permanent or Extended Under the "Tax Reform Act of 2014," a Discussion Draft of the Chairman of the House Committee on Ways and Means to Reform the Internal Revenue Code*, Joint Committee on Taxation, JCX-35-14 (2014); Lowell D. Yoder, *The Subpart F Exception for Active Financing Income*, 31 TM International Journal 283 (2002); Robert H. Dilworth, *Tax Reform: International Tax Issues and Some Proposals,* International Journal of Taxation (Jan-Feb 2009).

[4] Certain entities regulated by U.S. authorities are deemed to satisfy the test. *See* § 954(h)(2)(A)(i) and (B).

[5] The activities include, but are not limited to: initial solicitation of customers; advising customers on financial needs, including funding and financial products; designing or tailoring financial products to customers' needs; negotiating terms with customers; and making loans, entering into leases, and extending credit with customers that generate income that would be considered derived in the active conduct of a banking, financing, or similar business. *See* H.R. Report 105-825, October 18-19, 1998.

non-U.S. country, substantially all of the activities in connection with which are conducted directly by the corporation or a branch or qualified business unit of the CFC in its home country; and (3) the income must be treated as earned by the CFC or qualified business unit in its home country for purposes of such country's tax laws; and (4) for certain entities, more than 30 percent of the CFC's or qualified business unit's gross income must be derived directly from unrelated customers that are located within the CFC's or qualified business unit's home country.

There are separate entity and income tests for insurance companies under Internal Revenue Code section 953.

These rules are designed to reflect sound tax policies. First, banks, financing and other similar businesses earn income that looks like passive income, but is derived from an active business. AFE appropriately treats such income as active income, and ensures that such financial service businesses are treated the same as other businesses, such as manufacturers and service providers, for purposes of Subpart F. The entity and income rules ensure that only banking, financing, insurance, or similar businesses receive such treatment.

Financial service companies compete across the globe. New York is only one of several financial centers, and U.S.-headquartered businesses compete in foreign centers (e.g., London and Hong Kong) for clients. Foreign-headquartered financial-service companies are generally not taxed currently on their foreign income, and AFE accords U.S.-based multinational corporations ("USMNCs") the same treatment for their foreign operations. Such competition also creates U.S.-headquarter jobs that support the foreign operations.

Many U.S.-based manufacturers establish financing subsidiaries that provide financing for goods sold from the United States. AFE allows U.S.-based manufacturers to offer competitive financing on U.S. exports. Congress should continue to support U.S. manufacturing and ancillary services through the AFE.

Section 954(c)(6) (CFC Look-Through)

Section 954(c)(6) provides an exception to Subpart F for certain payments from one CFC to another that would otherwise be treated as foreign personal holding company income. The provision generally provides that dividends, interest, rents, and royalties received or accrued by one CFC from a related CFC are not treated as Subpart F income, so long as the payments are made out of active foreign income. However, if a CFC receiving such income subsequently invests the payment in a passive investment (e.g., bonds), then Subpart F continues to apply to currently tax the passive income from such investment.

The House and Senate first passed CFC look-through on a permanent basis with substantial bipartisan votes in 2004 as part of the American Jobs Creation Act.[6] Although the provision was not included in the conference report, the next Congress enacted CFC look-through as part of the Tax Increase Prevention and Reconciliation Act of 2005 ("TIPRA"). Congress did not make the provision permanent at that time because it was part of a reconciliation bill. The legislative history states that Congress enacted this provision to remove impediments to business decision-making and allow USMNCs to deploy capital as and where needed without imposing U.S. tax. Congress recognized that businesses are truly global and will need to deploy active foreign income to expand foreign operations and compete with foreign-based multinational corporations.[7] For example, many USMNCs maintain in-house treasury centers for more efficient group borrowing, lending, and hedging activities. The absence of CFC look-through imposes unnecessary restrictions on such activities, which are commonplace among multinational groups.

Congress also recognized that Subpart F is antiquated because it views businesses on a country-by-country basis. However, the world has evolved since 1962, and USMNCs operate on a global basis and in economic zones that are effectively treated as one country by foreign-based MNCs. Until Subpart F is refined to take into account global and multi-country business realities, CFC look-through is an important equalizer for USMNCs.

CFC look-through is important because it helps USMNCs to operate on a global basis. The provision removes impediments that would make it difficult for research centers across the globe to share intellectual property. Moreover, USMNCs can fund operations in locations with the greatest potential for growth, as opposed to resorting to loans from third parties.

Most importantly, CFC look-through allows a U.S. business to align the tax treatment of the global enterprise with the business. Many businesses conduct their affairs by business segment or line of business, and CFC look-through helps eliminate separate entity limitations, thereby allowing a business to truly operate globally by segment or line of business.

Congress Should Make These Provisions Permanent

Permanence is fundamentally important for all Internal Revenue Code provisions because virtually every corporate decision is taken after a careful review of the after-tax return on investment. If the after-tax return on investment is uncertain, business decisions are either delayed or not taken. An Internal Revenue Code run by temporary tax provisions impedes legitimate business decisions, and forces behavior that does not make good business sense.

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[6] H.R. 4250 and S. 1637 (108th Cong.).
[7] *See* H.R. Rep. 109-304, 45; JCS 1-07, 267.

While some provisions may be temporary by design (as stimulus measures, for example), AFE and CFC look-through are designed to be permanent tax policy. This has been demonstrated with bipartisan legislation that has been introduced in several Congresses in both the House and the Senate to make these provisions permanent. Continuing a band-aid approach to these provisions undermines the Congressional justification for them.

Permanence is essential for U.S.-based financial service sector businesses. A permanent AFE would eliminate great uncertainty regarding the future tax liability. It would also allow financial service companies to appropriately price products and services. For example, it is difficult to appropriately price a long-term insurance policy if the insurer is unable to determine whether the premiums will be taxed currently as Subpart F income. Further, such certainty will allow U.S.-based financial service businesses to expand operations and effectively compete with foreign-based financial services.

For example, an expired AFE will impede a U.S.-based bank's ability to expand in new markets and to efficiently compete on pricing for new and existing clients. A loan from a CFC to a foreign customer may have a higher interest rate because the CFC's income on the interest is subject to U.S. tax. That difference in interest rates could result in the borrower obtaining the loan from the foreign-based bank. As a result of such lost opportunities, the U.S. bank will face higher costs and may be unable to expand in as many markets as a foreign-based bank.

Permanence takes on added importance with respect to section 954(c)(6) for two reasons. First, taxpayers facing the expiry of 954(c)(6) have, as a general rule, not simply stood by and watched it expire. Instead, they have incurred significant U.S. and foreign accounting, legal, and systems costs to restructure their operations to try to avoid the need to rely on CFC look-through where they can – e.g., by structuring into the same-country exception for foreign personal holding company income found in section 954(c)(3). These are needless costs that do not advance anyone's business or make any company more competitive in the marketplace.

Second, those companies that cannot use an alternative exception may have to reflect the tax impact in their financial statements or footnotes that accompany their SEC filings. Economists and financial accounting experts appearing before you will likely expand on this point. Nevertheless, from a lawyer's perspective, this forces taxpayers to move cash around their structure in ways that they otherwise would not do. Permanence would eliminate these wasted expenses and would allow taxpayers to effectively deploy cash where needed.

Thank you. I would be happy to answer any questions you may have.

Chairman CAMP. Mr. Hungerford, you are recognized for five minutes.

STATEMENT OF MR. THOMAS HUNGERFORD, SENIOR ECONOMIST AND DIRECTOR OF TAX AND BUDGET POLICY, ECONOMIC POLICY INSTITUTE

Mr. HUNGERFORD. Thank you for inviting me to share my views on the business tax extenders.

Each year, dozens of temporary tax provisions expire and many are regularly extended for another year or two with little or no scrutiny. I applaud the efforts of this Committee to scrutiny the tax extenders.

Let me summarize my main points. First, the tax extenders package is being considered in a challenging fiscal environment of budget deficits as far as the eye can see, in which maintaining long term fiscal discipline is necessary.

Second, making some or all of the expiring tax provisions permanent without offsetting the revenue losses will permanently increase budget deficits and accelerate the accumulation of Federal debt.

Third, running large annual budget deficits when the economy is operating at or near its potential can accelerate inflation, increase interest rates, reduce private sector investment, and reduce economic growth. Thus, destroying jobs.

It is likely that any jobs created by these seven tax provisions would be entirely offset by jobs lost due to larger budget deficits over the longer time.

In the time remaining, let me expand on these points. After 2023, we face the unsustainable growth of Federal debt as projected under CBO's extended baseline, a baseline that assumes these seven tax provisions, as well as 50 to 60 other expired provisions, are not extended.

Between now and 2023, Federal debt rises from 72 percent of GDP to 78 percent. Barring tax and spending changes, Federal debt as a percentage of GDP is projected to grow to over 100 percent by 2038 and to an unprecedented 200 percent by 2080.

Concern over long term fiscal challenges appears to have made long term fiscal discipline a priority.

Chairman Camp recently unveiled a comprehensive tax reform plan that is revenue neutral over the ten year budget window. Revenue losses from tax rate reductions and making certain tax provisions permanent, including most of the provisions under discussion today, are offset with revenue increases from base broadening.

The advisory for this hearing, however, notes that revenue neutrality is not consistent with recent practice by Congress in its consideration of tax extenders legislation.

I am left to wonder if the commitment to long term fiscal discipline is being abandoned for this extenders package.

Let me examine the budget implications of the seven provisions under discussion today, which account for almost half of the revenue loss of all expiring tax provisions.

Making these seven tax provisions permanent with no offsetting revenue increases would add over $200 billion each year to the def-

icit, thus adding over $200 billion to Federal debt by the end of 2023, almost one percentage point of GDP.

Even a two year extension as proposed by the Senate Finance Committee, would add almost $50 billion to Federal debt by 2023, and modifying some of these provisions, as Chairman Camp has proposed, can reduce the revenue losses somewhat, but the overall consequences are similar, a large increase in projected Federal debt.

If long term fiscal discipline is abandoned, then we face a future of budget deficits that are larger than expected.

Research suggests that running large annual budget deficits in perpetuity can have adverse economic consequences, thus destroying jobs, and as I mentioned before, any jobs created by these provisions would likely be entirely offset by jobs lost due to larger budget deficits over the longer term.

Given the long term fiscal challenge we face, I believe that whatever is decided about these provisions, the decision should not increase projected budget deficits. The tax extenders should be paid for by increasing tax revenues.

Thank you. I would be happy to answer any questions you may have.

[The prepared statement of Mr. Hungerford follows:]

EPI TESTIMONY

TESTIMONY OF

Thomas L. Hungerford, Ph.D.
Director of Tax and Budget Policy
Economic Policy Institute

BEFORE THE
HOUSE COMMITTEE ON WAYS AND MEANS
HEARING ON BENEFITS OF PERMANENT TAX POLICY FOR AMERICA'S JOB CREATORS

TUESDAY 10:00 AM, APRIL 8, 2014
Longworth House Office Building

Economic Policy Institute. 1333 H Street NW, Suite 300, Washington, D.C. 20005. (202) 331-5548
www.EPI.org

Chairman Camp, Ranking Member Levin, and Members of the Committee: Thank-you for inviting to share my views on the business tax extenders. I am speaking for myself.

Each year dozens of temporary tax provisions expire. And many are regularly extended for another year or two, with little or no scrutiny, in the annual "tax extenders" package. The issue this hearing seeks to address is "the problems caused by tax policies that frequently expire and are extended for short periods of time (and often retroactively)," with particular emphasis on seven expiring business tax provisions.

In summary, here are my main points:

- The tax extenders package is being considered in a challenging long-term fiscal environment—one with budget deficits as far as the eye can see—in which maintaining long-term fiscal discipline is necessary.
- Making some or all of the expiring tax provisions permanent without offsetting the revenue losses will permanently increase budget deficits and accelerate the accumulation of federal debt.
- Running large annual budget deficits when the economy is operating at or near its potential can accelerate inflation, increase interest rates, reduce private sector investment, and reduce economic growth, thus destroying jobs. It is likely that any jobs created by these seven provisions would be entirely offset by jobs lost due to larger budget deficits over the longer-term.
- I think the appropriate question regarding the tax extenders is which ones should remain in the tax code and which ones should be eliminated, rather than asking if they should be permanent or temporary. Some may have outlived their usefulness, others were never effective, and still others achieve important economic goals.

Current Economic Environment

To evaluate tax policy changes, I believe it is important to first look at the economic environment (short-term and long-term) in which the changes are being considered.

The United States faces a long-term fiscal challenge—after 2023 we face the unsustainable growth in federal debt held by the public as projected under the Congressional Budget Office's (CBO) extended baseline.[1] Between now and 2023, federal debt as a percentage of GDP rises from 72 percent to 78 percent.[2] Barring tax and spending changes, however, federal debt as a percentage of GDP is projected to grow to over 100 percent by 2038 (a year near the end of my life), to about 150 percent by 2055 (the year my daughter is first eligible for full Social Security benefits), and to over 200 percent by 2080 (a year near the end of my daughter's life).

I want to emphasize that these are CBO's projections under their extended baseline. This baseline assumes current law does not change. Consequently, it assumes that the seven tax

[1] Congressional Budget Office, *The 2013 Long-term Budget Outlook*, September 2013.
[2] Congressional Budget Office, *The Budget and Economic Outlook: 2014 to 2024*, February 2014.

provisions you are considering today as well as 50 to 60 other expired provisions are not extended for even one day.

Budgetary Implications

Concern over our long-term fiscal challenges appears to have made long-term fiscal discipline the order of the day. For example, Congressional budget proposals, such as the Congressional Progressive Caucus's budget proposal and Mr. Ryan's budget proposal, lay out policies that would reduce budget deficits and federal debt over the 10-year budget window, albeit in very different ways.

Chairman Camp recently unveiled a comprehensive tax reform plan that is revenue-neutral over the 10-year budget window.[3] Revenue losses from tax rate reductions and making certain tax provisions permanent (including most of the provisions under discussion today) are offset with revenue increases from base broadening. Fiscal discipline is maintained over the budget window. This was all noted in the Advisory for this hearing.

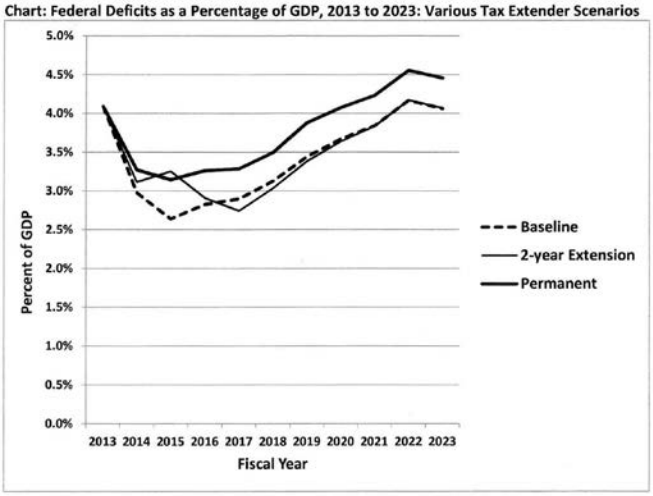
The Advisory goes on to note that revenue neutrality "is not consistent with recent practice by Congress in its consideration of tax extenders legislation." One is left to wonder if the commitment to fiscal discipline is to be abandoned for this extenders package. Let's examine the budget implications of the tax extenders under the assumption long-term fiscal discipline is abandoned.

The chart displays projected federal deficits as a percentage of GDP until fiscal year 2023. The dashed line is CBO's baseline deficit projection. It follows a U-shape pattern with the low in 2015 and then gradually rising through to 2023. The thin solid line shows what a 2-year extension of the tax extenders does to projected deficits: a large increase in the next fiscal year, but the same as the baseline by 2023. However, federal debt in 2023 would be larger by almost 0.4 percent of GDP.

Lastly, the solid bold line shows projected deficits if all of the tax extenders were made permanent. Projected deficits would permanently be four-tenths of a percent of GDP higher than in the baseline. Furthermore, federal debt as a percentage of GDP would likely be over 3.5 percentage points higher.

[3] It is unlikely the plan is revenue-neutral after 2024 because tax revenues from the one-time transition tax, changes to depreciate, and retirement savings account changes increase revenue in the first 10 years at the expense of decreasing revenues in the next 10 years.

Chart: Federal Deficits as a Percentage of GDP, 2013 to 2023: Various Tax Extender Scenarios



If the focus is narrowed to just the seven provisions under discussion today, which account for almost half of the revenue loss of all the expiring tax provisions, then the budget implications are not as severe but are still quite significant.[4] Abandoning long-term fiscal discipline by making these seven tax provisions permanent with no offsetting revenue increases could add almost one percentage point of GDP to federal debt by 2023.

The justification for making these seven provisions permanent is they are believed to encourage firms to create more jobs. But if long-term fiscal discipline is abandoned, then we face a future of budget deficits that are larger than expected. Running large annual budget deficits when the economy is operating at or near its potential can accelerate inflation, increase interest rates, reduce private sector investment, and reduce economic growth, thus destroying jobs.[5] CBO projects that the U.S. economy will be back to its potential in 2016. It is likely that

[4] In the Senate Finance Committee 2-year extension bill, extending these seven provisions reduce tax revenue by $40.6 billion over 10 years; this 48 percent of the total revenue loss from all the provisions extended in the bill ($85.3 billion).

[5] See, for example, Congressional Budget Office, *Federal Debt and the Risk of a Fiscal Crisis*, July 2010; William G. Gale and Peter R. Orszag, *Economic Effects of Sustained Budget Deficits*, Brookings Institution, July 2003; Jonathan Huntley, *The Long-Run Effects of Federal Budget Deficits on National Saving and Private Domestic Investment*, CBO

any jobs created by these provisions would be entirely offset by jobs lost due to larger budget deficits over the longer-term.

Other Evaluation Criteria

Ideally, commentators suggest that tax policy should be structured to meet several basic principles or criteria. Most importantly a good tax system must raise adequate revenue to run the government and meet the needs of the governed. Philosopher and economist Adam Smith further argued that a good tax system should meet four criteria: simplicity, convenience, efficiency, and equity.[6]

The tax system is called upon to perform several disparate functions. In addition to raising revenue, tax provisions are designed to provide incentives to encourage taxpayers to do more of a good thing or to discourage doing bad things. Temporary tax decreases are often used to help stimulate the economy during economic downturns—tax policy is one important tool of fiscal policy. (We have also used temporary tax increases to help reduce deficits.)

Without a doubt, tax policy changes can distort market behavior and reduce market efficiency, but they can also be used to correct distortions due to market failures and improve market efficiency. Tax policy changes also affect the complexity of the tax system, which creates compliance issues for taxpayers and enforcement issues for the IRS.

Given these disparate functions, it is no surprise that many tax provisions often conflict with one or more of these tax policy criteria. Any economic evaluation of tax provisions should examine the effects on the tax system with regard to meeting these criteria.

Many of the expired tax provisions are classified by the Joint Committee on Taxation and the Treasury Department as tax expenditures, and as such can be evaluated in the same way.[7] A nonpartisan expert panel, which questioned the extensive use of tax expenditures, recommended that any formal justification for new tax expenditures should answer the following questions:[8]

- Why is a government program necessary at all?
- What objectives is the tax break meant to accomplish, and how will success or failure be measured?
- What evidence can be cited that suggests the tax break will accomplish these objectives at an acceptable cost?

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working paper 2014-02, February 2014; and Marc Labonte, *The Sustainability of the Federal Budget Deficit: Market Confidence and Economic Effects*, CRS report R40770, December 2012.

[6] Adam Smith, *The Wealth of Nations*, Cannan ed. (New York: The Modern Library, 1937), pp. 777-779.

[7] For a detailed discussion, see Thomas L. Hungerford, "Tax Expenditures: Good, Bad, or Ugly?" *Tax Notes*, October 23, 2006, pp. 325-334.

[8] The Century Foundation Working Group on Tax Expenditures, *Bad Breaks All Around* (New York: The Century Foundation Press, 2002), pp. 28-29.

- Why is a tax break better than a direct spending program for accomplishing this purpose?

The expert panel noted that this is similar to the OMB circular A-11 requirements (which were initially considered important but have fallen into disuse over the years). Although the tax extenders are existing tax provisions rather than new provisions, the same questions can and should be asked.

Over the years, a number of analysts, academics, and policy makers have voiced their concern about the growing importance of tax expenditures and their effect on long-term fiscal problems. Some members of the 1994 Bipartisan Commission on Entitlement and Tax Reform thought that tax expenditures should be included as part of reforms to rein in entitlement spending.[9] The Century Foundation Working Group on Tax Expenditures (cited above) recommended that the Administration and the Congress consider scaling back or eliminating many existing tax expenditures and exercising restraint in proposing new ones. And the Government Accountability Office recommended that tax expenditures be subjected to systematic reviews and performance evaluations.[10]

The annual consideration of an extenders package provides an opportunity for a systematic review of many tax provisions, but only to the extent that the relevant Committees choose to do so. Periodic reviews are necessary because new evaluation research has been conducted, business and economic conditions change, and fiscal priorities change. All of this would argue for temporary tax provisions. Balanced against this is the stability that comes with permanence, which is beneficial to taxpayers in making economic decisions and to the government in making budget decisions.

Concluding Remarks

I think the appropriate question regarding the tax extenders is which ones should remain in the tax code and which ones should be eliminated, rather than asking if they should be permanent or temporary. Some may have outlived their usefulness, others were never effective, and still others achieve important economic goals. Congress would be justified in keeping those that (1) correct a market failure, (2) are appropriately targeted, (3) do not unduly compromise the progressivity of the income tax, (4) do not add excessively to the complexity of the income tax, (5) avoid economic disruptions, and (6) are more cost-effective than a direct expenditure program.

Given the long-term fiscal challenge we face, I believe that whatever is decided about the permanence of these provisions, the decision should not increase projected budget deficits—the tax extenders should be paid for by increasing tax revenues.

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[9] Bipartisan Commission on Entitlement and Tax Reform, *Final Report to the President* (Washington, D.C.: Government Printing Office, 1995).

[10] Government Accountability Office, *Government Performance and Accountability: Tax Expenditures Represent a Substantial Federal Commitment and Need to Be Reexamined*, GAO-05-690, September 2005.

Chairman CAMP. Thank you. Thank you all for being here and thank you for your statements.

I have a question. Every time Congress has considered a short term extenders package, the Joint Committee on Taxation, which is our referee in these matters, estimates that the provisions will actually cease to exist. They look at the costs and say these provisions are not going to be continuing.

However, with spending programs, on the appropriations side, those are always assumed to go on forever. Even if they expire, they assume they are going to go on forever.

The Congressional Budget Office estimates that further extensions of spending have no cost, but yet with tax policy, the estimates say further extensions of current policy do have a cost.

There is a difference of treatment in terms of tax relief and spending which creates a bias in my view, a bias against extending expiring tax programs in favor of extending expiring spending programs.

If you look back at history, Congress virtually never pays for extenders, including those like the R&D tax credit, which supposedly have been temporary since 1981.

My question is this, given the repeated extensions, is not treating long-standing features of the Tax Code as if they were permanent certainly a fundamentally more honest way, accurate way, frankly, and more transparent way of looking at the costs and benefits of these policies?

Mr. Odintz, I just ask for your opinion on that.

Mr. ODINTZ. Looking at it from a business perspective, businesses cannot rely on provisions when they analyze whether to move cash from one location to another or to engage in a transaction.

They can only rely on current law and cannot rely on law that may or may not be extended, as you noted, the R&D credit has been extended since 1981, there is an exception there where it expired, so taxpayers could not enjoy the credits during that period of expiration.

I look at these issues from a business perspective and it is difficult for businesses to make decisions without permanence or at least to understand how long these provisions will be in effect.

Chairman CAMP. Mr. Redpath.

Mr. REDPATH. I started my career in 1981, and have dealt with these extender provisions for years. It makes businesses do things they would not otherwise do.

We have a temporary window of opportunity and it makes us make tax motivated decisions versus business decisions that may not have been made had we not had to deal with the expiration of the tax provisions.

Chairman CAMP. Again, Mr. Stallman.

Mr. STALLMAN. Farmers and ranchers deal with extensive uncertainty. It would be preferable to have more certainty with respect to the Tax Code as has been referenced by my colleagues.

Farmers are making these decisions based on what they know, and right now, without clear certainty about what the future is of some of the extender provisions, particularly the Section 179 expensing provision, that is hindering or at least slowing down their

decisions to make these expenditures and investment, which are important for maintaining an agricultural productive base, and frankly important for manufacturers and all the jobs created by those who create this equipment.

Chairman CAMP. Thank you. Ms. Zelisko.

Ms. ZELISKO. Having a permanent R&D tax credit, which I was focused on this morning, really helps business to be able to predict its cash flow.

In the planning process, when you are looking at R&D projects, they can span four to five years, having that certainty is critical in determining whether that cash flow is there or not.

Relying on a credit that basically has an extension of one or two years and might not even be there obviously is not part of that process. It cannot be, you need to have predictability, you need to have certainty.

With regard to cash flow, which is important in determining the amount of funds you are going to be able to set aside for those research projects, it is important to be able to know that the R&D credit would be around for business.

In addition, there is also financial implications I mentioned in my written statement and in my oral testimony, with regard to how the investment community looks at a publicly traded company.

When you are looking at whether or not an R&D credit is available, that impacts your effective tax rate. Why is that important? Analysts take that effective tax rate and factor it into their financial models.

Why is that important? It is the analysts that determine what they are looking to forecast your earnings per share. Your earnings per share are on an after tax basis. They take that earnings per share and then use a multiplier which they attribute to your particular company, depending upon the industry and what its history of earnings have been, and then they come up with basically a share price and a range, which then they use for their buy side and sell side analysts with regard to your stock price.

Again, predictability is so critical in this area and permanent tax policy would enable that to occur.

Chairman CAMP. We have had dozens of hearings over the last four years in this Committee where we have heard from many witnesses who said investing in their businesses and effectively planning for the future requires certainty. I heard all of you mention that as well, and especially when it comes to tax policy.

Each of you mentioned how some of these temporary tax provisions affect your companies and clients and some of your members.

What is your sense in terms of the economic benefit if businesses could generally rely on tax rules which would or would not be permanent going forward? What do you think sort of the overall economic impact might be if you can?

Ms. Zelisko, I will start with you and go the other way.

Ms. ZELISKO. Thank you. Certainly, having certainty with regard to the R&D credit, I think, has a tremendous multiplier effect from an economic standpoint.

When you are basically able to invest and create new products, which again accepted in the marketplace, you are providing not

only jobs and developing those products, you are providing sales revenue.

Therefore, you are able to further invest in your company, and that means jobs. Jobs mean housing. Housing means there are businesses in a particular community that are going to thrive.

Therefore, I think definitely the multiplier effect is often missed when you are looking at permanent tax policy and the certainty it provides.

Chairman CAMP. All right. Mr. Stallman.

Mr. STALLMAN. Agriculture is very similar. You have to maintain your productive base. You have to make capital investments to do that. Having certainty about tax policy allows that planning to occur. Without that, you are sort of delayed and behind the curve, if you will, from deciding how and when to make these investments that erodes your productive base.

Our agricultural export surpluses are certainly contributing to our balance of payments. The jobs that are created through that activity as well as the internal production and the amount of products and inputs that we purchase from suppliers, all of that creates great economic activity.

With tax certainty, you have more of that. With tax uncertainty, you have less of that.

Chairman CAMP. All right. Mr. Redpath.

Mr. REDPATH. Let me answer that with an example. I was working with a client last year, and in 2012, their five year S corp built in gains recognition period expired. They had an opportunity in 2013 to take advantage of the temporary rule of five years.

They owned millions of dollars of pipe in Western Minnesota that was subject to the built in gains tax, that they would need to sell in 2013 in order to benefit with regard to the current temporary five year rule.

This is the kind of pipe that you cannot sell in a year. It really impacted their decision. What do they do with this pipe? Do they sell it for less than they should sell it for? Can they make a business decision? Can they hope you extend it to 2014 and beyond?

What they ultimately had to do was sell some of this pipe for less than the real value of the pipe in order to move it to take advantage of the temporary window with regards to the five year recognition period on built in gains.

Chairman CAMP. Thank you. Mr. Odintz.

Mr. ODINTZ. Sure. I would like to also provide an example. U.S. manufacturers frequently establish a foreign subsidiary for financing their products, and as you may know, in banking or a similar business, the margins can be pretty low, interest rates on loans take into account after tax returns on that product.

For an U.S. manufacturer, it is important to have an interest rate that is competitive in the marketplace. If the U.S. manufacturer cannot rely on pricing of that interest rate as being competitive, then they may not get the financing for their widget and may lose on a sale of their widget and a foreign manufacturer may get the transaction.

I cannot tell you the macro effects, but on a business by business effect, these rules have significant impact.

Chairman CAMP. All right. Thank you. Mr. Levin.

Mr. LEVIN. Thank you very much. Welcome again.

Let me just kind of go down the line, if I might, and start with you, Ms. Zelisko. As Chairman Camp mentioned, I very much favor the extension of the R&D tax credit. We have been working on this.

I would like to ask you, do you know what the Joint Tax cost would be of permanent extension?

Ms. ZELISKO. I do not have that number currently available. I know it is significant. Again, I think from a tax policy standpoint, it is important.

The country back in 1981 when it put this credit in place really led the world as far as being ahead of the curve and realizing the importance of providing incentives for businesses to invest in research and development.

Mr. LEVIN. I agree. I have been one of the most active proponents. I just wanted to ask you about the cost.

Mr. Stallman, on the small business expensing, do you know what the Joint Tax ten year estimate is for making it permanent?

Mr. STALLMAN. I will have to concur with my colleague, I do not know that specific number. Once again, in terms of tax and economic policy, the provision itself is very important, I believe, in generating additional economic activity and thus, generating extra revenue in terms of tax revenues.

Mr. LEVIN. For R&D, their estimate is $76 billion. For expensing, it is $69 billion.

Mr. Redpath, you come off more easily. Do you know what the estimate is for your provision?

Mr. REDPATH. No, I do not, but I work closely with many S corporations that have potential built in gains tax exposure. As I said in my oral testimony, no one willingly pays the BIG tax. They structure transactions, they structure operations in any way they can to avoid it, which ultimately ends up tying up assets for ten years or more.

Mr. LEVIN. You stated the merits. I think there is much to be said for each of your testimonies. I just wondered about the cost.

Mr. Odintz, I am going to ask you, you mentioned two of them, the CFC and also active financing. We have been working on these two issues forever.

Do you know what Joint Tax projects as the cost, ten year cost, of making this permanent?

Mr. ODINTZ. Sure. I believe for CFC look-through, the cost is around $10 billion over the ten year window, and then for AFE, I believe the cost is in excess of $50 billion over the ten year window, but under $100 billion.

Mr. LEVIN. According to Joint Tax, their estimate for ten years for the CFC provision is $20 billion plus, and for active financing, it is $70 billion. You are pretty close, but 10 to $20 billion is a lot of money.

I just want to mention that because as I said in my opening statement, I think we need to look at these issues in a holistic way, and not only these specific ones, but others that are not being looked at, and I think the issue of cost, no matter how you try to shape it, is indeed relevant.

I yield back.

Chairman CAMP. Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman. I did not get a chance to tell you but I want to take this moment to thank you for your service and in particular your tireless effort in advancing the cause of tax reform.

Chairman CAMP. Thank you.

Mr. JOHNSON. Ms. Zelisko, I have a number of questions I would like to ask you about the R&D tax credit. First, to begin with, we have heard that the potential for long drawn out fights with the IRS over the R&D tax credit can discourage companies from even claiming the credit.

Has Brunswick faced similar fights with the IRS?

Ms. ZELISKO. We have had some disagreements with regard to the R&D tax credit with the IRS. Basically, one of the challenges that we face is that often times the IRS wants to basically think that you should keep your books and records such that they are on a project by project basis with regard to these R&D projects, as opposed to we keep our books and records on a cost center basis.

The IRS wants to directly be able to point to the different costs involved in the R&D effort to a particular project as opposed to taking a more reasonable approach in an allocation that would be supportable but would make more sense.

Often times, that is where we have faced our challenges.

Mr. JOHNSON. You are saying the IRS is not reasonable. I have to agree with you.

Do you have any more thoughts on how to make the credit more taxpayer friendly?

Ms. ZELISKO. I think basically looking at the alternative simplified credit, where you basically would eliminate some of the controversy that taxpayers have been challenged with with regard to the base period, a receipts calculation, you are talking about a base period that goes back to 1984 to 1988, where you are looking at data that is 25 to 30 years old.

If you are in a company that has bought businesses and sold businesses where you have had that research and development in those years, you have to adjust for that.

Needless to say, that probably makes it at best problematic in trying to track that.

I think when you are going to an alternative simplified credit, you are looking at data that is two to four years old, a lot more manageable than 30 years old.

Mr. JOHNSON. As you may know, in Chairman Camp's tax reform discussion draft, the R&D credit is modified so it is based on the alternative simplified credit, ASC, rather than the traditional credit.

Do you have any thoughts on how shifting to the ASC would improve the R&D credit?

Ms. ZELISKO. As I said, I think basically it would eliminate the controversy around the base period by going to an alternative simplified credit.

I would urge the Committee and Congress to not eliminate supplies, the deduction for supplies and software, because for our company, supplies can be anywhere from 20 to 25 percent of our total qualified research expenditures.

When we are making a new engine, you basically destroy a lot of prototypes in that process when you are getting it right.

I would urge the Chairman and Committee to rethink the supply issue with regard to deductibility.

Mr. JOHNSON. Do you think changes like that would make it easier for companies to claim the credit generally?

Ms. ZELISKO. We have found when the IRS actually goes out and visits your facility and they talk to the engineers that are basically involved in the process, they truly realize what R&D is all about, as opposed to sitting back in a field office in a vacuum.

Mr. JOHNSON. You think some of them do that? Thank you so much. Thank you, Mr. Chairman.

Chairman CAMP. Thank you. Mr. Doggett.

Mr. DOGGETT. Thank you very much, Mr. Chairman. Despite all the talk about tax reform that will be more simple and equitable and tax reform that will not dig us deeper into debt, Republicans have chosen to first not introduce that legislation.

They have had reserved since January of last year, H.R. 1, for comprehensive tax reform, and as of today, it still shows H.R. 1 is reserved for the Speaker.

Instead, today's hearing is about borrowing more money from the Chinese to maintain some very complex corporate Tax Code provisions that depend upon their very complexity to work.

The controlled foreign corporation provision and the active financing provision are all about this Congress picking winners and losers rather than leaving the marketplace to decide.

They lower the effective corporate tax rate for some businesses and say to some businesses they do not have to pay as much for the cost of our national security and other vital services as their neighboring corporation that is competing and paying a higher effective tax rate.

Mr. Hungerford, I want to ask first about the active financing provision. We understand that would take borrowing about $70 billion of additional debt over the next ten years to maintain.

Under existing law, if a financial institution makes a loan to a domestic corporation, to one of Mr. Stallman's farmers, to a company that is making it in America, manufacturing here, as I understand it, it reflects in its corporate tax return the interest that it earns from extending the loan and it deducts whatever the cost of extending that credit might be, and it pays taxes on the difference. Is that right?

Mr. HUNGERFORD. That is correct, and thank you for asking the question.

Mr. DOGGETT. If it is a loan or some other form of credit to a company that is not making it in America, that is a foreign operation, then it can take its expenses now for extending the credit and take its profit on its earnings whenever it feels like it.

Is that not essentially what the active financing provision allows?

Mr. HUNGERFORD. The active financing exception is an exemption to SubPart F. If this income was all considered SubPart F, it would be taxed immediately.

Mr. DOGGETT. Yes. The very fact that we are talking about SubPart F and the exception to SubPart F and active financing and whether it is active or passive is the kind of thing that does add

complexity and causes the eyes of most people to glaze over rather than to look at the effect of what the provision is, which is to provide, is it not, Mr. Hungerford, a substantial subsidy to encourage the export of American capital and American jobs rather than to invest in making it in America?

Mr. HUNGERFORD. Yes, that is correct.

Mr. DOGGETT. As far as the controlled foreign corporation provision, and the CFC look-through exception is concerned, another $10 billion that we would borrow from the Chinese, if you have two companies right next door to each other and one of them can afford a bunch of fancy accountants and consultants and high priced lawyers to rig up some corporate fiction that they have a subsidy in the Bahamas or Bermuda, they can license their patents, their copyrights, perhaps their trademark name, to a tax haven company, and strip off earnings that they have had right here in America, that their smaller neighbor does not do.

The effect of that is to lower their profits by increasing their costs in some tax haven. Is that not the way it works?

Mr. HUNGERFORD. Yes.

Mr. DOGGETT. In fact, using both of these devices and many other complex provisions, over the last decade I believe GE has not only lived better electrically but they have managed to pay an effective corporate tax rate of less than two percent, two cents on the dollar, which is a deal that any hard working American or business would love to have.

Mr. HUNGERFORD. That is correct.

Mr. DOGGETT. Essentially, repealed their taxes except at a certain minimum level.

Under these controlled foreign corporations, you actually end up with what many people have called "stateless income." How does that work?

How does some income just never get taxed by any entity either here in America that contributes to the cost of our national defense or by anyone else?

Mr. HUNGERFORD. Part of it is through the CFC look-through rule that income can be shifted, that is from a high tax country, high tax foreign country, to a low tax foreign country, in such a way that it is not taxed in that high tax foreign country, and the transaction is not taxed by the United States.

Chairman CAMP. All right. Time has expired. Thank you. Mr. Brady is recognized.

Mr. BRADY. Chairman Camp, thanks for your leadership, tireless leadership, to fix this broken Tax Code and reign in the IRS, get this economy going.

This hearing is about jobs and we need them so badly. This is the worst economic recovery in 50 years. Millions of people have given up looking for work. Millions of work cannot find it. It has taken six years just to break even on the number of jobs along main street.

Today, proportionately, fewer Americans are working than when this recession ended. We are actually going backwards.

Those who are being hurt most are women and young people and those just graduating from college. We ought to be focusing on jobs.

What I hear from our witnesses today is that these tax provisions are critical to creating jobs, and they are less pro-growth if they are temporary, and far more pro-growth if they are permanent, and businesses of all sizes can count on them, from innovative businesses doing research and development to investing in America with those jobs, or small businesses and family farms and ranchers creating jobs here in America.

About the CFC look-through that allows American companies to be competitive against China and Europe and Latin America, so we can create jobs here in America.

This is what this hearing is all about. While I appreciate the concern about fiscal responsibility, what Chairman Camp has shown in his discussion draft is you can lower rates, you can make this Tax Code more pro-growth without adding a dime to the deficit.

This really is about removing an asterisk around these temporary provisions in the Code so we can grow the economy more.

Chairman Johnson has asked about the research and development area, which I have an interest in, as all members do. I want to talk about small business expensing.

Right now, one of the missing ingredients in this recovery, one of the reasons it is so weak, is that businesses are not able and do not feel comfortable to reinvest back in new equipment, software, and technology.

I want to ask first Mr. Stallman and then Mr. Redpath, how important it is—we need big businesses to invest and we need small businesses to invest.

I want to ask both of you gentlemen how important is it that our businesses be able to expense, you know, that $500,000 figure, and how important is it that it is made permanent so they have that certainty? How important to the economy is it?

Mr. Stallman.

Mr. STALLMAN. From a farming and ranching standpoint, we believe it to be very important. I referenced the high cost of equipment that exists. I did not mention the cotton pickers that are $600,000 to $750,000 at a pop now.

The point is we need the $500,000 expensing. This is not about tax avoidance. This is just changing when you pay the tax because you are just accelerating the expense for that year. It helps provide additional cash flow. It helps you make that decision, and having certainty about that is what allows you to move forward.

Just a personal example, I am right now thinking about having to replace a tractor on my farm. I am going to wait and see what happens with these tax extenders and what happens to the provision for Section 179 expensing before I make that decision.

Mr. BRADY. When you buy that tractor or cotton picker, it certainly reverberates through the economy, does it not?

Mr. STALLMAN. Absolutely, all the way from the raw materials suppliers to the manufacturers to the dealers selling it to the people that service it, just all the way down the line.

Mr. BRADY. Thank you. Mr. Redpath.

Mr. REDPATH. Thank you. Two things. One is to answer your question also answers the question why we should extend the built in gains tax period. That will free up the capital necessary to make those expensing acquisitions.

I look at the expensing provision as a provision that absolutely works, and the reason it works is everyone that qualifies for it uses it. It is one of these provisions that is in the Code, and if they qualify, they use it, so it must work.

For my clients, spending those investments is how their companies grow. When companies grow, they create more jobs.

Mr. BRADY. Mr. Chairman, thank you for hosting this hearing. I know we have members wanting to inquire about a number of the other provisions. Thank you for holding it.

Chairman CAMP. Thank you. Mr. Lewis.

Mr. LEWIS. Thank you very much, Mr. Chairman, and thank you, Mr. Chairman, for holding this hearing.

Mr. Hungerford, in your testimony you raised the importance of long term fiscal discipline. You also highlight the question or objective of a tax break.

When considering tax extender and tax reform, what action by this Committee would cause the least economic disruption?

Mr. HUNGERFORD. I think two things the Committee could be doing. One is determining which provisions belong in the Tax Code and which do not. I think there is a lot to be said from both a business standpoint and a budgeting standpoint to make them permanent.

Mr. LEWIS. In your work, do you believe that a broad or a narrow lens should be applied when considering tax policy and why?

Mr. HUNGERFORD. I think as broad a lens as possible. You need to take into account other things in the Tax Code. Also, you need to take into account the whole budget situation, basically spending and the revenue side.

I am concerned over the long term about deficits and unsustainable accumulation of debt.

Mr. LEWIS. Thank you very much. I thank the other members of the panel for being here. I yield back, Mr. Chairman.

Chairman CAMP. Thank you. Mr. Tiberi.

Mr. TIBERI. Thank you, Mr. Chairman. Mr. Stallman, welcome. I understand you hail from Columbus, Texas. I hail from Columbus, Ohio. Good to have two Columbus guys in the room.

Mr. Brady posed a question regarding Section 179, and you gave your tractor example. If you could just go a little bit further on what ranchers and farmers have done in reaction to what was the law at the $500,000 expensing level. We know what they have not done because of the new amount of $25,000. What do you believe would happen if we extended permanent law to the old limit of $500,000 in Section 179?

Mr. STALLMAN. I will tell you this anecdotally based on my conversations with farmers. There were a number of them that accelerated their purchase decisions prior to December 31 because they had certainty up to that point. They were uncertain about what was going to happen after that.

Right now, I would suggest there are a number of them that are in a holding pattern waiting to see what happens before they commit the funds to purchase equipment in excess of what the $25,000 deduction would allow.

If it were made permanent, that would create the certainty, I believe, for farmers and ranchers to do that very necessary planning

for their capital structures or capital improvements that they need to maintain a productive farm and ranch.

I think it would unleash dollars that frankly have been held given the fact that we have had a good agricultural economy, and that is subject to change obviously, but we have had a good economy where farmers and ranchers have had some profits and some cash.

They are waiting to see what they are going to do with that.

Mr. TIBERI. I have heard the same thing anecdotally from small business owners in my District of Central Ohio, and plan on introducing a bill that would extend this permanently, a bipartisan bill, later this week.

I know your organization is supportive of that, as are many other small businesses. Thank you for being up here today from Columbus, Texas.

Mr. Odintz, on another matter that Mr. Doggett brought up, reading your testimony, I think you have a different view on the active financing exception.

Can you talk about the process that you and your clients go through because of the temporary nature of this provision in the past, and how this is much like 179, a provision that actually helps American competitiveness, a little bit different than what we heard a little bit ago?

Mr. ODINTZ. Sure. I think it is important to note that AFE does not export jobs. What it does allow is for a bank or similar business to establish a branch or to establish operations in a location.

If you think about it, when people go to a bank, they like to walk into a physical bank. It is important that the U.S. headquartered banks can establish a local operation that facilitates the relationship with clients.

If the rules do not exist, then it is difficult for clients to price out loans, certificates of deposits, and other like instruments at a competitive rate with foreign based multinational's that have operations, real physical operations, in the same jurisdiction.

As far as jobs, a lot of companies, U.S. based multinational's, manage their foreign currency risk and other international risks in their headquartered location, so that happens in the United States, so there is a knock on effect of jobs when an U.S. based bank opens operations abroad and is unable to manage its risk domestically.

Mr. TIBERI. Correct me if I am wrong, this allows U.S. financial services companies that do business all over the world to be competitive with their foreign competitors and treats them exactly like non-financial services companies are already being treated under the law.

Mr. ODINTZ. That is correct. AFE merely treats a bank or other financial service provider like a manufacturer. It does not provide a better position vis-a-vis SubPart F. It just treats them equally like non-financial service providers.

Mr. TIBERI. It does not allow for any deferral of profits in the U.S.?

Mr. ODINTZ. That is correct.

Mr. TIBERI. Why do you think it gets attacked?

Mr. ODINTZ. I think the discussion sounds like a greater discussion on whether we should have deferral, which is a different dis-

cussion, but to the extent we are going to retain a system that has deferral, I do not see a reason to distinguish between banks that engage in active business versus a manufacturer that makes widgets.

Mr. TIBERI. My time has expired. Thank you so much.

Chairman CAMP. Thank you. Mr. Kind.

Mr. KIND. Thank you, Mr. Chairman. Thank you for holding this hearing, and we appreciate the witnesses' testimony here today.

Let me just start with a general question for the panel. Other than Mr. Hungerford, who testified pretty clearly that he thought that extension of these expired provisions without paying for them may be detrimental to economic growth in the future, does anyone else on the panel have any concerns about the potential lack of offsets to pay for these expired provisions as we move forward?

[No response.]

Mr. KIND. Not really? One of the hardest things we have to do around here, whether it is new program spending or whatever, is finding offsets in order to pay for things so that we are not adding to the deficit, especially in future years, the "out years" as they say.

I think that is going to be an issue that we are going to have to have an ongoing conversation about with the extension.

Mr. Stallman, appreciate your testimony on the importance of 179 expensing. Obviously, I come from a large agricultural area in the State of Wisconsin. I have been working with Mr. Tiberi in introducing some legislation along those lines, a permanent extension of 179, indexing it for inflation.

What we are thinking about doing though is taking the $500,000 and lowering it to $250,000 for real property, but still indexing it. Would you have any concerns with that, as it would affect real property?

Mr. STALLMAN. Are you talking about the single purpose buildings?

Mr. KIND. Yes.

Mr. STALLMAN. $500,000 would be better, obviously, because these buildings, particularly with the technology and the systems that are put in place now are getting more expensive, not less expensive. I think that is the issue there in terms of the growth and cost of these kind of single purpose buildings.

Mr. KIND. I do not know if you have or someone at Farm Bureau has had a chance to really go through the Chairman's discussion draft that was introduced a couple of weeks ago, but in it, they are calling for the elimination of Section 1031, the like-kind exchanges.

Have you had a chance to look at that and what the impact might be in the agricultural section if we eliminated like-kind exchanges?

Mr. STALLMAN. We are reviewing the whole proposal now and trying to get sort of the big picture of what it means for agriculture and all the tradeoff's that are there.

I will tell you that our policy supports maintaining the 1031 exchanges. Those have been very useful for farmers and ranchers as they have gone about planning for the future, as they have gone

about trying to expand their operations, plus important for those who may want to move on and do something else but want to try to manage the tax consequences of selling their land.

Mr. KIND. I would like to stay in touch with you and get some more feedback on what the impact might be, especially in the agricultural field.

Mr. Redpath, appreciate your testimony, too, as far as the impact on S corporations and the five year BIG holding period, something that Mr. Reichert and I have been working on with our S corp modernization bill.

You also indicate in your testimony that you think we need to expand the qualifying beneficiaries to include non-resident alien individuals as well. Could you explain why you think that is necessary?

Mr. REDPATH. Yes, thank you. The provision relating to the non-resident alien individuals deals with who can be permissible beneficiaries of electing small business trusts, which are eligible S corporation shareholders.

It does two things. One, it puts S corporations at par or closer to par with LLCs, their competing flow through model, where LLCs are not restricted to the types and numbers of owners and the types of ownership.

This would allow S corporations to attract non-resident alien foreign owners through trust only.

In that provision, the trust actually pays the tax, and it pays the tax at the highest individual rate. Some of the positions are who cares who the beneficiaries are, the trust is actually the taxpayer.

The second and more important provision that I run into with regard to this provision is family business. More and more of our family businesses are resulting with non-resident alien family members, who without this provision cannot enjoy the benefits of family ownership of the family S corporation.

Mr. KIND. One other thing, Mr. Redpath. The five year BIG holding period and the impact on the charitable deduction provisions, can you explain in a little bit more detail what impact that has?

Mr. REDPATH. Yes. I will just give you an example. Let's assume an S corporation has appreciated property that it wants to donate to a charity, whether it is appreciated securities or land or a building, and they want to donate it to a charity.

When they donate to that charity, they get a deduction for the fair market value of the property, just like anyone else, like an LLC or C corporation or individual, but they are required to reduce the basis in the stock they own by that full fair market value.

All other taxpayers get to reduce by the basis of the property, which is substantially less than that. It results ultimately in not being able to deduct the full fair market value of the property.

Chairman CAMP. All right. Thank you. Time has expired.

Mr. KIND. Thank you.

Chairman CAMP. I am going to go two to one now, Mr. Reichert.

Mr. REICHERT. Thank you, Mr. Chairman. I want to add my thanks to you, too, for pushing forward with tax reform over these last three plus years, and in fact, thanks to the entire Committee

because this has been a bipartisan effort, over 40 hearings and meetings after meetings after meetings after meetings.

[Laughter.]

Mr. REICHERT. On tax reform. It has been a little bit in contrast to some of the other major bills that were passed in previous years, but this is an effort to reform the Tax Code, and the people on this Committee know how hard that is. You certainly know how hard that is, since 1986, we have been hoping for this. People in this audience know and I think people around the United States understand how critical this is and how difficult this is.

The whole goal here is to create a tax reform bill that energizes business, and as Mr. Brady says, creates jobs. We do not work for the IRS any longer, but the Tax Code works for us, right? That is the goal.

There are a couple of things I want to touch on, Ms. Zelisko, both in your oral and written testimony. First, the need for the permanence in the R&D credit for the U.S. to be competitive on the international level.

Second, your concerns that eliminating supplies and computer software from the credit might have unintended consequences.

On your first point, in Washington State, we do not have to look too far to see what other countries are doing to attract R&D. You may already know this. In Canada, not only have they reduced their Federal corporate income tax rate to 15 percent, they have now a permanent 15 percent credit on research and development activities that applies to all expenditures and special accelerated depreciation rules that apply to so-called "research assets."

On top of this, the various provinces and territories have added their own research tax incentives. For example, in British Columbia, right above the State of Washington, there is now a ten percent credit for all companies, on top of the Federal incentive.

On your second point, the unintended consequences of removing software and supplies from the credit, we have heard a couple of things, that no other country in the world specifically denies R&D credit eligibility for all software costs and secondly, for manufacturer supplies, such as test models, can be an integral part of conducting scientific research.

Could you please comment on both the importance of the permanence in the R&D credit to stay competitive on an international level, and the potential unintended consequences for removing expenditures on software and supplies for the tax credit?

Ms. ZELISKO. Yes. The United States has the opportunity to lead once again in this area. We did in 1981, but that recent OECD study ranks us now 22nd as far as the incentivization the R&D credit provides here in the U.S., when it is in play.

I think therefore making it permanent is going to really accelerate and innovate and provide the incentive for businesses to plan, to be able to decide that we are going to be able to do that extra project as a result because we know that the cash flow is going to be there, and it is not going to be on again, off again.

I think with regard to that, ranking number one in 1981 and now 22nd, obviously that says something, that we need to basically take notice and lead as opposed to trying to catch up.

In that regard, with regard to the amount of items that should be allowed as far as qualified research expenditures, having supplies and software being part of the equation which it was until the proposal here we have before us, I think that is important.

Supplies are critical as far as when you are doing research and development. Obviously, wages are the majority, as evidenced by the research and development credit; 70 percent of all expenditures relate to wages. That means 30 percent relates to supplies, not an insignificant amount.

I think if we want to be competitive as opposed to regressing and taking a step back, retaining supplies as a deductible, as a qualified research expense for the R&D credit, is so important, along with software.

Software is critical. Look at the developments of the companies we have had here in the United States where software development—we lead in that forefront, and I think we want to retain that.

Mr. REICHERT. Thank you. I yield back.

Mr. YOUNG [presiding]. The gentleman's time has expired. Mr. Boustany is recognized for five minutes.

Mr. BOUSTANY. Thank you, Mr. Chairman. I am very pleased we are having this hearing today and happy that we are focusing on a bipartisan tax provision that I have long championed, and that is making the CFC look-through permanent.

You can argue that a lot has changed since 1962 when a lot of these international provisions were written.

Mr. Odintz, I think you pointed out that SubPart F is antiquated because it sort of assumes that business is done country by country, on a country by country basis, and does not take into account the global nature of business today, the type of environment that U.S. owned businesses are trying to compete in.

These are companies going up against—these are American companies that create value, they create American jobs, and they are going up against foreign competitors.

You pointed out in your testimony a couple of things. One, the concept of making this permanent so there is certainty for these companies, our U.S. companies, to plan and make sound business decisions, and you also talked a lot about the competitiveness of American companies vis-a-vis our foreign competitors.

This provision is not well understood. I think we heard from the other side just a little while ago some relative misunderstanding about how this works in this 21st Century economy, and why it is necessary for U.S. companies.

The CFC look-through allows payments of dividends, interest, rents or royalties in the normal course of active business operations between U.S. owned foreign subsidiaries, so they can deploy capital without an immediate tax burden in their normal business operations, and it does not apply to passive highly mobile income. That is an important distinction.

I want to give you an opportunity to expound further on this. Some have voiced concerns that the CFC look-through rule allows U.S. companies to avoid taxes on their foreign income.

If the rule only applies to active foreign income that otherwise is not subject to current U.S. income tax, is this not really just

about foreign taxes and not U.S. taxes? Is it really at the end of the day Congress' responsibility to force American companies to pay higher taxes to other countries?

Mr. ODINTZ. Congressman, I think you have correctly pointed out that in order to use the provision, it requires the payments out of active income. The issue really is whether the U.S. should have a current inclusion of that income or the taxpayer should get a deferral for redeployment of capital to another location outside the United States.

That is the issue. I look at it not as a provision designed to enable stripping from one country to another but rather for flexible utility of cash.

If you look at U.S. multinationals, they are limited in how they can conduct operations. Without CFC look-through, they have to separate jurisdiction by jurisdiction or country by country, and when you look at the EU, for example, the European Union is one zone, but yet U.S. rules require U.S. corporations to treat each country separately and distinct, which is certainly not how European competitors or other competitors look at the EU.

Mr. BOUSTANY. Thank you. I know when Congress enacted the provision in 2006 it wisely recognized that it would really create a level playing field for U.S. companies, but talk a little bit more about the competitiveness, in the time I have remaining.

U.S. companies trying to operate in a 21st Century global economy, a very competitive global economy, give us more background from that perspective.

Mr. ODINTZ. Sure. On the competitiveness piece, cost of capital can be expensive and obviously if a company can move funds from one jurisdiction to another by a dividend as opposed to having to borrow from a third party, the cost of capital is lower, and it can be more efficiently deployed to a market where there might be a new opportunity.

For example, in an effort to expand in one country in the European Union that was untapped, it allows the U.S. company to deploy that capital in that place and open a new facility or sell into that marketplace and compete with the same cost of capital as a foreign competitor.

Mr. BOUSTANY. This supports American jobs; right?

Mr. ODINTZ. Yes, it does.

Mr. BOUSTANY. Thank you. That is all I have.

Chairman CAMP [presiding]. Thank you. Mr. Pascrell.

Mr. PASCRELL. Mr. Chairman, thanks for bringing us together. I think this is a very important hearing. As we have heard today, companies want certainty. Individuals rely on you and rely on that certainty.

There are many extenders not on the agenda, about 50 of them. I hope they will get a fair hearing as you are getting a fair hearing today.

We can address the new markets tax credit, the mass transit tax benefit, the work opportunity tax credit, which has bipartisan support, and various other provisions.

I support the goal of coming up with a permanent solution to the tax extenders. Like many other things here in Congress, this issue

comes up every year or two, and instead of finding a way to solve it once and for all, we kick it down the street.

The sustainable growth rate is a perfect example, SGR. We debated it last week and passed it. We had the momentum. We had the lowest score to repeal the formula in years, but we did not have an agreement on how to pay for it, but we are trying.

That is the crux of the issue with extenders. We need permanence in our Tax Code, but we cannot sacrifice the progress we have made bringing down our deficits, which have come down at the fastest rate since World War II. That is either true or false, what I just said.

It is simply not fair to put these provisions which disproportionately benefit business on a credit card. To do so would be incredibly hypocritical, especially since our Speaker has ruled out a vote on the fully paid for extension of the unemployment insurance.

Tax cuts do not pay for themselves. We learned our lesson, I think, in 2001 and in 2003, when the Clinton surplus evaporated and paved the way for structural deficits we continue to see.

We are pleased when the draft of the Chairman's tax reform legislation used the current law baseline. That meant a big deal.

Mr. Hungerford, it is good to see you again. You spent a long time with the Congressional Research Service, and your astute analysis informed many debates in this Committee and throughout Congress.

One report of yours that I almost carry with me all the time, that sticks in my mind, "Taxes and the Economy, an Economic Analysis of the Top Tax Rates Since 1945." I thought it was on target. I have referred to this before in discussing tax issues.

My friends on the other side of the aisle often claim that tax cuts at the top are the key to unleashing economic growth in this country.

Could you please summarize what the research you conducted for the paper I just cited found regarding the correlation between the top marginal and capital tax rates and economic growth and income distribution?

Mr. HUNGERFORD. To briefly summarize, I found no correlation between changes in the top tax rates for capital gains and for ordinary income and for various measures of economic growth per capita, GDP growth, productivity growth, changes in savings and investment.

I think if there were something there, I would have found a correlation. I think it is very telling that I did not find a correlation. You just do not see any movement, these variables moving together in the data.

I did, however, find as the top tax rates for ordinary income and capital gains have come down, income inequality has been going up, as measured by the share of total income going to the top one percent in the income distribution.

Mr. PASCRELL. We have to get beyond the first flush that would indicate that the more investment that comes from the top necessarily and the more tax breaks the top five percent receive, it is going to automatically transfer into economic growth and jobs in the economy.

You made that study from 1945 on. Why are we still relying on that myth that if we take care of the top, and I am exaggerating, let me use hyperbole, I have that option right now, if we continue to do things for the top, everybody else is going to be wonderful. Why are we still using that myth?

Mr. HUNGERFORD. I wish I knew.

Chairman CAMP. Time has expired.

Mr. PASCRELL. Thank you, Mr. Chairman.

Chairman CAMP. Thank you. We will go to Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman, and thank you to our panelists here today for sharing your insight and expertise.

I think you have all touched on the fact that a permanent Tax Code is a somewhat simpler Tax Code. Certainly, it eliminates one of those unpredictable provisions of the Tax Code.

We know that the marketplace is volatile, it impacts the economy in various ways, and Mr. Stallman, I know agriculture certainly sees the volatility in the marketplace and tries to manage that. We hope we do not have volatile tax policy as well.

Especially in light of the fact that I think agriculture has done very well with producing more and using less water, less resources, less land. I think there is a great story to tell there.

Can you perhaps illustrate kind of the added risk to agriculture given uncertain tax policy?

Mr. STALLMAN. It impedes the progress of the industry with uncertain tax policy. The risk is without knowing what the tax policy is, without being able to make business decisions, where we have some certainty for the future, then that inhibits us from creating a productive and efficient platform as the industry needs for the future.

You mentioned some of the progress we have made. We have made tremendous progress on so many fronts on productivity but also in use of resources, but a great deal of that has to do with acquiring the technology, the equipment, the tools, to be able to do that. Those are getting more expensive by the year.

Particularly in things like our expensing policy with Section 179, that directly relates to our ability to make those decisions, to maintain an ever improving production platform for U.S. agriculture. Without that, we do not have that certainty and will be inhibited in making those decisions.

Mr. SMITH. More specifically perhaps, could you elaborate in terms of Schedule F filing, what that means to your members and especially how that would relate to permanent tax policy?

Mr. STALLMAN. As farmers and ranchers, we do file on a separate schedule, Schedule F, as you referenced. The big issue there for us is cash accounting versus accrual accounting, I think, in terms of being able to file on a Schedule F and being able to frankly manage our finances, our incomes, and our tax expenditures to a certain extent using cash accounting as opposed to accrual accounting.

In the long run, all it does is allow us to sort of remove the up's and down's that are inherent in the volatility that we experience, both in terms of the marketplace and in terms of the weather.

For some years, we will have a very large income. For other years, we will have much less. Without some ability to sort of man-

age those swings from a tax and economic standpoint, once again, it makes it more difficult for us to do our business as farmers and ranchers.

Mr. SMITH. Thank you again to our panelists, and thank you, Mr. Chairman. I yield back.

Chairman CAMP. Thank you. Mr. Paulsen.

Mr. PAULSEN. Thank you, Mr. Chairman. Mr. Chairman, before I begin my questions, I just want to take a moment to thank you and your attention on this issue for permanency in the Tax Code, but also for the attention you have given in your tax draft to the medical device tax repeal. There are not many such as yourself that paid such close attention to a very unjustifiable tax that is killing good domestic jobs and manufacturing jobs and cutting research and development and denying patients access to those innovative therapies that I think are so critical to our country.

Chairman CAMP. Thank you.

Mr. PAULSEN. Let me ask you this, this is a very helpful exercise. I appreciate your being here today.

As we focus on a pro-growth Tax Code, I think this has been one of the biggest criticisms of Congress, and you really laid out individually on various different aspects of the Code short term fixes versus long term thinking, right?

What should be the direction to go? You can apply that to transportation, health care, and certainly the tax policies as we try to get the economy going.

I hear constantly from companies in particular that say look, if you have a retroactive tax provision, if you extend something for six months, if you extend it for a year, you are not going to have any confidence, certainty or predictability of how we are going to invest capital in our economy. That is why this is a very helpful exercise.

Mr. Redpath, I want to ask you a question. You testified earlier, particularly your comments supporting the extension of this five year built in gains holding period. I am pleased that the Chairman also recognized this is a very important provision and it is included in the tax reform discussion draft.

This might seem like a subject that is very trivial, and accountants such as yourself are aware of it, it might not have an actual impact on our economy on a grand scale, but IRS statistics do suggest that thousands of U.S. businesses, thousands of U.S. businesses are actually sitting on top of appreciative assets that could be put to better use.

You gave a couple of examples of that. In an economy that is short of capital now, it just seems to make sense to me that we allow businesses increased access to their own capital, their own assets.

You mentioned in your testimony the lock up or lock down of that capital that the built in gains taxes result in. How difficult has that issue been for S corporation clients that you work with?

Mr. REDPATH. It has been difficult. Let me talk about that. I am a tax accountant. I thought it would be my responsibility to remind all of you that your returns or extensions are due next Tuesday.

[Laughter.]

Mr. REDPATH. We have clients that look at how they can raise capital. When their capital is locked up as a result of this provision, what can they do. One thing you have to remember is S corporations cannot get money from the public markets. Public companies cannot be S corporations.

What are their alternatives? One is they can go borrow money. Most small businesses are not interested in borrowing large chunks of money to raise capital. They can consider selling part of their shares to venture capitalists or private equity firms who have probably competing interests and conflicting interests with regard to ownership. Generally, they are looking at flipping a company.

Most of these companies I am talking about are closely held family businesses. You know how they generate capital? The old fashioned way, they earn it. They make money. They pay their tax. They retain it.

What causes them to slow that down are a few things. Tax rates. Tax rates matter to flow through entities. In Minnesota right now, many flow through entities are paying in excess of 52 percent combined Federal and state taxes. That is after paying sales tax, property tax, excise tax, payroll taxes, and the built in gains tax.

They are sitting on capital like we talked about, that they cannot generate the old fashioned way by earning it and converting it to the appropriate assets to increase earnings. Truly, the small businesses I work with, that is their primary way of generating capital, through earnings.

Mr. PAULSEN. Actually, a little esoteric provision of the Tax Code that is dealt with from a permanency perspective can actually drive a lot of economic growth, can be a pro-growth initiative, you are saying, and there are other avenues that some of these S corporations or closely held family businesses might have to access capital, but they are not easy to access.

Mr. REDPATH. They are not easy to access and they do not serve the purpose of the entity, the business, and the stakeholders of the business; no.

Mr. PAULSEN. Thank you, Mr. Chairman.

Chairman CAMP. Thank you. Mr. Davis.

Mr. DAVIS. Thank you very much, Mr. Chairman. I want to thank you for the hearing, and I want to thank all of our witnesses for coming, especially I want to welcome Ms. Zelisko from Lake Forest, Illinois, just a few miles from my District and from Chicago.

Mr. Chairman, while I am pleased we are considering these seven areas, I would look forward also to looking at transit parking and things like low income tax credits, new markets tax initiatives, work opportunity tax, tuition credits.

I have two documents I would like to submit for the record from the Regional Transit Authority and from the National Growers Association. I ask unanimous consent.

Chairman CAMP. Without objection.

Mr. DAVIS. Thank you very much, Mr. Chairman.

Ms. Zelisko, let me ask you, the research tax credit has been vital to ensuring that the U.S. is in the best place in the world for companies to conduct research and business.

I know you work for one of these companies and work with companies. Could you tell us how your company has made use of this area?

Ms. ZELISKO. The research and development credit?

Mr. DAVIS. Yes.

Ms. ZELISKO. Yes, it is very important to the company. It is an important element of determining what projects we are going to be looking at because it determines our cash flow.

We obviously generate cash flow from our earnings in the company, but that cash flow is increased by the research and development credit because it does reduce our tax liability, and that money is then redeployed into investing in new products for the consumer, meeting environmental requirements about emissions.

These are all important items that therefore generate jobs, and with the successful product that I mentioned, about a 150 horsepower four stroke marine engine, so successful we had to expand our plant, therefore, that means brick and mortar that were added, and created jobs in the construction business, and also created additional jobs for engineers that we have in Fond du Lac, Wisconsin.

This plus in our marine business with regard to the different items that I listed in my written testimony, all the different products and innovations we have made, given the competitive nature of the business in which we do business.

Mr. DAVIS. Thank you very much. Mr. Hungerford, you discuss in your testimony the reasons why it is important to be fiscally responsible when addressing tax extenders.

What would be the likely effect on the GDP and economic growth if the seven provisions discussed today are made permanent without paying for them?

Mr. HUNGERFORD. Just comparing to the baseline, I would expect that GDP growth going out would be smaller or would be lower. If interest rates do go up, we will end up seeing less investment, which will have an impact on GDP growth, on jobs, and employment possibilities.

Mr. DAVIS. Thank you. Mr. Stallman, would you briefly tell us how Section 179 expensing rules are used in the farming industry?

Mr. STALLMAN. Let me just illustrate that with an example. For instance, if I need to go out and buy the tractor I referenced, let's just say it costs $200,000. Without Section 179 expensing, I would be limited to taking the deduction, and let's assume it is used and not new, I would be limited to taking a deduction of $25,000 and then depreciating that over multiple years.

That affects my cash flow. Therefore, I would have to not have the benefit of postponing some tax payments, if you will, by accelerating the depreciation, and then having to take those expenses in future years, so the net effect roughly would be the same over time, but the point is that extra cash flow that would be allowed by being able to accelerate the deduction used in Section 179 expensing would allow me to more easily make the investment.

Mr. DAVIS. It becomes very helpful in making sure that you would be able to acquire and make use of that John Deere?

Mr. STALLMAN. Absolutely, except mine is Case IH, Congressman.

Chairman CAMP. All right. Thank you. Mr. Reed.

Mr. REED. Thank you, Mr. Chairman. I just wanted to explore, Mr. Odintz, if I could, as I co-chair the U.S. Manufacturing Caucus also down here in Washington, D.C., and focusing on AFE, the active financing exception, can you give a little detail, more analysis, as to how U.S. manufacturers can become more competitive by the AFE exception and how that impacts U.S. manufacturers' ability on a competitive basis internationally?

Mr. ODINTZ. Sure. An U.S. manufacturer when it decides to export goods manufactured in the United States abroad can establish under AFE a financing or leasing subsidiary in a foreign country. That leasing subsidiary or financing subsidiary can offer financing on expensive widgets, like earth moving equipment or very expensive other equipment, airplanes, et cetera.

What it allows that company to do is to compete on a financing perspective, provide similar terms as foreign competitors.

Let's say a widget maker based in the United States sells its product in the European Union. A similar company making a similar widget based abroad is going to offer financing terms that are reflected in that market, and what the AFE does is it allows the U.S. manufacturer to provide the financing terms that are equivalent, that can be provided by other foreign financial institutions.

Mr. REED. Do you have any analysis or any data that you could support that if AFE was not extended on a permanent basis, it would put U.S. manufacturers at a competitive disadvantage?

Mr. ODINTZ. I do not have macro data. I can see from clients that their terms of leasing or loans may be higher than competitors, which puts U.S. manufactured goods at a competitive disadvantage.

Mr. REED. Does anyone else on the panel have any data or impacts from any of their clients or anything?

[No response.]

Mr. REED. I also wanted to explore a little bit the look-through issue. The temporary nature of the rule—obviously, being a country lawyer from Western New York, small business owner, one of the biggest things, and we have already heard it numerous times here today, is the lack of certainty really impacts the ability to plan.

I always had a business plan. I had a five year plan, ten year plan, and I did that with 30 employees that worked in our businesses that we created.

If you do not have that certainty, tell me from the look-through perspective, what kind of decisions—nuts and bolts—what kind of decisions are put off, which ones are prevented or which ones are not taken as a result of having that lack of certainty?

Mr. ODINTZ. Sure. For example, clients that do not have look-through have to price in the cost of capital and whether and where to expand foreign operations.

Obviously, if the company has to take loans from banks, that cost of capital is more expensive rather than deploying its own internal capital from one jurisdiction to another.

When a company determines whether and where to expand its operations, it takes into account the after tax profit, and then it is interested in making an after tax profit. Not having CFC look-through adds to that cost of capital and makes it more challenging to expand foreign operations.

Mr. REED. Does anybody have any anecdotal kind of cases you could share with the Committee as to actual jobs and expansion here on American soil that was caused because of this lack of certainty?

Mr. ODINTZ. Obviously, it is also important to have permanence or at least more than an one year extension because business decisions are not made on an one year basis. They are long term. Businesses want to derive profits over the long term and make permanent decisions. A temporary provision makes it difficult to plan for the long term.

Mr. REED. That is a great point. We are talking about large capital investments here. What would be the size of the typical investment we are talking about?

Mr. ODINTZ. For example, building a plant is a rather expensive endeavor. It requires also hiring a labor force to build that plant. You are looking at multiple billion dollar investments in many instances.

Mr. REED. If you do not have that certainty to make that decision on that multimillion dollar decision, that is what you are referring to, that is where the rubber meets the road, so to speak.

Mr. ODINTZ. Exactly.

Mr. REED. With that, Mr. Chairman, I yield back.

Chairman CAMP. Thank you. Mr. Young.

Mr. YOUNG. Thank you, Mr. Chairman. Thank you to all of our panelists for testifying here today, really appreciate all we have learned.

I want to thank the Chairman in particular for making permanent the CFC look-through provision in the draft and holding a hearing so we might discuss that provision in particular a bit further.

I have concerns about our intellectual property intensive related firms and also our continued investment in R&D, which as we all know is essential in this modern economy we live in.

I look forward to working not only with all the members of the Ways and Means Committee on that but other stakeholders as we try to improve the international sections of the draft.

As sort of a lead in to R&D, Ms. Zelisko, you indicated something that many of us have read and I think many of my constituents intuitively understand, which is the U.S. does not have a monopoly any more on global R&D. In fact, you cite a figure, since 2001, the share of the world's R&D performed in the U.S. has decreased from 37 to 30 percent, and to the extent we could arrest that trend line, that would be a good thing, I think we would all agree.

Can you talk about what role tax policy plays with respect to that dynamic?

Ms. ZELISKO. Companies look at the world on a global basis. We are no longer international. We are global businesses. Therefore, looking to where you are going to deploy your R&D is important, and therefore, the impact of tax policy plays a part and is a factor.

This is an opportunity for the U.S. to lead as far as where do we want the technology. Do we want it here, do we want it outside the United States. I think we want it here. It provides jobs. It provides

innovation, technology, and from that technology, spurs other technologies.

I think good tax policy is going to look at broad based simplified, something that is administrable. I think the alternative simplified credit provides that.

I would encourage that it be increased to 20 percent, as far as being truly an incentive, and also broad based on the qualified research expenditures that would qualify for the record, I think is important.

When you look around the world, they are not reducing the expenditures. They are increasing them or they are increasing the amount of the credit or the multiplicand on the deductibility of the particular expenditure.

I think good policy would be broad based with regard to what would qualify for qualified research expenditures and the actual amount of the incentive.

Mr. YOUNG. It needs to be in short made more inclusive, more generous, from your vantage point, but you certainly support the permanency of the provision?

Ms. ZELISKO. Absolutely. That is critical. I think that is sort of like a baseline, you need to have permanency. When we are making business decisions, especially in the R&D area, you are looking out, like I mentioned, four to five years, so you need certainty with regard to it is going to be there during the entire process.

Mr. YOUNG. Thank you. I represent a District in South Central Indiana, Southern Indiana, and it is very diverse economically. We have a fair amount of small and medium sized manufacturing, certainly IP rich firms, both in the District and around the District, and also agriculture plays a significant part in our economy.

Mr. Stallman, pivoting to the ag sector, you described the Farm Bureau's perspective related to the impact of the $250,000 Section 179 threshold versus a $500,000 threshold.

Why is the higher level so important to your members? It pertains to just the ability to buy more farm equipment, you need a more generous level to incentivize them to do so?

Mr. STALLMAN. Yes, the difference, and I tried to convey that in my oral statement, the difference between the $500,000 and the $250,000. It is primarily related to what we are seeing in the cost of the equipment and capital expenditures we have to make in agriculture. It is continuing to increase very rapidly.

Frankly, while $250,000, ten years ago, you could buy you a lot of equipment. Not so much any more. That is why the $500,000 is very important.

Mr. YOUNG. The inflation of those costs is certainly something we need to take into account, balance that against the lower 25 percent rate, and I guess every individual farm is going to have to come up, individual operation, with the sort of net impact.

Does the Farm Bureau have a policy articulated with respect to that tradeoff?

Mr. STALLMAN. No, we do not. We are looking at the whole draft proposal to see where those tradeoff's are. It would vary tremendously across individual operations.

As a general rule, that expensing provision, I think, would probably have more positive impact on farms and ranches in the way

they make their decisions, even though it is not tax avoidance because you are just postponing paying the taxes, than perhaps lower rates. Once again, it would depend on the rates.

Mr. YOUNG. Thank you.

Chairman CAMP. Thank you. Mr. McDermott.

Mr. MCDERMOTT. Thank you, Mr. Chairman.

Ms. Zelisko, Mr. Young and Mr. Reed have sort of laid out sort of what I was thinking about, which is I was a Ways and Means Chairman a long time ago in a state legislature where a businessman told me I do not care what rate you charge me, just tell me what it is, how long it is going to last, so I can figure out how to amortize it. That is really what you are saying about the planning.

The Chairman has one other power, and that is to set the agenda. Today, we are discussing seven tax provisions. There are a whole lot of them that have not been discussed. I think some of the ones that are up here are sound.

I think the research and development tax credit is good policy. Even if the draft probably needs a little revision, specifically in the area of software—I think Mr. Young already mentioned that some of us who come from areas like I do where research is a big issue and software, we would like a little tweak or two on that whole provision.

The real question is about the ones that are not going on, and why are we not debating them. Residents in states with an income tax can deduct their income taxes. Residents in states that have a sales tax in lieu of an income tax cannot deduct their sales taxes if we do not pass the extender in this bill.

You have to ask yourself what the impact of that is going to be. I would suggest in Washington State, Florida, South Dakota, Wyoming, Alaska, Texas, the Republicans are raising taxes on consumers, those of us who are claimants on a sales tax in the State of Washington will pay $2,000 more in taxes next year if we do not have that extender.

I have to ask myself what kind of impact that would have, and I think Mr. Hungerford, maybe you have an idea, if we raise taxes on people at the consumer level but not extending the sales tax exemption, what is the impact of that?

Mr. HUNGERFORD. In the short run, it does take money out of people's pockets that they would ordinarily spend. I guess the question is who actually takes the deduction for state and local sales taxes, how much you save and how much you spend of your income depends on where you are in the income distribution.

Without actually looking at the data, it would be hard to say what would be the actual economic impact but to the extent the money that ends up going to the Government, if it had been spent, it would have at least provided some short term stimulus to the economy.

Mr. MCDERMOTT. This is free money we are talking about here today. We do not have to pay for this. Would it be better to give money to the consumers to spend in the economy than to give money to companies to do research? How do you make that decision?

Mr. HUNGERFORD. It is a tough decision to make.

Mr. MCDERMOTT. We are not having a discussion about the whole broad range of extenders. We only have these seven over here, so they were selected by somebody to be exactly what we ought to be doing.

I also have one I have some question about, what the point of it is. Why under the Chairman's plan—what makes sense to make charitable deductions only if the contribution exceeds two percent of the individual's adjusted gross income.

It sounds like we are putting a floor in there, and the CBO said imposing a floor would lower contributions. Why do we want to lower contributions by putting a floor in?

What would be the advantage to society at a time when we are looking for people to give money to whatever? How is that better for society?

Mr. HUNGERFORD. Actually, I have not looked at CBO's study on how much it would lower contributions. On the margin, it would not have any effect, just because the people who are on the margin would be above, well above that two percent of the AGI threshold.

Of course, it would not affect people who do not itemize, many people make charitable contributions and are not allowed to take a deduction because they do not itemize. Then there is this group in there, I do not know to what extent they would be affected. I would expect there would be some effect. I am just not sure how large it would be.

Chairman CAMP. All right. Thank you. I would just say this is a first in a series of hearings. These items were chosen because they are in the discussion draft. We wanted to start with these.

As you know, the President's budget has proposed a ceiling on charitable contributions, which in our hearings, the charitable community has very much opposed.

Obviously, in order to lower rates as we do in the draft, there are tradeoff's. The analysis is that charitable contributions will actually increase by $2 billion a year because of a lot of the moving pieces in the draft, not just this provision looked at in isolation.

Mr. MCDERMOTT. Would it be your intention that when we have a mark-up, we would have the ability to offer other amendments than the seven that are in your bill?

Chairman CAMP. Yes. We are going to have hearings on a series—I am not exactly sure of the procedure we are going to take in terms of a mark-up yet—there will be probably more than one mark-up going forward.

Mr. MCDERMOTT. More than one mark-up.

Chairman CAMP. Probably more than one mark-up going forward. I have not fully decided that yet.

Mr. MCDERMOTT. I just want to reserve the right to offer an amendment at some point on the sales tax in Washington State, in Texas and in Florida.

Chairman CAMP. I understand your interest there.

We are now at Mr. Kelly.

Mr. KELLY. Thank you, Mr. Chairman. Thank you for having this hearing. Thank you all for being here.

I come from the private sector. When we talk about taxes and what we are trying to do, pro-growth tax reform could probably not

be more important than anything else we do in this country other than also regulation reform.

I am more interested in people that come from the private sector because they are the ones that provide all the revenue that is needed to run all these wonderful, wonderful programs we have.

Mr. Stallman, you are in agriculture. You made a statement, the ability to have some type of predictability or certainty is absolutely critical to any of us in the private sector. There is an old saying out there, if you do not know where you are going, any road will get you there.

At this point right now, what the Chairman has offered is a road, a path to prosperity, part of it being this tax reform. I think sometimes people get mixed up. I hear all these different talks about this section, that section, every little section. People will sit down and debate that for hours.

At the end of the day, the question becomes are we helping to grow this economy or are we making it tougher for people who actually supply the revenue to get there. We are making it so hard on the private sector to get there, and then holding them accountable for not supplying enough revenue.

The last time I looked, the only people paying taxes are working folks and companies that are profitable. This tax reform is absolutely critical right now.

Mr. Stallman, you started to talk about making capital investments. There is no way in the private sector if you do not know the certainty of where this Tax Code is going to be that you can make a long range commitment to do something. You just cannot do it.

Each of you, I would like you to just weigh in a little bit, because it is really important, not so much for us here in Congress, but for people back home to understand what it is like.

They have got up every morning and swung their feet over the side of the bed and went to perform some type of an activity that will support their families, support their communities, support their region and their country.

This thing has gotten so far out of control. You all know this. The cost of tax preparation, not the tax bill, preparation, $168 billion, in about seven billion hours. My goodness. Could that time have been spent a little better and could that money have been reinvested?

I am looking at capital investments. You have to have some reason to do that. We are truly engaged right now in a global economy; right? We just do not compete—Illinois does not just compete with Ohio. Pennsylvania does not compete with New York. We compete with everybody in the world.

The last time I looked, we had the highest taxes in the world. Is that right? Any of you in the private sector, please tell me, part of your economic model is total cost of everything you do, which includes tax obligations, is there anything about what we are trying to get to that does not make sense?

The Chairman just said today we are only talking about some of the extenders. What can we do? What can we do to give all of you in the private sector a little look in to the future, you know what,

they know where they are going and they are going to make it easier for us to get there?

I hate like heck the fact that we seem to be adversaries of yours and not advocates, and then we turn around and hold you responsible for not supplying the revenue that we think is necessary for all these wonderful programs.

Any of you that want to weigh in on that, America needs to hear that we get it, we understand their plight. This is to any of you.

Ms. ZELISKO. I would like to offer that I do not want the U.S. to be 22nd in the world as far as research and development incentives. I want us to be number one.

A way to get there is obviously making the credit permanent, broadening what is included in those qualified research expenditures, including what we currently have of supplies and software expenditures, along with the wages from the engineers and scientific individuals that we employ to provide that improved technology.

When you are an innovator, lots of things sprawl from that. I think if the policy is set, that we have the certainty, companies will become once again a source of tremendous innovation here in this country.

Mr. STALLMAN. U.S. agriculture is the number one exporter in the world. We have built a very strong, productive, efficient, competitive industry in this country, and we want to keep it. I think that is the crux of the issue.

What do we need to keep it. We need some certainty around tax policy. There is a sense, I believe, in the countryside, that farmers wake up one day in the Spring and say, oh, golly gee, I have to go out and plant something. The reality is they are making plans three, five, and ten years in advance in terms of their capital expenditures, how they manage the infrastructure of their farm and ranch, and how they are going to be even more productive in the future.

Having uncertain tax policy laid over that, it makes that task very difficult, to plan for the future and continue to be competitive and efficient

Chairman CAMP. All right. Thank you. Mr. Marchant.

Mr. MARCHANT. Thank you, Mr. Chairman. Thanks for bringing forth what are the most important extenders as far as my District is concerned. The modified research credit made permanent would have a very significant impact in my District.

I have a District that has the headquarters of Exxon, Fluor, Kimberly-Clark, AT&T, and Verizon. All of those companies rely very heavily on the research and development, but really the impact of these extenders that we are talking about today and their correlation to the long term tax reform really hits home in those thousands of businesses that surround these big companies.

My District surrounds the DFW Airport. I literally have thousands of businesses that rely very heavily on Code Section 179.

As we speak, there are people sitting in their offices with their accountants, because this is the week they are talking to them, and they are talking to them about should I buy and can I buy a new truck, should I buy a new machine, how about a new forklift, how is that going to affect me.

They are talking at this moment about well, we do not know whether Section 179 of the Code is going to be extended. If you buy the truck or you buy the forklift or you expand your business at this point and they do not extend it, here is going to be the tax treatment, here is the implication it is going to have on your business, but if they do, this is what is going to happen.

Mr. Hungerford, what kind of impact would that have not on future economies but just the recovery that we are experiencing now, the slowness of our recovery? What kind of impact will that begin to have in the coming months on businesses, their expansion, the auto industry, the tractor industry, et cetera?

Mr. HUNGERFORD. My guess is not a great deal, I have always found that temporary tax provisions that are designed to stimulate the economy rarely stimulate the economy.

Mr. MARCHANT. You would consider this just to be a temporary tax stimulation and should not be included as part of this——

Mr. HUNGERFORD. Section 179 expensing?

Mr. MARCHANT. Yes.

Mr. HUNGERFORD. The thing is if you let it expire now, or actually it is already expired, and fail to extend it, I do not think it will have a large impact on the economy.

Mr. MARCHANT. Is there any disagreement among the panelists on that?

Mr. STALLMAN. I do not have a study to back it up. All I know is the behavior of farmers and ranchers. I will tell you that with the certainty, with Section 179, they will be more inclined to accelerate their capital acquisitions than what they would otherwise, and be more capable of doing it because of cash flow benefits that occur up front.

Long term, once again, they are going to be having less expense in the future to deduct, but that behavior will create more economic activity. I do not know about what the impact would be.

Mr. MARCHANT. Mr. Redpath.

Mr. REDPATH. My clients are interested in planning. If the law is permanent, it is much easier to plan. Lots of my clients are now holding off on making acquisitions because they do not know what the rules are. I believe that is going to have a snowball effect on investment and on the other larger companies around that are impacted by these small companies working with them.

Mr. MARCHANT. Thank you, Mr. Chairman. I yield back.

Chairman CAMP. Thank you. Mr. Griffin. Last but not least.

Mr. Griffin. Thank you, Mr. Chairman. I know a lot of the questions I might have wanted to ask have been covered, so I just want to make a few comments.

I have heard the uncertainty argument ever since I first ran for Congress and totally agree with it. I hear it regarding the Tax Code. I will be real honest with you, from a lot of people I hear it regarding this Administration, they are waiting until this Administration is gone before they invest because they believe it is an anti-business, anti-growth Administration.

Let me say this. I want to applaud the Chairman for tackling tax reform. I know not everybody likes 100 percent of it. You are never going to find that in Congress. I think it is a historic moment to start that conversation.

We do need to get away for the sake of certainty from a lot of the patches, whether it be in SGR, Medicare, or on our Tax Code, or whatever else. We need that certainty that you are talking about. I believe our growth is tied to fixing the Tax Code in large part.

I did my own taxes this past weekend, finished them. They are relatively simple in terms of complexity, but it was ridiculous how much time it took me.

I am embarrassed for the country, to be frank, at the complicated nature of our Tax Code. I can see with me, an individual, how complicated it is, and it pains me to think of what you guys have to go through. I appreciate your being here.

Until we do get it fixed, I also applaud the Chairman for taking the steps necessary to address these issues. I am a firm believer in R&D. I will tell you I do not want to just beat other countries, I want to beat them so badly that companies around the world say there is only one place in the world to do business, and that is the United States, and there are no other options.

I can tell you that is not the state of affairs right now. I think the Tax Code is part of it. Certainly, we need to encourage R&D.

I would just point out that I have a lot of agriculture not only in my District but throughout Arkansas, and the small business expensing is critically important to them and many others.

Such is the burden of being last in line, all the good questions are gone. I want to just thank you for being here and thank you for what you do, and I just want to say thank you to the Chairman for putting these issues on the table and for starting the discussion about what we can do.

The one thing we can agree on is the status quo is unacceptable, and we can do much, much better than we are doing.

Thank you all for being here.

Chairman CAMP. All right. Thank you. Thank you all very much, very much appreciate your testimony this morning, and with that, this hearing is adjourned.

[Whereupon, at 12:17 p.m., the Committee was adjourned.]

[Public Submissions for the Record follows:]

House Committee on Ways and Means

April 21, 2014

Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

Written Comments and

Statement for the Record

of the

Association of Fundraising Professionals (AFP)
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April 21, 2014

Ways and Means Committee Office
1102 Longworth House Office Building
Washington, D.C. 20515

Re: Comments for the House Committee on Ways and Means' Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

On behalf of the Association of Fundraising Professionals (AFP), I am pleased to provide a written statement regarding expiring tax provisions, particularly the IRA Rollover provision that creates a unique charitable giving incentive. AFP represents the individuals responsible for generating philanthropic funds, so we have a unique understanding of the impact of charitable giving and giving incentives.

We hope our thoughts and perspective will prove helpful to the House Committee on Ways and Means as it continues to review expired tax provisions such as the IRA Rollover provision.

Organizational Background

AFP is the largest nonprofit association in the U.S. that represents fundraisers in all 50 states. Fundraising serves as the engine that drives the charitable sector by developing and maintaining relationships with donors and philanthropists who provide the necessary funding for education, social services, healthcare, medical research and the many other altruistic functions provided by the sector.

Fundraising complements governmental support for charities and ensures the survival of the charitable sector when state, local and federal governments lack the budgetary means to help. AFP fosters development and growth of fundraising professionals through training and education and promotes high ethical standards in the fundraising profession.

Reenact and Make Permanent the IRA Rollover Provision

We urge Congress to enhance charitable giving by reenacting the IRA Charitable Rollover provision, which expired at the end of 2013. This provision allows donors age 70½ and older to exclude from their taxable income any IRA funds up to $100,000 that have been withdrawn and transferred to a charity when filing a tax return. The provision was originally enacted as part of the Pension Protection Act of 2006 and was reinstated a number of times, most recently in January 2013 as part of the American Taxpayer Relief Act.

Tax incentives such as the IRA Charitable Rollover provision play a vital role in encouraging donors to make gifts, especially as the contribution amounts become larger. The rollover

provision is a powerful and unique way that donors can support charitable causes in their communities.

Private donations help leverage the impact of government investments and allow charities to provide the programs and services that do much to augment the work of the government. In that sense, the IRA Rollover provision reduces the burden on the government to help those less fortunate, and the proceeds of the donations both increase the purchase of goods such as food and equipment and help many of our citizens regain their footing (emotionally, professionally and financially), all of which spurs economic prosperity and sparks the growth of taxable revenue.

Many individuals have more than sufficient funds to retire comfortably. In addition, individuals are encouraged under the current tax laws to liquidate their IRAs during their lifetime since their estates will face confiscatory tax rates of up to 80 percent if their IRA funds are left to a dependent or family member (other than their spouse). Any amounts left in an IRA when an individual dies may be taxed as income to the beneficiary and are also considered assets for the purposes of calculating that individual's estate tax liability.

It is estimated that there is more than $3 trillion in retirement funds such as IRAs. Even if only a small percentage of these funds were donated to charitable purposes, it could add millions of dollars to support the vital work that nonprofit organizations do in communities across America. In fact, these contributions support programs for those less financially well-off through important services, such as those provided by health, education, social service and cultural organizations.

The IRA Charitable Rollover has worked very successfully over the last few years, but it would be far more effective if it were made permanent. Because donors are unable to count on the IRA Rollover being in effect every year, they rarely plan ahead to set aside funds to utilize the provision. Similarly, charities and financial planners cannot counsel donors about the IRA Rollover provision given the almost annual uncertainty surrounding it. We believe that the provision's impact could reach billions of dollars annually if it were made permanent or at least extended much longer than one or two years.

Making the IRA Rollover provision permanent simplifies the tax code. During a Senate Finance Committee hearing on March 30, 2011, titled "How Do Complexity, Uncertainty and Other Factors Impact Responses to Tax Incentives?," hearing panelist Robert Carroll, Former Deputy Assistant Secretary for Tax Analysis, U.S. Department of the Treasury, stated the following:

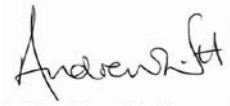
> There are also a large number of provisions – expiring provisions – often extended a year at a time. In principle, the periodic extension of expiring provisions provides Congress an opportunity to reconsider and reevaluate their effectiveness, but the lack of their permanence may undermine the ability of taxpayers to rely upon and base decisions on the benefits they provide. Moreover, expiring provisions are no longer limited to several dozen business tax provisions, but now also include the alternative minimum tax (AMT) patch and the 2001 and 2003 tax cuts. The result is a tax system where large portions of the Code are in effect temporary.

During his oral testimony, Dr. Carroll noted that these temporary provisions within the tax system—provisions that are constantly expiring and subsequently extended—add to the complexity of the tax system, which increases the bureaucratic burden on taxpayers and the federal government.

By making the IRA Rollover provision permanent, you would simplify the tax code and reduce the need for the federal government's services for those less fortunate while exponentially enhancing charitable giving.

We look forward to working with you and your staff on this issue and on any other issues affecting the charitable sector.

Sincerely,



Andrew Watt, FInstF
President & CEO
Association of Fundraising Professionals

Beau Pollock

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Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

Subject: RE: Section 179D Energy Efficient Commercial Buildings Deduction Should Be Included as Part of a Tax Extender Package

Dear House Ways and Means Committee, and/or Dear Representative XXXXXX,

We are writing to you today to urge the inclusion of Section 179D, Energy Efficient Commercial Buildings Deduction as part of a Tax Extender Package.

As you know, 179D directly supports two national priorities: Job Creation and Energy Independence. 179D was introduced into the tax code with the Energy Policy Act of 2005. It was further extended in 2008, with current expiration set for January 1, 2014. Since the inception of 179D, it has assisted thousands of building owners in retaining jobs and increasing profitability; it has also increased job creation in the trades, where energy efficiency retrofits create large numbers of high paying jobs for a labor pool that was particularly impacted by the economic downturn. At the same time, 179D helps reduce our nation's dependence on foreign oil, thereby increasing America's energy security.

Jobs

Energy efficiency projects require enormous skilled and semi-skilled work forces. By cost-justifying projects, EPAct therefore plays a direct role in supporting a major source of employment in our state.

Lighting retrofits require lighting designers, laborers to remove and dispose existing fixtures, distribution centers to store the new lighting material, laborers to stage the new material near the job site and electricians to install the new fixtures.

HVAC retrofits require engineers for project system design, substantial U.S. manufacturing activity (most HVAC equipment is heavy and made in the U.S.), U.S. steel procurement and HVAC mechanics to install.

The building envelope involves a wide variety of manufactured and workshop materials including roofs, walls, windows, doors, foundations and insulation. In addition to the labor required to create these

products, large numbers of roofers, carpenters, installers and laborers are needed to handle the material and incorporate it into a building.

In addition, reduced building expenses allow for the retention of jobs on the building owners' end.

Energy Security

Our nation's goal of becoming energy independent cannot be achieved through domestic oil and natural gas production alone. Energy Efficiency is an untapped natural resource. Commercial Buildings represent 20% of our nation's energy use. "Drilling" for building energy efficiency is the least costly natural resource we have. For building owners, the upfront cost of retrofitting is expensive, but with utility and government assistance working together with building owners, energy use reductions between 20% and 50% can be obtained.

Commercial building energy efficiency is a critical way by which utilities can meet newly established national guidelines for carbon emission reductions. By improving the cost benefit equation of an energy efficiency retrofit, Section 179D thereby plays an important role in helping utilities comply with national policy while simultaneously reducing the need for the construction of costly new power plants.

Looking Ahead

Today, taxpayers and industry understand how to prospectively use 179D to achieve the greatest possible energy reduction far better than they did eight years ago. This extension will empower our country to realize major energy efficiency gains and will not represent a material cost to Treasury. With the use of dynamic scoring the efficiency gains will increase taxable income over time for commercial building owners, and thereby reducing Treasury's losses from accelerating the depreciation.

Conclusion

Section 179D supports a key investment in the American economy: energy efficiency. Energy efficiency is a force-multiplying investment that saves energy, saves money, and sustains and creates American jobs. Comprehensive energy efficiency upgrades drastically improve the reliability and performance of the nation's building stock, while reducing demand on our energy supply. We strongly support its inclusion as the House Ways and Means Committee contemplates Tax Extenders.

Sincerely,

Beau Pollock

President

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www.brunswick.com

Statement
of Brunswick Corporation

For the Hearing Record
of the Committee on Ways and Means
U.S. House of Representatives

Hearing on
"Framework for Evaluating Certain Expiring Tax Provisions"

April 8, 2014

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Statement
of Brunswick Corporation

For the Hearing Record
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Hearing on
"Framework for Evaluating Certain Expiring Tax Provisions"

April 8, 2014

Chairman Camp, Ranking Member Levin and members of the Committee, thank you for the opportunity to testify at the April 8, 2014, House Ways and Means Committee hearing, "Framework for Evaluating Certain Expiring Tax Provisions." My name is Judith Zelisko, and I am Vice President-Tax at the Brunswick Corporation in Lake Forest, Illinois.

As a manufacturer that depends on innovation to compete effectively in the global marketplace, Brunswick is an ardent supporter of a strong and permanent R&D incentive. The company has advocated for a permanent incentive as a member both of the R&D Credit Coalition and the National Association of Manufacturers (NAM). Brunswick very much appreciates the opportunity to testify before you today on the benefits of making the R&D credit permanent.

Overview
Brunswick Corporation is a leading global designer, manufacturer and marketer of recreation products including marine engines, boats, fitness equipment and bowling and billiards equipment. Brunswick's engine products include: outboard, sterndrive and inboard engines; trolling motors; propellers; engine control systems; and marine parts and accessories. The Company's boat offerings include: fiberglass pleasure boats; yachts and sport yachts; offshore fishing boats; aluminum fishing boats; inflatable boats; pontoon boats and deck boats. Brunswick's fitness products include both cardiovascular and strength training equipment for the commercial and consumer markets. Brunswick's bowling products include capital equipment, aftermarket and consumer goods. The Company also sells a complete line of billiards tables and other gaming tables and accessories. In addition, the Company owns and operates Brunswick bowling entertainment centers in the United States and Canada.

For the year ended Dec. 31, 2013, the Company reported net sales of $3,887.5 million. Its products are sold throughout North America, Europe, Asia/Pacific, South America, Africa and the Middle East.

Its well-known brands include: Mercury and Mariner outboard engines; Mercury MerCruiser sterndrives and inboard engines; MotorGuide trolling motors; Attwood marine parts and accessories; Land 'N' Sea, Kellogg Marine, and Diversified Marine parts and accessories distributors; Bayliner, Boston Whaler, Brunswick Commercial and Government Products, Crestliner, Cypress Cay, Harris FloteBote, Lowe, Lund, Meridian, Princecraft, Quicksilver, Rayglass, Sea Ray and Uttern boats; Life Fitness and Hammer Strength fitness equipment; Brunswick bowling centers, equipment and consumer products; Brunswick billiards tables and table tennis.

Brunswick ended the year with approximately 15,700 employees around the world, nearly 80 percent of which are employed in the U.S. Further, during 2013/14, it began or completed

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several major expansions of U.S. manufacturing and engineering facilities including those in Florida, Indiana, Minnesota and Wisconsin.

In 2014, Brunswick's focus will be to drive consistent, profitable growth through product leadership resulting from investments in capital projects, **research and development programs** and sales and marketing resources in an effort to generate strong earnings and greater free cash flow, thereby increasing shareholder value.

In the **longer term, Brunswick's strategy remains consistent: to design, develop and introduce high-quality products featuring innovative technology and styling**; to distribute products through a model that benefits its partners - dealers and distributors – and to provide world-class service to its customers; **to develop and maintain low-cost manufacturing processes** and to continually improve productivity and efficiency; to manufacture and distribute products globally with local and regional styling; to continue implementing the Company's capital strategy which includes maintaining a strong balance sheet, opportunistically lowering debt and funding pension obligations; and to attract and retain skilled and knowledgeable people.

Further, the **Company believes that it has a reputation for quality in each of its highly competitive lines of business**. Brunswick competes in its various markets by: **developing and promoting innovative technological advancements**; undertaking effective marketing, advertising and sales efforts; **providing high-quality, innovative products at competitive prices**; utilizing efficient production techniques; developing and strengthening its leading brands; and offering extensive aftermarket services.

Strong competition exists in each of Brunswick's product groups, and the following summarizes **Brunswick's competitive position** in each segment:

Marine Engine Segment: The Company believes it has the largest dollar sales and unit volume of recreational marine engines in the world, along with a leading marine parts and accessories business. **The marine engine market is highly competitive among several major international companies** that comprise the majority of the market, as well as several smaller companies including Chinese manufacturers. **Competitive advantage** in this segment is **a function of product features, technological leadership**, quality, service, pricing, performance and durability, along with effective promotion and distribution.

Boat Segment: The Company believes it has the largest dollar sales and unit volume of pleasure motorboats in the world. There are several major manufacturers of pleasure and offshore fishing boats, along with hundreds of smaller manufacturers. Consequently, this business is both **highly competitive and highly fragmented**. The Company believes it has the broadest range of boat product offerings in the world, with boats ranging in size from 10 to 65 feet. In all of its boat operations, Brunswick **competes on the basis of product features, technology**, quality, brand strength, dealer service, pricing, performance, value, durability and styling, along with effective promotion and distribution.

Fitness Segment: The Company believes it is the world's largest manufacturer of commercial fitness equipment and a leading manufacturer of high-quality consumer fitness equipment. There are a few large manufacturers of fitness equipment and hundreds of small manufacturers. This situation creates a **highly fragmented, competitive landscape**. Many of Brunswick's fitness equipment offerings feature **industry-leading product innovations**, and the Company places **significant emphasis on introducing new fitness equipment to the market**. Competitive focus is also placed on product quality, **technology**, service, pricing, state-of-the-art biomechanics, and effective promotional activities.

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Bowling & Billiards Segment: The Company believes it is a leading worldwide full-line designer, manufacturer and marketer of bowling products and billiards tables. There are other manufacturers of bowling products and **competitive emphasis is placed on product innovation**, quality, service, marketing activities and pricing. The **billiards industry continues to experience competitive pressure from low-cost billiards manufacturers** outside the United States. The bowling retail market, in which the Company's bowling centers compete, is highly fragmented. Brunswick is one of the two largest bowling center operators in the North American market, with Brunswick's bowling retail business emphasizing the bowling and entertainment experience, maintaining quality facilities and providing excellent guest service.

The Company strives to improve its competitive position in all of its segments by continuously investing in research and development to drive innovation in its products and manufacturing technologies. Brunswick's research and development investments support the introduction of new products and enhancements to existing products.

Research and development expenses as a percentage of net sales were 3.1 percent, 2.8 percent and 2.6 percent in 2013, 2012 and 2011, respectively. In 2014, Brunswick forecasts spending about 3.0 percent of its net sales on R&D. Research and development expenses by segment are shown below:

(in millions)

	2013	**2012**	**2011**
Marine Engine	**$70.6**	$61.5	$56.7
Boat	**22.4**	20.2	17.5
Fitness	**21.7**	19.2	17.6
Bowling & Billiards	**4.8**	4.4	4.1
Total	**$119.5**	$105.3	$95.9

R&D Incentives: the Global Outlook
Based on Brunswick's experience—and similar experiences by thousands of other manufacturers—it is critical that any tax reform plan recognize the important role of research and technology investment in the growth of U.S. jobs and innovation. The United States has been a leader in promoting R&D for over 30 years, but **more and more countries have provided greater certainty for businesses in recent years by enacting permanent R&D incentives**. **We strongly support NAM's goal to ensure that manufacturers in the United States are the world's leading innovators. The tax treatment of R&D, including the current deduction for R&D expenses and a strengthened and permanent R&D incentive, are critical to achieving this goal.**

In recent years, more and more countries have realized the importance of R&D and now provide more robust and often permanent R&D incentives. Indeed, **the United States' predominance in science and technology (S&T) eroded further during the last decade**, as several Asian nations--particularly China and South Korea--rapidly increased their innovation capacities. According to a recent report by the National Science Board (NSB), the **major Asian economies, taken together, now perform a larger share of global R&D than the U.S.**, and China performs nearly as much of the world's high-tech manufacturing as the U.S.

Evidence in the NSB's biennial report, *Science and Engineering Indicators*, which provides the most comprehensive information and analysis on the U.S.' position in S&T, makes it increasingly clear that the **U.S., Japan, and Europe no longer monopolize the global R&D arena**.

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Since 2001, the share of the world's R&D performed in the U.S. and Europe has decreased, respectively, from 37 percent to 30 percent and from 26 percent to 22 percent.

In this same time period, the share of worldwide R&D performed by Asian countries grew from 25 percent to 34 percent. China led the Asian expansion, with its global share growing from just 4 percent to 15 percent during this period.

"The first decade of the 21st century continues a dramatic shift in the global scientific landscape," said NSB Chairman Dan Arvizu, who is also the director and chief executive of the National Renewable Energy Laboratory. "**Emerging economies understand the role science and innovation play in the global marketplace** and in economic competitiveness and have increasingly placed a priority on building their capacity in science and technology."

Recognition on the part of national leaders that S&T **innovation contributes to national competitiveness, improves living standards, and furthers social welfare** has driven the rapid growth in R&D in many countries. China and South Korea have catalyzed their domestic R&D by making significant investments in the S&T research enterprise and enhancing S&T training at universities. China tripled its number of researchers between 1995 and 2008, whereas South Korea doubled its number between 1995 and 2006. And there are indications that students from these nations may be finding more opportunities for advanced education in science and employment in their home countries.

In addition to investing in their research and teaching enterprises, these countries have focused their attention on crucial sectors of the global economy, including high-tech manufacturing. **The size of China's high-tech manufacturing industry increased nearly six-fold between 2003 and 2012, raising China's global share of high-tech manufacturing from eight percent to 24 percent during that decade, closing in on the U.S. share of 27 percent.**

Parent companies of U.S. multinational corporations (MNCs) perform over 80 percent of their worldwide R&D in the U.S. However, U.S. MNCs continue to increase their R&D investments in countries such as Brazil, China, and India, both reflecting and further contributing to a more globally-distributed R&D landscape. Majority-owned foreign affiliates of U.S. MNCs, for example, tripled their R&D investments in India and more than doubled them in Brazil between 2007 and 2010, nearly reaching the expenditure levels of the U.S. affiliates in China.

"The United States remains the world's leader in science and technology," said Ray Bowen, NSB member and chairman of its Committee on Science and Engineering Indicators, which oversees development of the report. "**But there are numerous indicators showing how rapidly the world is changing and how other nations are challenging our predominance.** As other countries focus on increasing their innovation capacities, **we can ill afford to stand still. We now face a competitive environment undreamed of just a generation ago,"** said Bowen, visiting distinguished professor, Rice University and president emeritus of Texas A&M University.

R&D Credit: Promoting Innovation, Competitiveness and Jobs
The R&D tax credit spurs U.S.-based innovation and R&D jobs. By design, only U.S.-based R&D may qualify for the credit and 70 percent of the credit claims are for R&D wages. **Since it was first enacted in 1981, the credit has incentivized companies to increase spending on research activities and hire more R&D workers.**

The credit has been renewed 15 times since it was first enacted into law in 1981 and it is critical that Congress act as soon as possible to renew this important innovation incentive, retroactive to January 1, 2014.

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When the credit expired, the cost of performing R&D in the United States immediately rose and effectively increased taxes on companies that use the credit. Furthermore, this **lapsed credit is exacerbating the trend of new R&D investment dollars flowing from the United States to countries offering more reliable and more generous research incentives**.

Thus, **renewing the credit will eliminate the tax increase on companies that perform U.S. R&D and make the United States a more attractive place for both domestic and foreign investment in research activities.**

Moving forward, Brunswick very much appreciates current efforts by Chairman Camp and the Committee to advance pro-growth tax reforms which include a permanent R&D incentive. At the same time, we do have concerns with the R&D provisions included in the discussion draft of the "Tax Reform Act of 2014" released by Chairman Camp on February 26 that include modifications to the R&D credit and require R&D expenditures to be amortized over 5 years.

Maintaining the current tax treatment of R&D expenses along with a strong and permanent R&D incentive will allow the United States to remain competitive in the global race for R&D investment dollars, particularly as manufacturers are courted by other countries with more generous and more stable R&D tax incentives and lower corporate tax rates.

Under current law, a taxpayer can deduct research expenses in the year incurred. In addition, until December 31, 2013, the tax code provided an R&D tax credit for up to 20 percent of qualified research costs over a base amount (or a 14 percent Alternative Simplified Credit ("ASC")); 20 percent of basic research payments; and 20 percent for energy research. If a taxpayer elected to use the R&D tax credit, their deduction for research expenses was reduced by the amount of the R&D credit.

Brunswick shares the position of the R&D Credit Coalition and the NAM that the tax code should include both a strengthened and permanent R&D tax credit and a current deduction for R&D expenses. We also support simplifying and strengthening the credit by increasing the ASC to 20 percent and removing the regular credit option.

Consequently, we are concerned that while the discussion draft would make the R&D tax credit permanent, the credit would be modified in several significant ways. In particular, the credit would be limited to a 15 percent ASC while the traditional 20 percent credit and energy credit would be repealed. The basic research credit would continue, but at a 15 percent credit rate. In addition, computer software and supplies would no longer fall under the definition of "qualified research expenses."

Impact on Brunswick
As previously noted, R&D is extremely important to Brunswick Corporation and its various divisions. R&D is the life blood of new and improved products and features, technological and scientific advancements, unsurpassed product quality and efficient manufacturing operations, among other areas. Here is a brief overview of several key segments.

Engine Segment
The Marine Engine segment is comprised of the Mercury Marine Group, including the marine parts and accessories businesses. Founded in 1939 in Cedarburg, Wisconsin, Mercury Marine was acquired by Brunswick Corporation in 1961. It is the largest division of Brunswick Corporation, with 80 facilities in 22 countries, and more than 5,300 employees worldwide. It is

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the world's largest developer and manufacturer of a broad range of marine propulsion systems for recreational and commercial applications. It has a $2 billion global business (37% of sales are outside the U.S.).

In the U.S., many of Mercury's facilities are located in Wisconsin, including its world headquarters. Specifically, there are four main facilities in "The Dairy State," - Fond du Lac, Oshkosh, Brookfield and Taycheedah.

In all, Mercury has 3,100 employees in Wisconsin in 2014, an employee count that is up 94% (from 1,600) since 2009.

In Fond du Lac, Mercury also conducts the vast majority of its R&D efforts, and is proud to claim several world-class advanced capabilities, including product development, assembly, casting and machining. Here are some supporting factoids:

- **Mercury has approximately 400 engineers** that work in R&D on all types of products and processes for the Company. They have been quite prolific, having had **more than 700 patents granted since 1985**, and **1,024 total patents when you factor in the addition of Michigan-based Attwood in 2003**.
- **In 2013, Mercury Marine opened a significant addition to its R&D center in Wisconsin** providing the Company with additional dynamometer and test capabilities. It has also expanded its test capabilities to go along with new product lines.
- In 2013, Mercury broke ground for two expansion projects that will provide increased capacity and capabilities, **adding approximately 38,000 square feet to Mercury's 1.5 million square feet of manufacturing space in Fond du Lac**. The total cost for both projects is approximately $20 million. The projects consist of a 20,000-square-foot addition to Mercury's Plant 15 machining center to house next-generation horizontal machining equipment, and 18,000 additional square feet in Mercury's Plant 17 casting facility to house high-pressure die-cast machines. Approximately 90 percent of the project work is being performed by companies in the Fond du Lac area or Wisconsin.

Mercury's significant contribution to Wisconsin and local economies include the following:
- $234MM in annual wages and benefits in 2013
- $250MM paid to Wisconsin-based contractors and suppliers in 2013

Mercury's continued investment in the business:
- $548MM in capital and research & development in new products (2007 - 2013)

Mercury Marine, like all Brunswick divisions, believes that the R&D credit is very helpful in attaining effective results from its R&D efforts. In turn, the products, features and processes that emerge help Brunswick to compete and win in a new and different marketplace by:
- Delivering strong and sustainable revenue and earnings growth;
- Innovating effective solutions to our customers' needs faster and more efficiently than our competitors;
- Differentiating Mercury Marine as the most capable and reliable supplier to the marine industry; and
- Maintaining the highest standards of quality in our products, services, and processes.

Mercury Marine is currently introducing a new significant product every six weeks. Some of the new products and feature advancements that have been spawned by Mercury Marine's R&D efforts include the following:

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2013 - Joystick Piloting for Outboards
Mercury launched Joystick Piloting for Outboards, the first joystick piloting system for large outboard powered boats.

2012 - 150 hp FourStroke
Mercury Marine introduces the world's smallest, lightest and most durable 150 hp FourStroke marine engine. It's the first four-stroke engine to combine traditional two-stroke benefits – low weight, superb power, fuel economy, lower emissions and easy maintenance – with the advantages of advanced technologies. It earned the 2011 IBEX Innovation Award.

2011 - Attwood Marine Fuel Systems
Attwood Marine offers a complete line of fuel system products that exceed new EPA and CARB evaporative emission requirements for Integrated and Portable Fuel applications. Benefits include a reduction of hydrocarbons in the atmosphere and reduced fuel evaporation, keeping fuel where it belongs - in the tank. Attwood provides total system solutions to ensure proper engine operation, performance and safety.

2010 - ECO-Screen
Mercury's ECO-Screen constantly monitors engine rpm, boat speed, fuel consumption and engine trim and automatically calculates and guides boaters to optimal fuel economy settings. Eco-Screen was selected by West Marine as Boating Industry's 2010 Green Product of the Year.

2009 - 8.2L Sterndrive Engine
The Mercury MerCruiser 8.2-liter sterndrive, the first big block to be introduced in the industry in a decade, produces more power and better mid-range acceleration, while catalyst technology reduces total emissions by 70 percent and improves fuel economy.

Celebrating its 75th year in business in 2014, Mercury Marine clearly understands the importance of R&D to its position and performance in the global marine marketplace, and believes its efforts to compete would be harmed if the R&D tax credit was not extended.

Boat Segment
Brunswick Corporation's Boat segment is comprised of the **Brunswick Boat Group**, and includes **14 boat brands**. Those brands include Bayliner, Boston Whaler, Brunswick Commercial and Government Products, Crestliner, Cypress Cay, Harris FloteBote, Lowe, Lund, Meridian, Princecraft, Quicksilver, Rayglass, Sea Ray and Uttern boats.

Brunswick has strong brands with leading market share, which it contributes, in part, to its ability to conduct **effective R&D to develop new products and features** that attract boaters (including families, fishermen, and water sports enthusiasts) and keep them on the water. It has a broad product portfolio known for quality and value, which it offers through an extensive and strong global dealer network.

The Brunswick Boat Group has more than **3,700 employees worldwide**, with the majority in the U.S. It is headquartered in **Knoxville, Tennessee**, with U.S. manufacturing locations in the following:

- Edgewater, Florida
- Palm Coast, Florida
- Fort Wayne, Indiana
- New York Mills, Minnesota
- Lebanon, Missouri, and

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- Vonore, Tennessee.

The vast majority of the Boat Group's R&D effort is conducted at its **Product Development & Engineering Center in Merritt Island, Florida, which is currently being moved to a new, much larger facility also in Florida**. There, the Boat Group employs **more than 200 engineers** and other professionals that design new craft, develop new product features and are responsible for **nearly 100 patents** since 1986.

Over the past two model years, the Boat Group has launched **multiple new models** into its broad brand line-up. **These models accounted for nearly 45 percent of 2014 sales to date.** The Boat Group has also introduced such innovative features as the following:

Quiet Ride
Brunswick's Sea Ray brand recently introduced a new and innovative technology proven to **significantly reduce sound and vibration** aboard the models on which it is offered. Called Quiet Ride, the proprietary combination of acoustical forensics, engineering and sound-attenuation materials is **the result of more than four years of intense research and development**. It is also a winner of the marine industry's prestigious IBEX award.

Quiet Ride is a method of NVH (noise, vibration, harshness) reduction using an exclusive engineering and applications process designed to reduce onboard sound and vibration and improve the ride of Sea Ray boats. It is not bolt-on equipment or an afterthought. Rather, it is **a fundamental change in the build process to reduce sound at the source**.

In connection with achieving its goal of creating a luxury boating experience with less noise and vibration, Sea Ray collaborated with Omni Products on the application of a **patented Tuned Transom® that "short circuits" vibrations created by the engine and outdrive**. This is an exclusive feature that no other boat manufacturer can offer.

Additionally, Sea Ray scrutinized the laminates, joints, components and fasteners it uses in an effort to reduce NVH. As a result, **vibration-deadening materials are laminated into the hull** and **deck of select models to reduce structural tremors and noise**. Bulkheads and acoustical insulation in the engine compartment and key pathways trap and absorb sound. Precise robotic cutting and drilling, which **Sea Ray's advanced production technology** allows it to execute during construction, results in extremely accurate angles and proportions for reduced vibration. Hatches, storage areas and access holes are sealed to diminish noise in the cockpit area. Gaskets, bumpers, grommets and compression latches are used to reduce squeaks and rattles.

The results of **Quiet Ride** are significant. Measuring decibels (dB) in 14 specific areas aboard a Quiet Ride-equipped 250 SLX, Sea Ray recorded an average 6.8 dB reduction in sound throughout the boat. This **represents an overall noise reduction of 25 to 50 percent**. In certain areas of the cockpit, Quiet Ride reduced noise by more than 10 dB. To put these measurements in perspective, **a decrease of 10 dB equals a sound being twice as low**. Vibration was also greatly decreased, which means a more enjoyable and smoother ride.

Dynamic Running Surface (DRS)
Sea Ray also recently introduced a new and **innovative hull technology that optimizes performance and wake shape** aboard the models on which it is offered. The company's new Dynamic Running Surface is currently available as an option on the new Sea Ray 230 & 350 SLX®, standard on the 370 Venture and will be expanded to other models in the near future.

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DRS uses large, triangular trim tabs mounted underneath the hull to **automatically keep the boat level in changing speed and sea conditions**. Controlled by the Auto Glide Boat Control System from Lenco Marine, this technology has been shown to 1) improve acceleration and reduce bow rise, 2) keep the boat at an optimal trim and running list angle and 3) change the effective transom deadrise to significantly impact wake height and shape.

Basically, DRS is a patented system that **automatically keeps a boat running at a proper trim and list angle** from the time it leaves the dock until the time it comes back. Since the tabs are triangular and mounted in a pocket, they have the added effect of changing the transom deadrise and positively effecting wake height and shape without adding additional turbulence from the exposed edges of a rectangular tab.

According to tests performed by Sea Ray on a 230 SLX with six-person load, **DRS improved acceleration to 20 mph by 13 percent and acceleration to 30 mph by 8 percent**. In addition, DRS reduced bow rise by 30 percent. **These results are significant, especially when you consider fuel efficiency and economy.**

Another benefit notable to the test crew was the **roll control function**. Even with a large load on one side, the system automatically brought the vessel to an even keel. DRS also kept the 230 SLX on plane while going through hard turns (which typically cause the vessel to slow). **This allowed the boat to execute more comfortable turns while maintaining speed**. The minimum speed at which the 230 SLX stayed on plane was also improved.

Concealed Outboard Propulsion
Concealed Outboard Propulsion offers the flexibility, efficiency, trimability and increased space of outboards, while maintaining the clean lines and useable transom of sterndrives and inboards. The rewards are quieter operation, better shallow-water capabilities, lower maintenance costs and remarkable onboard space. Concealed Outboard Propulsion is a hallmark of the 370 Venture, an innovative and accommodating express cruiser named Boating magazine's **2012 Boat of the Year** and earned the **NMMA Innovation Award**. With Venture, propulsion is no longer an "either-or" proposition.

Sea Ray's Proprietary system yields a boat with maximized cockpit and interior space. Due to this unique design, the 370 Venture has a large single level cockpit to maximize day boats and a full beam aft stateroom in the cabin. Customers will enjoy quieter operation, reduced maintenance costs. Additionally, trimmable performance provides remarkable shallow-water access and improved fouling protection

OmniView
Brunswick's Sea Ray brand recently introduced a new and innovative technology that will allow the captain of a yacht to have a **better view around the boat during close quarters maneuvering**. Named OmniView, a series of miniature cameras linked through a computer processor knits together multiple images to create one seamless view of the stern, port and starboard sides of the vessel. The system was developed in partnership with ASL 360 and leverages proven technology from on road vehicles.

The OmniView system was introduced during the 2014 Miami International boat show and is initially available on the 650 and 510 Fly models. Sea Ray has plans to launch this new technology on several other models in the next year.

Hydraulic Swim Steps
Brunswick's Sea Ray brand is **making it easier and safer to access and enjoy the water** via an hydraulically actuated swim step that deploys from below the integrated swim platform. Sea

(more)

Ray's proprietary design utilizes heavy-duty stainless steel mechanisms coupled with Mercury Marine hydraulic systems to deploy either a single or double step system.

Inboard Joy Stick Docking System
Brunswick's Sea Ray brand has recently introduced a new Joystick docking system for shaft driven inboard engine powered vessels. Partnering with key suppliers, this control system **lets boaters pilot their craft with a joystick control**, like they would with Pod drive systems but at a lower price point. The system links together the propulsion engines and Vetus extended run time bow and/ or stern thrusters to seamlessly control the vessel during tight quarters maneuvering and docking. With it a boat can go in whatever direction the pilot wants, including tight circles and even sideways like parallel parking a car. No more worries about embarrassing yourself while docking.

M Hull Design
Brunswick's Bayliner brand has introduced a new family of **affordable boats** called Element, which retail for about $12,000 complete with engine and trailer. The most distinctive aspect of Element's design is its signature M hull. Bayliner's engineering team sought to create a running surface that delivered exceptional stability and superior passenger comfort while at rest and under way. The team ultimately moved away from a traditional V hull in favor of an innovative (patent pending) M-hull design that maintains exceptionally level flotation even when passengers step on gunnels while boarding. Much like a car or tri-tube pontoon boat, Element takes turns like it's riding on rails, with very little of the pitching and yaw commonly associated with V-hulled craft.

Fitness Segment
Brunswick's Fitness segment is comprised of its Life Fitness division (Life Fitness), which designs, manufactures and markets a full line of reliable, high-quality cardiovascular fitness equipment (including treadmills, total body cross-trainers, stair climbers and stationary exercise bicycles) and strength-training equipment under the Life Fitness and Hammer Strength brands.

Many of Brunswick's fitness equipment offerings feature **industry-leading product innovations**, and the **Company places significant emphasis on introducing new fitness equipment to the market**. Competitive focus is also placed on product quality, **technology**, service, pricing, state-of-the-art biomechanics, and effective promotional activities. **Since 1997, Life Fitness has earned 100 patents.**

As is the case with Brunswick's marine businesses, it is Life Fitness' ability to innovate and produce a **steady stream of new products** that resonate and excite the fitness equipment marketplace, both commercial and for the home, that have played a key role in Life Fitness' success. For example, the extension of the Synrgy360 line, the popular multi-purpose training system, offered more scalable solutions for both large and small facilities. Life Fitness' Track+ Console, introduced in 2013, is compatible with devices using Apple or Android operating systems, and allows users to customize and track their workouts using popular fitness apps.

As the **technology frontrunner** in the fitness equipment industry, Life Fitness' goal is to enhance the workout experience by giving exercisers a more customizable, enjoyable experience by incorporating the use of personal mobile devices with its machines.

Here are some other new products that are the direct result of Life Fitness' recent R&D efforts. These include:

LFopen: With its recent release of an open API (Application Programming Interface), Life Fitness became the first fitness equipment maker to open its product platform. This new access

(more)

for developers, called LFopen, enables third-parties, such as fitness facilities, to create unique, new applications that work directly with Life Fitness equipment. The Life Fitness open platform products enable developers and our customers to create fitness solutions specific to their exercisers and will allow for endless possibilities. Throughout the year, a number of providers have developed apps to work with Life Fitness equipment.

LFconnect: This is a complementary cloud-based computing resource that enables seamless exerciser workout - and product-personalization -- as well as product display customization for facilities and asset management capabilities to build a stronger facility brand experience. In addition to allowing exercisers to track their workout progress and choose equipment settings, LFconnect helps facilities track equipment activity. In 2013, LFconnect was made compatible with the new Elevation™ Series Discover™ Tablet Consoles. LFconnect links the equipment, end-user and facility, syncing the exercise equipment with multiple devices including personal computers, smartphones and tablets.

Synrgy360 Phase 2: Synrgy360, the popular multi-purpose training system, became more accessible in 2013 with three new customizable, modular configurations. The expansion to the Synrgy360 line offered more scalable solutions for facilities pursuing Synrgy training, a unique and connected fitness experience. To accommodate the demand for equipment that would suit both large and small facilities, Life Fitness developed new configurations to support a range of training needs. Synrgy360 serves as a hub for performing dynamic, state-of-the-art, total-body exercises in one efficient space, accomplishing a wide variety of training goals through one system.

The Benefit of a Permanent Tax Credit

A permanent R&D tax credit provides both predictable cash flow to the Company, which is important for the Company's budgeting process for its capital spending and research and development projects, and also prevents unnecessary fluctuations in the Company's effective tax rate. Let me explain this latter point, the impact on the Company's effective tax rate, in more detail.

When the Company speaks to the analyst community, the Company forecasts an annual effective tax rate which the analysts then plug into their discounted cash flow and earnings models. When the R&D tax credit expires, as it did at the end of 2013, the Company has to forecast its effective tax rate for 2014 <u>without</u> the R&D tax credit, which increases the Company's overall effective tax rate. A higher effective tax rate on the same level of earnings translates to lower EPS, i.e. earnings per share. Lower EPS times the same multiple the marketplace gives to the Company can mean a lower share price.

If the R&D tax credit is reinstated in the middle of the year, and made effective as of the beginning of the year, say January 1st, the cumulative to date impact of the R&D tax credit on the Company's effective tax rate becomes a "discrete" item in the Company's financial statement in the quarter the law is effective. The Company can factor in the R&D tax credit in its effective tax rate for the remaining part of the year, but only for the period subsequent to the effective date of the change.

Generally, analysts ignore discrete items since such items are considered unusual and non-recurring, resulting in the R&D tax credit's benefit on the Company's annual effective tax rate being significantly reduced for a mid-year enactment, with only a small benefit remaining for the Company's effective tax rate for the remaining part of the year.

Reinstatement of the R&D tax credit during the year retroactive to January 1, 2014 does increase the Company's cash flow, because it results in a reduced tax liability for the Company

(more)

for the whole year. An R&D tax credit reinstated during the year has less of an impact on the Company's effective tax rate, however, from the analysts' perspective given how analysts view discrete items.

All of this means that a permanent R&D tax credit provides certainty for the Company in its annual budgeting and planning process and results in a more constant, less fluctuating, effective tax rate.

Thus, Brunswick shares the position of the R&D Credit Coalition and the NAM that the tax code should include both a strengthened and permanent R&D tax credit and a current deduction for R&D expenses.

We also support simplifying and strengthening the credit by increasing the ASC to 20 percent, removing the regular credit option and maintaining the current definition of "qualified research expenses," which includes computer software and supplies.

Absent permanency, an extension of the R&D tax credit as early in the year as possible and beyond one year will help to bridge the gap to a permanent R&D tax credit.

Therefore, we urge the Committee and the Congress to reinstate and extend the R&D credit for 2014 and beyond one year to help bridge the gap to a permanent R&D credit. Thank you, for this opportunity.

(more)

Supplemental Sheet

Statement
of Brunswick Corporation

For the Hearing Record
of the Committee on Ways and Means
U.S. House of Representatives

Hearing on
"Framework for Evaluating Certain Expiring Tax Provisions"

April 8, 2014

Contact:
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(more)

Statement for the Record By

Henry H. Chamberlain
President and Chief Operating Officer
Building Owners and Managers Association (BOMA) International

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info@boma.org

Before a Hearing of the Committee on Ways & Means
United States House of Representatives

"Benefits of Permanent Tax Policy for America's Job Creators"

April 8, 2014

April 8, 2014

Congressman Dave Camp
Chairman
House Committee on Ways & Means
1101 Longworth HOB
Washington, DC 20515

Congressman Sander Levin
Ranking Member
House Committee on Ways & Means
1101 Longworth HOB
Washington, DC 20515

Dear Chairman Camp and Ranking Member Levin:

BOMA International urges you to immediately pass the package of "tax extenders" that includes incentives of tremendous importance to the commercial real estate industry. These extenders include the fifteen-year straight-line cost recovery for qualified leasehold improvements and the energy efficient commercial buildings deduction (179d). Renewing these provisions will provide certainty the industry needs to continue to provide the much-needed jobs to the overall economy.

Requiring leasehold improvements to be depreciated at a rate of 1/39th per year until the improvement goes "out of service" runs counter both to common sense and the reality of the marketplace. With the average lease running from five to ten years, such reconfigurations are commonplace, and insisting on a 39-year depreciation schedule is simply a hidden and inequitable tax that is passed along to the small businesses that lease space from commercial real estate property owners.

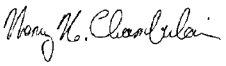
Furthermore, a reduced timeline for leasehold improvements spurs activity in other parts of the economy. An increase can be seen in the output and employment of construction companies, building material suppliers and construction-related services as well as industries that supply goods and services to the construction industry, many of which are small businesses themselves.

In addition, Congress must extend the incentive for commercial buildings to upgrade their energy efficiency. Improving the energy efficiency of buildings is the most cost-effective means available for moving the nation toward energy independence and energy security. Section 179d encourages building owners to install high performance heating, lighting, windows, roofs, and other systems by accelerating the cost recovery of the upfront investment. The provision should be extended with modifications that unleash its full potential by facilitating building retrofit projects.

BOMA International is an international federation of more than 100 local associations and affiliated organizations. Founded in 1907, its 18,000-plus members own or manage more than 9 billion square feet of commercial properties. BOMA International's mission is to enhance the human, intellectual and physical assets of the commercial real estate industry through advocacy, education, research, standards and information.

Again, BOMA International requests that you renew these tax policies immediately. Should you or your staff need any information or assistance, please contact Jason Todd, Director of Legislative Affairs at (202) 326-6356 or jtodd@boma.org.

Respectfully yours,



Henry H. Chamberlain
President and Chief Operating Officer, BOMA International

CC: Members of the Senate Committee on Finance

John Kramer

Cambridge Engineering, Inc.

760 Long Road Crossing Drive

Chesterfield, MO 63005

636-532-2233

jkramerjr@cambridge-eng.com

Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

Subject: RE: Section 179D Energy Efficient Commercial Buildings Deduction Should Be Included as Part of a Tax Extender Package

Dear House Ways and Means Committee,

We are writing to you today to urge the inclusion of Section 179D, Energy Efficient Commercial Buildings Deduction as part of a Tax Extender Package.

Our Company, Cambridge Engineering, Inc., is a 50+ year company employing over 100 families. Cambridge provides proven technology that is the most energy efficient way to heat/ventilate warehouses, distribution centers, manufacturing plants, and other buildings with large open spaces, both new construction and existing buildings. We have documented energy savings of 40% - 70% on hundreds of buildings.

EPAct has been an integral part of many jobs that Cambridge has installed. Below is a partial list of projects we have sold that have utilized EPAct.

Location	Building Size	Federal Tax Deduction
Ambridge, PA	147,500	$88,500
Totowa, NJ	277,600	$166,560
Oxford, MA	68,800	$82,560
Hauppauge, NY	80,324	$96,389
S. Brunswick, NJ	200,000	$240,000
Jacksonville, FL	642,219	$770,663
Edison, NJ	140,000	$252,000
Bristol, PA	273,080	$491,544

These projects create jobs, both for us and other companies involved in their installation. They also give us buildings that are more environmentally friendly and sustainable for the future of our environment.

As you know, 179D directly supports two national priorities: Job Creation and Energy Independence. 179D was introduced into the tax code with the Energy Policy Act of 2005. It was further extended in 2008, with current expiration set for January 1, 2014. Since the inception of 179D, it has assisted thousands of building owners in retaining jobs and increasing profitability; it has also increased job creation in the trades, where energy efficiency retrofits create large numbers of high paying jobs for a labor pool that was particularly impacted by the economic downturn. At the same time, 179D helps reduce our nation's dependence on foreign oil, thereby increasing America's energy security.

Jobs

Energy efficiency projects require enormous skilled and semi-skilled work forces. By cost-justifying projects, EPAct therefore plays a direct role in supporting a major source of employment in our state.

Lighting retrofits require lighting designers, laborers to remove and dispose existing fixtures, distribution centers to store the new lighting material, laborers to stage the new material near the job site and electricians to install the new fixtures.

HVAC retrofits require engineers for project system design, substantial U.S. manufacturing activity (most HVAC equipment is heavy and made in the U.S.), U.S. steel procurement and HVAC mechanics to install.

The building envelope involves a wide variety of manufactured and workshop materials including roofs, walls, windows, doors, foundations and insulation. In addition to the labor required to create these products, large numbers of roofers, carpenters, installers and laborers are needed to handle the material and incorporate it into a building.

In addition, reduced building expenses allow for the retention of jobs on the building owners' end.

Energy Security

Our nation's goal of becoming energy independent cannot be achieved through domestic oil and natural gas production alone. Energy Efficiency is an untapped natural resource. Commercial Buildings represent 20% of our nation's energy use. "Drilling" for building energy efficiency is the least costly natural resource we have. For building owners, the upfront cost of retrofitting is expensive, but with utility and government assistance working together with building owners, energy use reductions between 20% and 50% can be obtained.

Commercial building energy efficiency is a critical way by which utilities can meet newly established national guidelines for carbon emission reductions. By improving the cost benefit equation of an energy efficiency retrofit, Section 179D thereby plays an important role in helping utilities comply with national policy while simultaneously reducing the need for the construction of costly new power plants.

Looking Ahead

Today, taxpayers and industry understand how to prospectively use 179D to achieve the greatest possible energy reduction far better than they did eight years ago. This extension will empower

our country to realize major energy efficiency gains and will not represent a material cost to Treasury. With the use of dynamic scoring the efficiency gains will increase taxable income over time for commercial building owners, and thereby reducing Treasury's losses from accelerating the depreciation.

Conclusion

Section 179D supports a key investment in the American economy: energy efficiency. Energy efficiency is a force-multiplying investment that saves energy, saves money, and sustains and creates American jobs. Comprehensive energy efficiency upgrades drastically improve the reliability and performance of the nation's building stock, while reducing demand on our energy supply. We strongly support its inclusion as the House Ways and Means Committee contemplates Tax Extenders.

Sincerely,

CONCORD ENGINEERING

Michael Fischette
Concord Engineering Group
520 South Burnt Mill Road
Voorhees, NJ 08043
856-427-0200
MFischette@concord-engineering.com

Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

Subject: RE: Section 179D Energy Efficient Commercial Buildings Deduction Should Be Included as Part of a Tax Extender Package

Dear House Ways and Means Committee,

We are writing to you today to urge the inclusion of Section 179D, Energy Efficient Commercial Buildings Deduction as part of a Tax Extender Package.

Our Company, Concord Engineering Group, Inc. established in 1989, located in Voorhees, NJ and Atlantic City, NJ has approx. 90 employees working in the commercial, institutional and power generation markets. We have provided energy consulting and energy engineering for the majority of this company's life. Our excitement for the 179D is overwhelming and we believe it is a necessary tool for private owners and local governments to embrace energy efficiency. We have received 179D tax deductions for many K-12 schools and some higher education projects. It is our experience that the constant shifting regulatory climate provides sufficient uncertainty among facility owners to hold off on capital projects that are badly needed because they feel rebates from utilities or state run programs are unreliable. The Federal Government has been better at this and we desperately need you to consider extension of 179D as well as expansion to include Combined Heat & Power.

As you know, 179D directly supports two national priorities: Job Creation and Energy Independence. 179D was introduced into the tax code with the Energy Policy Act of 2005. It was further extended in 2008, with current expiration set for January 1, 2014. Since the inception of 179D, it has assisted thousands of building owners in retaining jobs and increasing profitability; it has also increased job creation in the trades, where energy efficiency retrofits create large numbers of high paying jobs for a labor pool that was particularly impacted by the economic downturn. At the same time, 179D helps reduce our nation's dependence on foreign oil, thereby increasing America's energy security.

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CONCORD ENGINEERING

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Commercial building energy efficiency is a critical way by which utilities can meet newly established national guidelines for carbon emission reductions. By improving the cost benefit equation of an energy efficiency retrofit, Section 179D thereby plays an important role in helping utilities comply with national policy while simultaneously reducing the need for the construction of costly new power plants.

Looking Ahead

Today, taxpayers and industry understand how to prospectively use 179D to achieve the greatest possible energy reduction far better than they did eight years ago. This extension will empower our country to realize major energy efficiency gains and will not represent a material cost to Treasury. With the use of dynamic scoring the efficiency gains will increase taxable income over time for commercial building owners, and thereby reducing Treasury's losses from accelerating the depreciation.

Conclusion

Section 179D supports a key investment in the American economy: energy efficiency. Energy efficiency is a force-multiplying investment that saves energy, saves money, and sustains and creates American jobs. Comprehensive energy efficiency upgrades drastically improve the reliability and performance of the nation's building stock, while reducing demand on our energy supply. We strongly support its inclusion as the House Ways and Means Committee contemplates Tax Extenders.

Sincerely,

, CEO

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Fax: 937-738-7800

To: House Ways and Means Committee and Congressman Jim Jordan
From: Doug Borchers
Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators
Subject: RE: Section 179D Energy Efficient Commercial Buildings Deduction Should Be Included as Part of a Tax Extender Package

Dear House Ways and Means Committee and Congressman Jordan,

I am writing to you today to urge the inclusion of Section 179D, Energy Efficient Commercial Buildings Deduction as part of a Tax Extender Package.

Our Company, Dickman Supply, Inc, has helped over a thousand companies in Ohio, Indiana, and Kentucky over the past 7 years to help justify significant infrastructure investments that have made them much more competitive in the workplace by lowering overall utility costs with these investments that upgraded their facilities. In almost every case, the payback was out way too far (past 5 years) as an investment on its own, but with a 179D accelerated depreciation they were able to justify it as a wise investment, and have reaped the rewards ever since in lower utility bills and competitiveness in their marketplace. We have also assisted a number of government agencies to do likewise by using the portion of the law that allows us (as the project designer) to take the tax deduction, then pass the savings along to them in lower material costs, saving taxpayers in our area thousands of dollars in energy reductions. It also created five jobs in our company… our "Green Energy Solutions Group" consults with facility owners in this area on the optimal ways to conserve energy and designs the most efficient lighting system for them. It's been a win-win all around!

As you know, 179D directly supports two national priorities: Job Creation and Energy Independence. 179D was introduced into the tax code with the Energy Policy Act of 2005. It was further extended in 2008, with current expiration set for January 1, 2014. Since the inception of 179D, it has assisted thousands of building owners in retaining jobs and increasing profitability; it has also increased job creation in the trades, where energy efficiency retrofits create large numbers of high paying jobs for a labor pool that was particularly impacted by the economic downturn. At the same time, 179D helps reduce our nation's dependence on foreign oil, thereby increasing America's energy security.

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Energy Security
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Commercial building energy efficiency is a critical way by which utilities can meet newly established national guidelines for carbon emission reductions. By improving the cost benefit equation of an energy efficiency retrofit, Section 179D thereby plays an important role in helping utilities comply with national policy while simultaneously reducing the need for the construction of costly new power plants.

Looking Ahead
Today, taxpayers and industry understand how to prospectively use 179D to achieve the greatest possible energy reduction far better than they did eight years ago. This extension will empower our country to realize major energy efficiency gains and will not represent a material cost to Treasury. With the use of dynamic scoring the efficiency gains will increase taxable income over time for commercial building owners, and thereby reducing Treasury's losses from accelerating the depreciation.

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Section 179D supports a key investment in the American economy: energy efficiency. Energy efficiency is a force-multiplying investment that saves energy, saves money, and sustains and creates American jobs. Comprehensive energy efficiency upgrades drastically improve the reliability and performance of the nation's building stock, while reducing demand on our energy supply. We strongly support its inclusion as the House Ways and Means Committee contemplates Tax Extenders.

Sincerely,

Doug Borchers

Vice President
Dickman Supply, Inc.

Edgewood Green
TECHNOLOGIES

April 7, 2014

Mark Goetz

Edgewood Green Technologies
939 Dudley Pike
Edgewood, KY 41017

859-572-4160

mgoetz@edgewoodusa.com

Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

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Our Company, Edgewood Electric/Edgewood Green Technologies, we are an electrical contracting company focusing on changing out the old energy inefficient HID and fluorescent lighting to LEDs. We have about 100 employees but construction is down, so we are trying to hustle and find Green Energy projects. We have over 40 projects pending based on 179D getting approved again. Meritor, Home Depot, Amazon etc. are waiting for 179D to pass. We are really hurting for work gentlemen and need some help getting these projects moving. Every project has an RO1 of less than 3 years with 179D. It will take projects off the back burner and put our men back to work. I currently have 75 families laid off.

Thanks for your consideration. It's worth it.

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Sincerely,

Sincerely,

Edgewood Green Technologies

Mark Goetz
President/CEO

MG:bp

Finegold Alexander + Associates Inc
Architects

James Alexander
Finegold Alexander + Associates Inc
77 North Washington
Boston, MA 02114
Phone: 617-227-9272 x 104
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Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

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Dear House Ways and Means Committee,

I am writing to you today to urge the inclusion of Section 179D, Energy Efficient Commercial Buildings Deduction as part of a Tax Extender Package.
My Company, Finegold Alexander + Associates Inc, is a small business architecture firm with 25-30 employees. The major portion of our practice involves the adaptive reuse and modernization of existing and historic buildings. The creative innovative energy retrofitting of these building is supported by section 179D. The Act was particularly beneficial in our rehabilitation of the $75 million Methuen High School (ca.1976) and the renovation of the former Cambridge Police Station (ca. 1931) to the $18 million Alice K. Wolf Community Center in Cambridge.

In addition to local initiatives on individual projects, 179D directly supports two national priorities: Job Creation and Energy Independence. 179D was introduced into the tax code with the Energy Policy Act of 2005. It was further extended in 2008, and should be with current expiration extended into the future. Since the inception of 179D, it has assisted thousands of building owners in retaining jobs and increasing profitability; it has also increased job creation in the trades, where energy efficiency retrofits create large numbers of high paying jobs for a labor pool that was particularly impacted by the economic downturn. At the same time, 179D helps reduce our nation's dependence on foreign oil, thereby increasing America's energy security.

Jobs
Energy efficiency projects require enormous skilled and semi-skilled work forces. By cost-justifying projects, EPAct therefore plays a direct role in supporting a major source of employment in our state.

For example, lighting retrofits require lighting designers, laborers to remove and dispose existing fixtures, distribution centers to store the new lighting material, laborers to stage the new material near the job site and electricians to install the new fixtures.
HVAC retrofits require engineers for project system design, substantial U.S. manufacturing activity (most HVAC equipment is heavy and made in the U.S.), U.S. steel procurement and HVAC mechanics to install.

The building envelope involves a wide variety of manufactured and workshop materials including roofs, walls, windows, doors, foundations and insulation. In addition to the labor required to create these products, large numbers of roofers, carpenters, installers and laborers are needed to handle the material and incorporate it into a building.
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Energy Security
Our nation's goal of becoming energy independent cannot be achieved through domestic oil and natural gas production alone. Energy Efficiency is an untapped natural resource. Commercial Buildings represent 20% of our nation's energy use. "Drilling" for building energy efficiency is the least costly natural resource we have. For building owners, the upfront cost of retrofitting is expensive, but with utility and government assistance working together with building owners, energy use reductions between 20% and 50% can be obtained.

Commercial building energy efficiency is a critical way by which utilities can meet newly established national guidelines for carbon emission reductions. By improving the cost benefit equation of an energy efficiency retrofit, Section 179D thereby plays an important role in helping utilities comply with national policy while simultaneously reducing the need for the construction of costly new power plants.

Looking Ahead
Today, taxpayers and industry understand how to prospectively use 179D to achieve the greatest possible energy reduction far better than they did eight years ago. This extension will empower our country to realize major energy efficiency gains and will not represent a material cost to Treasury. With the use of dynamic scoring the efficiency gains will increase taxable income over time for commercial building owners, and thereby reducing Treasury's losses from accelerating the depreciation.

FA+A

Conclusion
Section 179D supports a key investment in the American economy: energy efficiency. Energy efficiency is a force-multiplying investment that saves energy, saves money, and sustains and creates American jobs. Comprehensive energy efficiency upgrades drastically improve the reliability and performance of the nation's building stock, while reducing demand on our energy supply. We strongly support its inclusion as the House Ways and Means Committee contemplates Tax Extenders.

Sincerely,
Finegold Alexander + Associates Inc

James G. Alexander, FAIA

FA+A

LANE ASSOCIATES
3916 LONG BEACH ROAD
ISLAND PARK, NY 11558
516-431-0900
laneassociatesinc.com

April 7, 2014

Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

Subject: RE: Section 179D Energy Efficient Commercial Buildings Deduction Should Be Included as Part of a Tax Extender Package

Dear House Ways and Means Committee,

We are writing to you today to urge the inclusion of Section 179D, Energy Efficient Commercial Buildings Deduction as part of a Tax Extender Package.

Our Company, Lane Refrigeration Co. Inc. has been in business over 70 years. Our company has seen firsthand the advances made in the field of HVAC. Currently our emphasis is on providing our clients with energy savings equipment meant to be both environmentally friendly as well as reducing their operating costs. We have been quite successful in providing our clients both. We have increased our staff over the past three years and continue to grow.

As you know, 179D directly supports two national priorities: Job Creation and Energy Independence. 179D was introduced into the tax code with the Energy Policy Act of 2005. It was further extended in 2008, with current expiration set for January 1, 2014. Since the inception of 179D, it has assisted thousands of building owners in retaining jobs and increasing profitability; it has also increased job creation in the trades, where energy efficiency retrofits create large numbers of high paying jobs for a labor pool that was particularly impacted by the economic downturn. At the same time, 179D helps reduce our nation's dependence on foreign oil, thereby increasing America's energy security.

Jobs

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The building envelope involves a wide variety of manufactured and workshop materials including roofs, walls, windows, doors, foundations and insulation. In addition to the labor required to create these products, large numbers of roofers, carpenters, installers and laborers are needed to handle the material and incorporate it into a building.

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Commercial building energy efficiency is a critical way by which utilities can meet newly established national guidelines for carbon emission reductions. By improving the cost benefit equation of an energy efficiency retrofit, Section 179D thereby plays an important role in helping utilities comply with national policy while simultaneously reducing the need for the construction of costly new power plants.

Looking Ahead

Today, taxpayers and industry understand how to prospectively use 179D to achieve the greatest possible energy reduction far better than they did eight years ago. This extension will empower our country to realize major energy efficiency gains and will not represent a material cost to Treasury. With the use of dynamic scoring the efficiency gains will increase taxable income over time for commercial building owners, and thereby reducing Treasury's losses from accelerating the depreciation.

Conclusion

Section 179D supports a key investment in the American economy: energy efficiency. Energy efficiency is a force-multiplying investment that saves energy, saves money, and sustains and creates American jobs. Comprehensive energy efficiency upgrades drastically improve the reliability and performance of the nation's building stock, while reducing demand on our energy supply. We strongly support its inclusion as the House Ways and Means Committee contemplates Tax Extenders.

Sincerely,

Virginia Geary
LANE Refrigeration Co., Inc.

Lawrence Steiner, LEED GA

Crescent Electric and Supply Company

1780 West 6th Ave

Denver, Colorado 80204

303.907.8082

Lawrny.Steiner@Cesco.com

Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

Subject: RE: Section 179D Energy Efficient Commercial Buildings Deduction Should Be Included as Part of a Tax Extender Package

Dear House Ways and Means Committee,

We are writing to you today to urge the inclusion of Section 179D, Energy Efficient Commercial Buildings Deduction as part of a Tax Extender Package.

Our Company, Crescent Electric and Supply Company, has been in operation for over 96 years and is privately held. We have Branches in the following locations.

Aberdeen, SD
Albert Lea, MN
Anchorage, AK
Appleton, WI
Arlington, WA
Aurora, IL
Baxter, MN
Bellingham, WA
Billings, MT
Bloomington, IL
Boise, ID
Bozeman, MT
Bronx, NY
Burlington, IA
Butte, MT

crescent electric supply company

Caldwell, ID
Casa Grande, AZ
Casper, WY
Cedar Rapids, IA
Cheyenne, WY
Cincinnati, OH
Cleveland, OH
Coeur D'Alene, ID
Columbia, MO
Columbus, OH
Columbus, IN
Dallas, TX
Davenport, IA
Dayton, OH
De Kalb, IL
Defiance, OH
Denver, CO
Des Moines, IA
Dubuque, IA
East Dubuque, IL
El Paso, TX
Elk Grove Village, IL
Elko, NV
Everett, WA
Fairbanks, AK
Fort Collins, CO
Fort Dodge, IA
Franklin, IN
Freeport, IL
Gillette, WY
Golden Valley, MN
Grand Island, NE
Grand Junction, CO
Grand Rapids, MI
Great Falls, MT
Helena, MT
Hermiston, OR
Holland, MI
Indianapolis, IN
Iowa City, IA
Joliet, IL

crescent electric supply company

Kalispell, MT
Kansas City, MO
Kenai, AK
Kent, WA
Kirksville, MO
Lake Fork, ID
Lakeside, AZ
Las Cruces, NM
North, Las Vegas, NV
Las Vegas, NV
Lee's Summit, MO
Lincoln, NE
Louisville, KY
Lynnwood, WA
Madison, WI
Marshall, MO
Marshalltown, IA
Mason City, IA
Mc Henry, IL
Meridian, ID
Middleton, WI
Milwaukee, WI
Missoula, MT
Moses Lake, WA
Murfreesboro, TN
Nampa, ID
Nashville, TN
Nogales, AZ
North Platte, NE
Omaha, NE
Ontario, ID
Orem, UT
Ottumwa, IA
Peoria, IL
Phoenix, AZ
North, Phoenix, AZ
Pittsburgh, PA
Portland, OR
Princeton, IL
Pullman-Moscow, WA
Pullman-Moscow, WA

crescent electric supply company

Quincy, IL
Racine, WI
Rapid City, SD
Richland, WA
Rochester, MN
Rockford, IL
Salt Lake City, UT
San Marcos, CA
Sandpoint, ID
Sandpoint, ID
Sandusky, OH
Scottsbluff, NE
North, Seattle, WA
South, Seattle, WA
Sheridan, WY
Sidney, MT
Sierra Vista, AZ
Silver City, NM
Sioux City, IA
Sioux Falls, SD
Spencer, IA
Spokane, WA
St Cloud, MN
St Louis, MO
St Paul, MN
Sterling, IL
Sterling, CO
Storm Lake, IA
Tacoma, WA
Toledo, OH
Totem Lake, WA
Tucson, AZ
Walla Walla, WA
Warrensburg, MO
Warsaw, MO
Wasilla, AK
Waterloo, IA
Watertown, SD
Wausau, WI
Wenatchee, WA
Wisconsin Rapids, WI

crescent electric supply company

Yakima, WA
Yankton, SD

We employ over 1700 employees. 179D has allowed Crescent Electric to grow over the past few years while we distribute electrical products that conserve energy. We have 10 Energy Business Development Managers regionally deployed helping our customers leverage all possible programs to reduce their energy consumption and Green House gasses resulting in a smaller carbon footprint.

As you know, 179D directly supports two national priorities: Job Creation and Energy Independence. 179D was introduced into the tax code with the Energy Policy Act of 2005. It was further extended in 2008, with current expiration set for January 1, 2014. Since the inception of 179D, it has assisted thousands of building owners in retaining jobs and increasing profitability; it has also increased job creation in the trades, where energy efficiency retrofits create large numbers of high paying jobs for a labor pool that was particularly impacted by the economic downturn. At the same time, 179D helps reduce our nation's dependence on foreign oil, thereby increasing America's energy security.

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Section 179D supports a key investment in the American economy: energy efficiency. Energy efficiency is a force-multiplying investment that saves energy, saves money, and sustains and creates American jobs. Comprehensive energy efficiency upgrades drastically improve the reliability and performance of the nation's building stock, while reducing demand on our energy supply. We strongly support its inclusion as the House Ways and Means Committee contemplates Tax Extenders.

Sincerely,

Edgewood Green Technologies

939 Dudley Rd.

Edgewood, KY 41017

859. 572.4160

mhenry@edgewoodusa.com

Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

Subject: RE: Section 179D Energy Efficient Commercial Buildings Deduction Should Be Included as Part of a Tax Extender Package

Dear House Ways and Means Committee,

We are writing to you today to urge the inclusion of Section 179D, Energy Efficient Commercial Buildings Deduction as part of a Tax Extender Package.

Our Company, Edgewood Green Technologies, has over 200 employees whose jobs depend heavily on the continued existence of this deduction.

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Sincerely,

Matt Henry
Vice President, Edgewood Green Technologies

939 Dudley Rd, Edgewood, KY 41017

C 513.485.3431

T 800.747.6511

O 859.572.4160

F 859.341.3942

mhenry@edgewoodusa.com

www.edgewoodusa.com

Edgewood Green
TECHNOLOGIES

Abe Millet
Mechanical Service & Systems
2138 North Frontage Rd, Centerville, UT
801 520-9604
abemillet@gmail.com

Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators
Subject: RE: Section 179D Energy Efficient Commercial Buildings Deduction Should Be Included as Part of a Tax Extender Package

Dear House Ways and Means Committee,
We are writing to you today to urge the inclusion of Section 179D, Energy Efficient Commercial Buildings Deduction as part of a Tax Extender Package.

The company I work for, Mechanical Service & Systems, is a mechanical contractor which was established in 1984. Our primary customer base includes multiple commercial building owners & operators. In response to customer demand, MSS now has a department dedicated to helping our customers reduce operating costs through improved efficiencies to building operations. We have round an enormous interest in reducing operating costs through mechanical modifications. The project have not only helped our customers remain in business but has been a significant reason for our won ability to weather the recent financial difficulties in the economy. The decision to move forward with a number of energy projects has been Section 179D and the other variables involved in calculating ROI's. The total volume of projects affected by this tax policy has accounted for millions in revenue for our company.
As you know, 179D directly supports two national priorities: Job Creation and Energy Independence. 179D was introduced into the tax code with the Energy Policy Act of 2005. It was further extended in 2008, with current expiration set for January 1, 2014. Since the inception of 179D, it has assisted thousands of building owners in retaining jobs and increasing profitability; it has also increased job creation in the trades, where energy efficiency retrofits create large numbers of high paying jobs for a labor pool that was particularly impacted by the economic downturn. At the same time, 179D helps reduce our nation's dependence on foreign oil, thereby increasing America's energy security.

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Sincerely,

Abe Millet

400 North Columbus Street
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Alexandria, VA 22314
(703) 683-8630
(703) 683-8634 FAX
www.nahma.org

July 2, 2014

Chairman Dave Camp
House Ways and Means Committee
1102 Longworth House Office Building
Washington D.C. 20515

Dear Chairman Camp,

Thank you for this opportunity to submit comments on the Tax Reform Act of 2014 on behalf of the National Affordable Housing Management Association (NAHMA). NAHMA members manage and provide quality affordable housing to more than two million Americans with very low to moderate incomes. The membership of NAHMA is comprised of the presidents and executives of property management companies, owners of affordable rental housing, public housing agencies, and providers of supplies and services to the affordable housing industry. In addition, NAHMA serves as the national voice in Washington for 19 regional, state and local affordable housing management associations (AHMAs) nationwide.

These comments will focus on the importance of Low-Income Housing Tax Credit (LIHTC) for affordable housing development and preservation. The LIHTC program is an example of a successful public-private partnership, and serves as the primary source of federal funding to construct new affordable apartments. In the program's 26-year history, nearly $100 billion in private equity capital has been leveraged to finance more than 2.6 million affordable homes. Additionally, the LIHTC has spurred job growth and strengthened local economies, supporting jobs for 95,000 Americans annually.

To begin, NAHMA greatly appreciates that the Low Income Housing Tax Credit (LIHTC) was retained in your draft tax reform bill. While other business tax credits were eliminated, we thank you for recognizing the importance of the LIHTC and the benefits it provides to low-income communities. However, NAHMA is concerned that the LIHTC changes proposed in the draft Tax Reform Act go far beyond the modest updates that our members agree would enhance the program's effectiveness as a preservation tool. In fact, the draft bill eliminates the 4 percent credit, which is a key component of preservation involving the LIHTC.

Similarly, changes made to the 9 percent credit inject a level of uncertainty into the program which may negatively affect investors' demand for the credits. Generally speaking, NAHMA recommends that any comprehensive tax reform bill retain the LIHTC program in its current form, but with specific updates to make the program more effective in preserving older federally-assisted properties. We also strongly urge the Committee to remove occupancy barriers in the LIHTC program for full-time adult students seeking to increase their economic opportunities through education.

The 70 Percent Present Value LIHTC

The 9 percent (70 percent present value) credit has been a driving force in LIHTC program's success, and generally functions well as a vehicle to provide new workforce housing.

A credit's value typically floats with interest rates, but the credit rate was temporarily fixed at 9 percent under the Housing and Economic Recovery Act (HERA), and again through December 31, 2013 under the American Taxpayer Relief Act of 2012. The 9 percent minimum credit rate simplified state administration of the program and removed the financial uncertainty and risk associated with underwriting LIHTC financed

properties. However, since the floor expired at the end of 2013, the floating rate has returned. This may reduce the amount of equity that a development could receive.

The discussion draft of the Tax Reform Act of 2014 continues the floating rate for 70 percent present value LIHTC. NAHMA is concerned that this proposal will make the development of new affordable housing units more difficult and will inject uncertainty into the program. The LIHTC functions well in its current form and should not be substantially altered in a way that could make the credits less attractive to investors.

NAHMA recommends that the Ways and Means Committee instead pursue legislation similar to S. 1442, the Improving the Low Income Housing Tax Credit Rate Act introduced by Senator Maria Cantwell in August of 2013, or H.R. 4717, which was introduced by Representative Pat Tiberi in May of 2014. These bills would make permanent the minimum 9 percent LIHTC rate for new buildings that are not federally subsidized at the 70 percent present value level. Making this rate permanent will provide security in the mortgage loan process and continue the LIHTC's positive impact on affordable housing production and job creation.

The 30 percent present value LIHTC

While the LIHTC is often used to drive new affordable housing construction, the preservation and rehabilitation of affordable housing properties is also achieved through use of the credits. States are allowed to provide housing credits from their capped allocation for the acquisition of existing properties through the 30 percent present value LIHTC. These acquisitions help maintain and increase our nation's affordable housing stock while simultaneously helping local communities recover blighted properties. Industry groups have advocated that the fixed minimum credit rate for acquisition housing credits should be set at no less than 4 percent. The 4 percent level would similarly remove the uncertainty and financial complexity of the floating rate system, simplify state administration, and facilitate preservation of affordable housing.

NAHMA is concerned that the draft Tax Reform Act of 2014 proposes to eliminate the 30 percent present value LIHTC. We strongly urge reconsideration of this provision. Eliminating the credit would substantially reduce important preservation and rehabilitation activities. Again, NAHMA recommends that the Committee instead pursue legislation similar to (Tiberri and)S. 1442 during the tax reform process. S. 1442 would establish a minimum 4% credit rate for existing buildings that are not federally subsidized. Making this permanent would strengthen the LIHTC and provide incentives for private investment in affordable housing preservation.

Modest Reforms to Enhance the LIHTC as an Affordable Housing Preservation Tool

Additionally, we suggest that the Committee pursue legislation that would make the LIHTC more cohesive with other federal programs to further leverage its success. The Committee should also examine ways to make the student occupancy rule for LIHTC properties more cohesive with other federal programs and remove the conflicting occupancy rules for full-time students that exist between HUD and the Treasury Department.

For example, HUD recently released for comment a draft chapter for inclusion in the revised Asset Management Handbook (HUD Handbook 4350.1, Multifamily Housing Asset Management & Servicing). The draft chapter notes that while the Section 8 student restrictions are different from LIHTC, property owners and managers should adhere to the Section 8 student rule policy if there is a Section 8 Housing Assistance Payment (HAP) contract in place. We are concerned that the proposed language effectively advises owners and managers to disregard the statutory LIHTC requirements. Violating the LIHTC student rule jeopardizes the very tax credits necessary to preserve and recapitalize HUD-assisted properties. We are hopeful that HUD addresses our concerns prior to finalizing the new 4350.1 Asset Management Handbook, but we believe this example underscores the need for a solution to the conflicting student occupancy laws.

PROTECTING THE INTERESTS OF AFFORDABLE HOUSING PROPERTY MANAGERS AND OWNERS

The Administration's FY 2015 budget request contains proposals to reform and expand the tax credit such as allowing states to convert a portion of their tax-exempt Private Activity Bond authority into allocated LIHTCs or authorizing additional income qualifying criteria for tenants. NAHMA supports other proposals from this budget request including adding preservation of federally assisted affordable housing as an eleventh selection criterion that must be included on Qualified Allocation Plans (QAPs). NAHMA urges the Committee to support this and other LIHTC reforms which will enhance its use as a preservation tool.

Conclusion

Thank you for the opportunity to comment on reform proposals to the LIHTC. NAHMA and its members look forward to working with you on comprehensive tax reform.

Sincerely,

Kris Cook, CAE
Executive Director

National Education Foundation

"Quality Education for All"

National Non-profit Leader in Bridging the Academic & Job Skills Divides

1350 Beverly Rd, Suite 219, McLean, VA 22101
Tel. **(703) 823-9999** Fax (703) 823-9990
E-mail: courses @cyberlearning.org
URL: **www.cyberlearning.org**

Advisors

- **Hon. Clarence Cooper** U.S. Federal Judge
- **Dr. Appu Kuttan** Philanthropist, Author, Recognized Global Leader in Digital & STEM+ Education, Education Systems, Management Systems & Empowerment
- **Supt. Art Stellar** Former National President of ASCD & Supt. in many states
- **Supt. Bill Cody** Former LA & KY State Superintendent
- **Prof. Anthony Betrus** SUNY, National Expert on Education Technology
- **Bob Eichorn** National Expert in K-12 Alternative Education

Supporting Organizations

- **U.S. Education Dept.**
- **U.S. Dept. of Energy**
- **Pearson, Skillsoft**
- **SUNY, Univ. of Wis.**
- **Cisco, Microsoft**
- **TEKsystems**
- **JP Morgan, Wells Fargo**
- **Trane, JCI, Honeywell**
- **Washington Post**
- **Barron's Education**

April 8, 2014

10 REASONS WHY QZAB MUST BE EXTENDED*

1. QZAB is the most cost-effective of all the 55 tax extenders
2. QZAB costs taxpayers NOTHING
3. Annual revenue loss on account of the tax credit is only $20 million if all $400 million is used. Since only 35% has been used, the real annual revenue loss is only $7 million
4. The average age of a school facility in the QZAB-eligible poor schools is 60 years. QZAB is a major funds program available for these schools to improve the facilities
5. QZAB 10% Match helps the poor schools to get private assistance and expertise at NO cost the taxpayers. At the request of Ed.gov and AASA, we at nonprofit NEF provides the 10% Match to any QZAB-eligible LEA
6. QZAB academy, as implemented by NEF and SUNY (State University of New York) is the most cost-effective STEM+ academy total system solution program available to poor schools. Last school year (2012-13), students in the NEF QZAB academies advanced one grade level in a subject like math in 24 learning hours via NEF's Total Solution PSL-MM-TT System that includes Personalized learning and Motivation
7. Supported by the US Education Department, DOE AASA as well as energy and utility companies, NEF has started a QZAB energy efficiency program that allows QZAB principal payments to be made with the energy savings funds, thus making QZAB into a grant in effect
8. To increase the use of QZAB funds, NEF, with the support of AASA, is deploying retired superintendents to spread the message of QZAB benefits to superintendents across the US.
9. To increase the awareness of QZAB and its benefits, NEF, with support of AASA, is starting a social media group of superintendents of QZAB-eligible school districts, just as NEF has for all the state QZAB directors
10. NEF has created a one stop solution assisting the QZAB-eligible school districts from the initial QZAB application stage to securing financing

*** By Dr. Appu Kuttan, NEF Chairman, Philanthropist, National Expert in QZAB, STEM Education, Education and Management Systems, and Empowerment**

ABOUT NATIONAL EDUCATION FOUNDATION (NEF):

NEF (www.cyberlearning.org), founded in 1989 in the Washington DC Metro area, is the national NONPROFIT leader in bridging the STEM+ education divides and in providing the most relevant and high quality QZAB 10% Match and the most effective QZAB academies. NEF has donated $100 million+ in QZAB 10% Match to 2 statewide (NJ, PR) QZABs, 239 School Districts and 8 Charter Schools in 38 States and Puerto Rico. See www.qzab.org .

National Grocers Association

U.S. House of Representatives Committee on Ways and Means

Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

Submission for the Record

On Behalf of the National Grocers Association

April 8, 2014

The National Grocers Association (NGA) appreciates the opportunity to submit a statement for the record in support of several tax extenders discussed by the Committee during this hearing. NGA is the national trade association representing the retailers and wholesalers that comprise the independent channel of the supermarket industry. The independent grocery channel is accountable for close to 1% of the nation's overall economy and is responsible for generating $131 billion in sales, 944,000 jobs, $30 billion in wages, and $27 billion in taxes.

NGA supports the extension of a number of pro-growth tax provisions that are important to independent retailers and wholesalers and the supermarket industry as a whole. Specifically this includes the Work Opportunity Tax Credit (WOTC), 15 year straight-line cost recovery for qualified leasehold improvements, Bonus Depreciation, the increased expensing of up to $500,000 in equipment (Section 179 expensing), the New Markets Tax Credit (NMTC), and enhanced charitable deductions for contributions of food. We urge the Committee to support the extension of these important tax provisions when the time comes to consider a tax

extenders package and support passage quickly so that our members can continue to use these important resources to grow their businesses and create jobs.

In response to the Committee's request for detailed information during the drafting of Chairman Camp's comprehensive tax plan, NGA surveyed our members on tax reform and based on those responses submitted to the Committee a report entitled, "Principles of Tax Reform For the Independent Grocery Sector". The report supports comprehensive and balanced tax reform, while also supporting many of the tax extenders that have helped our members reinvest in and grow their businesses and hire workers, especially during the economic downturn. Importantly, investment in capital improvements for independent retail grocers and their wholesalers has a multiplier effect on local communities as equipment and services are often procured from local providers. Absent comprehensive tax reform NGA believes Congress should quickly pass these temporary tax provisions through at least 2015 and give businesses certainty so they can continue to grow.

Work Opportunity Tax Credit (WOTC):

Numerous NGA members utilize WOTC as an important tool to hire workers that otherwise face significant barriers to employment, including many who receive public assistance. While 60% of respondents to our 2013 survey indicated WOTC was important to their business, a number of members noted that the administrative burdens required to administer the program can be significant, including potential penalties for errors. Many of our members have found success in hiring workers who often face barriers to employment because of this credit.

15 Year Straight-Line Cost Recovery for Qualified Leasehold Improvements:

This provision is important to independent grocers from a cash flow perspective, and has been utilized by many of our retail owners. Members have sited that this provision enables them to upgrade their stores much easier, while noting that an even shorter time period than current 15 years would be more advantageous to their businesses.

Bonus Depreciation:

In tough economic times pro-growth tax provisions such as Bonus Depreciation have helped independent retailers and wholesalers continue to purchase new equipment and reinvest in their businesses by writing off the investment at a faster rate. Equipment for a typical supermarket requires substantial capital investment, even for smaller stores, including replacements or upgrades to refrigeration cases, shelving, equipment such as forklifts, and technology. Many members also cited the positive impact Bonus Depreciation had on cash flow for use in capital investments.

Section 179 Expensing:

Section 179 expensing is essential to providing many retailers with increased cash flow for capital investments. While the provision is not applicable to many wholesalers given the threshold phase-out, it remains important to their retail customers who were able to reinvest and grow their businesses, thereby having a positive net effect on the wholesaler as well. NGA supports increasing the maximum threshold of $500,000 for qualified purchases to encourage further investment. Lowering the threshold would likely lead to decreased investment.

New Markets Tax Credit (NMTC):

As more NGA members are investing in communities located in food deserts, the NMTC has become a key tool that has enabled numerous urban projects. Independent grocers in Pennsylvania, New York, California, Illinois, the City of New Orleans, and Mississippi, to name just a few, are participating in efforts to bring supermarkets and economic development to areas that have lacked access, in addition to new store projects that are ongoing in numerous communities across the country due, in part, to NMTC resources.

Enhanced Charitable Deductions for Food Contributions:

NGA believes it is important in today's economic environment to continue the enhanced deductions for food contributions to encourage those entities who are able to donate food items to continue to do so.

While NGA fully supports efforts to enact fair and balanced comprehensive tax reform, our industry recognizes that achieving that goal will require extensive debate and consideration, and therefore we strongly urge Congress to provide independent grocers with an extension of these pro-growth tax provisions. NGA members are united in our call for the extension of pro-growth tax extenders so grocers can be provided with tax certainty and predictability until comprehensive tax reform can be completed.

Thank you for your consideration. We look forward to continuing to work with the Committee on this very important issue.

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Website: http://www.NationalGrocers.org

Statement for the Record

of

Dave Koenig, Vice President, Tax and Profitability,
National Restaurant Association

on

"Benefits of Permanent Tax Policy for America's Job Creators"

for the

Committee on Ways and Means
United States House of Representatives

April 8, 2014

Chairman Camp, Ranking Member Levin, and members of the House Ways and Means Committee, thank you for the opportunity to submit this statement on tax reform for the record on behalf of the National Restaurant Association ("NRA"). The hearing is focused on those expired business tax businesses that would be extended by Chairman Camp's tax reform discussion draft ("Discussion Draft") released on February 26, 2014, with a particular emphasis on how permanent tax policy can promote certainty for American businesses and generate additional economic growth. We applaud the Chairman, Ranking Member, and Committee for holding today's hearing and undertaking the complex challenge of developing reform legislation that would move the Internal Revenue Code into the 21st Century.

About the National Restaurant Association

The NRA is the largest foodservice trade association in the world—supporting nearly 500,000 restaurant businesses. The restaurant industry plays an important role in our economy by generating an estimated $632 billion in annual sales, with an overall economic impact of more than $1.7 trillion. It is one of nation's largest private job creators, employing approximately 12.9 million people, representing nearly ten percent of the U.S. workforce. Moreover, the restaurant industry is an industry of small businesses. There are 970,000 restaurant and foodservice outlets in the United States. Seven out of ten restaurants are single-unit operators and most eating and drinking establishments have fewer than 50 employees. As the Committee considers comprehensive tax reform, the NRA and its vast network of business owners would be pleased to serve as a resource.

Comments Regarding the Committee Chairman's Comprehensive Tax Reform Discussion Draft

Currently, the tax law presents taxpayers with a great deal of complexity, unpredictability and compliance burdens. The NRA believes that tax reform offers an opportunity to provide taxpayers with certainty, simplicity, and fairness, while encouraging economic growth and job creation. Done properly, a comprehensive and nuanced review of the tax system would eliminate those tax policies that detract from these objectives, while promoting those that advance them.

We commend the Chairman and the members for the open and transparent process by which the Committee is approaching tax reform. The NRA has been working for the past several years to make the case for fair reforms that take the restaurant industry's uniqueness and organizational diversity into account. We believe that marginal tax rates for both individuals and corporations should be reduced as much as possible. We also believe it is important for Congress to examine corporate and individual tax reform simultaneously due to the variety of smaller pass-through entities that make up the majority of restaurant businesses.

The comprehensive tax reform Discussion Draft released in February would eliminate and modify many current tax provisions to reduce the statutory corporate tax rate and simplify individual tax rates. Included within the discussion draft are a number of changes made to policies that are of particular importance to the restaurant industry. As the Committee moves forward with crafting reform legislation, the NRA would like to

comment on several tax extenders of particular importance to our industry. Specifically, we strongly support:

1) Making permanent Section 179 expensing with inclusion of qualified real property as property eligible for Section 179. The Discussion Draft includes this provision.

2) Making permanent the 15-year depreciation schedule for leasehold improvements, restaurant improvements and new construction, and retail improvements. This temporary provision clearly comports with the tax reform policy that cost recovery reflect the economic useful life of the taxpayer's investment. The Discussion Draft would repeal the 15-year recovery period and lengthen permanent law from 39 years to 40 years.

3) Making permanent the Work Opportunity Tax Credit ("WOTC"). WOTC has been very effective helping targeted group members find gainful employment. The Discussion Draft would repeal this provision.

4) Making permanent for all restaurant businesses the enhanced charitable deduction for donations of food inventory, which has helped alleviate hunger in the U.S. The Discussion Draft would repeal this provision.

Making permanent Section 179 expensing

The Discussion Draft would make permanent the expensing thresholds under IRC Section 179. Specifically, the draft makes permanent the election to deduct the cost of certain property placed in service for the year rather than depreciate those costs over time. The draft sets the maximum dollar amount that may be deducted at $250,000 and the amount at which the deduction phases-out at $800,000, indexed for inflation.

The Chairman's proposal to make the increased limits permanent, to index the amounts for inflation, and to include certain qualified real property in the definition of qualified property furthers simplification and provides predictability. We would note that for taxable years before 2014 the limits were set at $500,000 and $2 million. On April 11th, Congressmen Tiberi, Kind, Young, Neal, Gerlach Davis and Schock introduced H.R. 4454. Their bill would permanently renew section 179 expensing at the levels that expired at the end of last year and would repeal the $250,000 limit on qualified real property. These higher limits would be very beneficial to many small restaurant businesses in terms of simplification and investment decisions. We are very pleased that the Camp discussion draft makes 179 expensing permanent and retains the expanded definition of qualified property to include leasehold improvements and qualified restaurant and retail property. We believe that the legislation recently introduced by members of the Committee would greatly improve the provision and merits serious consideration.

Permanence of the 15-year Depreciation Schedule for Leasehold Improvements, Restaurant Improvements and New Construction, and Retail Improvements

One principle of the tax code is that the costs of assets are allocated over the period in which they are used. Assets with longer expected lives are depreciated over a longer period of time, while assets with shorter lives are depreciated over a shorter period of time. As a reflection of this principle, the tax code contains a provision under which leasehold improvements, restaurant improvements and new restaurant construction, and retail improvements can be depreciated over 15 years rather than a 39-year recovery period that would otherwise apply to nonresidential real property.

With more than 130 million Americans patronizing restaurants each day, restaurant building structures experience daily structural and cosmetic wear and tear caused by customers and employees. Also, NRA research shows that most franchise contracts require restaurant owners to remodel and update their building structures every six to eight years. Consequently, 15 years is a more accurate timeframe for recovering the cost of investments in restaurant buildings and improvements.

Moreover, a 15-year depreciation schedule reduces the cost of capital expenditures and increases cash flow. As demonstrated in Figure 1 below, the annual tax savings and corresponding additional cash flow realized by restaurateurs from a 15-year, rather than a 39-year, depreciation schedule are considerable. For example, a restaurateur's annual tax liability would increase by nearly $10,000 if the recovery period for a $1 million investment were increased from 15 years to 39 years. A more accurate recovery period frees resources to expand business either through new hires or further capital expenditures.

Figure 1.

Sample Calculations for 15-Year versus 39-Year Depreciation

Total Capital Expenditure on Eligible Property	Annual Depreciation Based on 39-year Schedule	Annual Tax Savings from Depreciation	Annual Depreciation Based on 15-year Schedule	Annual Tax Savings from Depreciation	Annual Difference in Tax Savings Between 15- & 39-year Schedules
$100,000	$2,532	$608	$6,667	$1,600	$992
$250,000	$6,329	$1,519	$16,667	$4,000	$2,481
$500,000	$12,658	$3,038	$33,333	$8,000	$4,962
$700,000	$17,722	$4,253	$46,667	$11,200	$6,947
$1,000,000	$25,316	$6,076	$66,667	$16,000	$9,924
$1,500,000	$37,975	$9,114	$100,000	$24,000	$14,886
$2,000,000	$50,633	$12,152	$133,333	$32,000	$19,848

Note: Figures are based on a 24 percent effective marginal tax rate

Additionally, when restaurants invest in construction and renovations, the impact spreads throughout the economy. Figure 2 (attached at the end of statement) provides state-by-state estimates of the additional spending on restaurant improvements and new construction that would result from an extension of the 15-year depreciation provision in 2013, as well as the overall economic and employment impact within each state.

However, the 15-year depreciation schedule is temporary and must be extended annually. Most recently, it was extended by the *American Taxpayer Relief Act of 2012*

retroactive to the beginning of 2012 and through the end of 2013. Consequently, the provision expired again at the end of 2013. The piecemeal and temporary approach to the 15-year depreciation schedule, requiring extension every couple of years, presents taxpayers with unnecessary uncertainty and complexity.

In March 2012, the NRA surveyed a sample of nearly 600 restaurant operators who took advantage of the 15-year depreciation provisions between 2005 and 2011. The survey revealed that 30 percent of restaurant operators said they put projects on hold in 2012 when the provision lapsed because of the uncertainty surrounding the extension of the 15-year depreciation provision. With single-unit restaurant operators reporting an average expected project cost of $40,000, and multi-unit operators reporting an average expected project cost of $500,000, the additional construction activity from these restaurant projects put on hold would have exceeded $7 billion in 2012. Based on economic multipliers from the Bureau of Economic Analysis, the overall economic impact of these restaurant construction projects would have exceeded $23 billion, with a total employment impact of nearly 200,000 additional jobs across all U.S. industries.

The Discussion Draft would extend the depreciable period for non-residential commercial real property from 39 years to 40 years for property placed in service after December 31, 2016. The draft provision is inconsistent with the principle that allows taxpayers to recovery the cost of their investment over the economic useful life of their investment. The NRA strongly supports using tax reform to make permanent the 15-year depreciation schedule for leasehold improvements, restaurant improvements and new construction, and retail improvements. Including the 15-year recovery period in tax reform and making it permanent comports with cost recovery principles and would provide taxpayers with predictability, simplicity, and fairness. The ability to plan for these expenditures and know what the tax treatment will be in the future is important to those who are making business decisions in today's economy.

Permanence of the Work Opportunity Tax Credit

Another important provision in the tax code is WOTC, a tax credit provided to employers who hire individuals from several targeted groups who face significant barriers to employment. Examples of WOTC-targeted employee groups include veterans who either are Supplemental Nutrition Assistance Program ("SNAP", formerly food stamps) recipients or are unemployed and suffering a service-connected disability, former felons, disconnected youth, and members of families receiving benefits under the Temporary Assistance for Needy Families Program ("TANF").

The restaurant industry employs roughly 13 million people, many of whom may not have been hired if WOTC had not been in place. WOTC encourages employers to hire certain categories of individuals with barriers to employment, enabling these workers to move into self-sufficiency as they earn a steady income and become contributing taxpayers. Through WOTC, more long-term welfare recipients – the most difficult cases – are being employed in the private sector and seven out of 10 welfare recipients are using WOTC to help find private sector jobs. A 2011 study by Peter Cappelli of the Wharton Business School at the University of Pennsylvania found that individuals hired

under WOTC go on to become productive employees who are no longer dependent on public assistance.

Further, WOTC works. In 2011, more that 1.1 million workers found jobs through WOTC, at an average cost of approximately $1,300 based on Joint Committee on Taxation data. It is important to note that this figure does not reflect any offsetting savings from lower welfare, disability, and Social Security payments. The Cappelli study found that WOTC is one of the most successful and cost effective federal employment programs.

WOTC was most recently extended by the *American Taxpayer Relief Act of 2012* retroactive to the beginning of 2012 and through the end of 2013. The provision has lapsed and the Discussion Draft would repeal this program. The NRA would submit that getting rid of this program at a time of intransigent unemployment would be a significant setback for job creation. Moreover, we believe that Congress should make WOTC permanent, since it has proven to be an efficient incentive for businesses to provide jobs for workers who might otherwise be shut out of the job market. Doing so would further provide taxpayers with predictability and certainty in the tax code.

Permanence for the Deduction for Charitable Donations of Food Inventory for Small Businesses

Each day, 35 million Americans are at risk of hunger. At the same time, billions of pounds of food are wasted each year. America's restaurants give back to their communities in major ways, one of the most significant is through food donation. According to National Restaurant Association research, 73 percent of restaurants donate food to individuals or charities.

The deduction for charitable donation of food inventory is a critical tool in alleviating hunger. Without the provision, taxpayers get the same tax treatment for throwing out surplus food as they do for giving it to charity. The enhanced deduction instead encourages donating the food to charity, by helping to offset the costs associated with storing and transporting the extra food. Absent the enhanced deduction for the charitable donation of food inventory, these charities would be hard-pressed to meet critical demands, putting our nation's most vulnerable families at risk for hunger.

However, the impact of the deduction could be improved. For nearly 30 years since its inception in 1976, the tax deduction for contributions of food inventory was limited to C corporations. In 2005, the provision was temporarily expanded to include pass-through entities (i.e., Subchapter S corporations, limited liability companies) and has been extended on subsequent occasions; most recently it was part of the *American Taxpayer Relief Act of 2012*. Making permanent the temporary, now lapsed, component of the deduction would make it more effective, while advancing the objectives of providing taxpayers with simplicity and predictability.

The National Restaurant Association strongly encourages its members to donate more food and has partnered with Food Donation Connection ("FDC") to strengthen this effort. Founded by a former restaurant executive, FDC serves as the liaison between the

restaurants interested in donating food and the social service agencies adept at getting that food to people in need. FDC helps restaurants develop and implement programs designed to provide an alternative to discarding surplus food while capitalizing on the economic benefits of those donations through the tax savings. Since 1992, FDC has helped facilitate the donation of over 210 million pounds of food to non-profit, hunger-relief agencies.

The Discussion Draft would not include the improvement made in 2005. We urge Congress to make permanent the temporary provision allowing unincorporated small businesses the same enhanced deduction for food donations.

Conclusion

Thank you for the opportunity to submit this statement on behalf of the National Restaurant Association. Again, we applaud the Committee for its work to date and commitment to make the tax code more certain, fairer, simpler while encouraging economic growth and job creation. As the Committee moves forward with its deliberations, we would be pleased to serve as a resource.

Figure 2.

Estimated Impact of Extending 15-Year Restaurant Depreciation Provision Through 2013

State	Increase in Spending on Restaurant Improvements & New Construction (in millions)	Total Economic Impact Within the State (in millions)	Total Employment Impact Within the State (total jobs in all industries)
Alabama	$78	$170	1,591
Alaska	$21	$37	263
Arizona	$113	$233	1,913
Arkansas	$53	$104	961
California	$851	$1,953	13,122
Colorado	$130	$293	2,264
Connecticut	$101	$192	1,250
Delaware	$22	$41	269
District of Columbia	$26	$31	42
Florida	$380	$785	7,054
Georgia	$194	$441	3,818
Hawaii	$42	$80	609
Idaho	$40	$71	718
Illinois	$312	$728	4,870
Indiana	$134	$294	2,381
Iowa	$81	$144	1,293
Kansas	$60	$115	900
Kentucky	$75	$161	1,406
Louisiana	$87	$182	1,518
Maine	$42	$82	834
Maryland	$129	$250	1,758
Massachusetts	$193	$382	2,474
Michigan	$224	$482	4,051
Minnesota	$118	$251	1,957
Mississippi	$47	$94	872
Missouri	$127	$275	2,145
Montana	$39	$73	748
Nebraska	$48	$80	723
Nevada	$58	$109	801
New Hampshire	$39	$78	586
New Jersey	$254	$550	3,468
New Mexico	$37	$71	659
New York	$595	$1,075	7,049
North Carolina	$190	$391	3,665
North Dakota	$22	$38	307
Ohio	$254	$584	4,840
Oklahoma	$70	$150	1,424
Oregon	$117	$241	2,018
Pennsylvania	$330	$781	5,728
Rhode Island	$39	$71	539
South Carolina	$98	$214	2,016
South Dakota	$25	$42	416
Tennessee	$109	$246	2,035
Texas	$427	$1,068	8,210
Utah	$48	$112	1,012
Vermont	$21	$39	384
Virginia	$166	$345	2,645
Washington	$187	$408	3,010
West Virginia	$38	$73	627
Wisconsin	$173	$362	3,036
Wyoming	$17	$29	241
United States	$7,081	$23,944	199,830

Source: National Restaurant Association estimates, with economic and employment impact based on BEA multipliers

Note: State impact figures do not sum to the U.S. total, because they only include inputs within each state.

PMH ASSOCIATES, INC.
MECHANICAL, ELECTRICAL & STRUCTURAL ENGINEERING

April 7, 2014

Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

Subject: RE: Section 179D Energy Efficient Commercial Building Deduction Should be Included as Part of a Tax Extender Package

Dear House Ways and Means Committee:

We are writing to you today to urge the inclusion of Section 179D, Energy Efficient Commercial Buildings Deduction as part of a Tax Extender Package.

Our company, PMH Associates, Inc. of Moorestown, New Jersey, employees 18 people. 55% of our recent sales activity is generated by companies applying for this energy tax credit. As you can see, the success of our company and the livelihood of 18 families, is tied to the ability for companies to initiate energy efficiencies.

As you know, 17D directly supports two national priorities: Job Creation and Energy Independence. 179D was introduced into the tax code with the Energy Policy Act of 2005. It was further extended in 2008, with current expiration set for January 1, 2014. Since the inception of 179D, it has assisted thousands of building owners in retaining jobs and increasing profitability; it has also increased job creation in the trades, where energy efficiency retrofits create large numbers of high paying jobs for a labor pool that was particularly impacted by the economic downturn. At the same time, 179D helps reduce our nation's dependence on foreign oil, thereby increasing America's energy security.

JOBS

Energy efficiency projects require enormous skilled a semi-skilled work forces. By cost-justifying projects, EPAct therefore plays a direct role in supporting a major source of employment in our state.

Lighting retrofits require lighting designers, laborers to remove and dispose existing fixtures, distribution centers to store the new lighting material, laborers to stage the new material near the job site and electricians to install the new fixtures.

HVAC retrofits require engineers for project system design, substantial US manufacturing activity (most HVAC equipment is heavy and made in the USA), US steel procurement and HVAC mechanics to install.

The building envelope involves a wide variety of manufactured and workshop materials including roofs, walls, windows, doors, foundations and insulation In addition to the labor required to create these products, large numbers of roofers, carpenters, installers and laborers are needed to handle the material and incorporate it into a building.

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In addition, reduced building expenses allow for the retention of jobs on the building owners' end.

ENERGY SECURITY

Our nation's goal of becoming energy independent cannot be achieved through domestic oil and natural gas production alone. Energy efficiency is an untapped natural resource. Commercial Buildings represent 20% of our nation's energy use. "Drilling" for building energy efficiency is the least costly natural resource we have. For building owners, the upfront cost of retrofitting is expensive, but with utility and government assistance working together with building owners, energy use reductions between 20% and 50% can be obtained.

Commercial building energy efficiency is a critical way by which utilities can meet newly established national guidelines for carbon emission reductions. By improving the cost benefit equation of an energy efficiency retrofit, Section 179D thereby plays an important role in helping utilities comply with national policy while simultaneously reducing the need for the construction of costly new power plants.

LOOKING AHEAD

Today, taxpayers and industry understand how to prospectively use 179D to achieve the greatest possible energy reduction far better than they did eight years ago. This extension will empower our country to realize major efficiency gains and will not represent a material cost to Treasury. With the use of dynamic scoring, the efficiency gains will increase taxable income over time for commercial building owners, and thereby reducing Treasury's losses from accelerating the depreciation.

CONCLUSION

Section 179D supports a key investment in the American economy; energy efficiency. Energy efficiency is a force-multiplying investment that saves energy, saves money, and sustains and creates American jobs. Comprehensive energy efficiency upgrades drastically improve the reliability and performance of the nation's building stock, while reducing demand on our energy supply. We strongly support its inclusion as the Senate Finance Committee contemplates Tax Extenders.

Sincerely,

Peter M. Honeyford, President
phoneyford@pmh-associates.com

R&D CREDIT COALITION

STATEMENT FOR THE RECORD OF THE COMMITTEE ON WAYS AND MEANS

HEARING ON

"BENEFITS OF PERMANENT TAX POLICY FOR AMERICA'S JOB CREATORS"

April 8, 2014

Introduction

The R&D Credit Coalition is a group of trade and professional associations along with small, medium and large companies that collectively represent millions of American workers engaged in U.S.-based research throughout major sectors of the U.S. economy, including aerospace, agriculture, biotechnology, chemicals, electronics, energy, information technology, manufacturing, medical technology, pharmaceuticals, software and telecommunications.

Although the R&D Credit Coalition is diverse, the member companies which the coalition represents share a major characteristic: they collectively spend billions of dollars annually on research and development, which provides high-wage and highly-skilled jobs in the United States. The high U.S. corporate income tax rate and the temporary nature of the U.S. R&D tax credit, compared to the lower corporate income tax rates and more stable, robust, and often permanent research incentives in most other developed countries, are key factors that companies consider in determining where they are going to create and maintain R&D jobs.

On February 26, House Ways and Means Committee Chairman Dave Camp released a discussion draft of the "Tax Reform Act of 2014" (the "Discussion Draft") that proposed broad reforms to the Internal Revenue Code (the "Code"), including among other changes, a reduction in the statutory corporate tax rate and a permanent extension of the R&D tax credit. In addition, the Discussion Draft would significantly modify the R&D tax credit and require R&D expenditures to be amortized over 5 years.

Under current law, a taxpayer can deduct the cost of research expenses in the year incurred (Section 174 of the code). In addition, until December 31, 2013, the tax code provided a R&D tax credit for up to 20% of qualified research costs over a base amount (14% under an easier to calculate elective Alternative Simplified Credit ("ASC")); 20% of basic research payments; and 20% for amounts for energy research (Section 41 of the code). However, if the taxpayer elected to utilize the R&D tax credit, the taxpayer's deduction was reduced by the amount of any R&D tax credit (Section 280C of the Code).

The Coalition believes that the U.S. should provide a strengthened and permanent R&D tax credit as well as continue with the current law practice of allowing R&D costs to be deducted in the year incurred. In particular, the Coalition has strongly advocated for bipartisan legislation (H.R. 942, introduced by Rep. Brady (R-TX), Rep. Larson (D-CT) and others) to make the R&D tax credit permanent and increase to 20% the ASC. Although many taxpayers still use the regular 20% credit as

it can provide more value, moving to a credit based only on the ASC would greatly simplify credit calculations and help improve credit administration. Importantly, increasing the ASC to 20% would counter the removal of the regular credit option and enhance the incentive effect of the credit.

Under the Discussion Draft, taxpayers would be required to amortize R&D expenditures over a 5 year period rather than allow the costs to be deducted in the year incurred. In addition, the R&D tax credit would be made permanent, but would be changed in several significant ways. First, calculation of the credit would be limited to the ASC at a 15% rate, while the traditional 20% credit and energy credit would be repealed. The basic research credit would be continued, but at a 15% credit rate. Both credits would be calculated as 15% of the qualified research expenses that exceed 50% of the average qualified research expenses for the 3 preceding years. Importantly, the definition of "qualified research" would be significantly modified to (1) exclude any research with respect to computer software and thus disqualify computer software from the credit and (2) remove amounts paid or incurred for supplies as qualified research expenses. Finally, the election to take a reduced credit in return for not offsetting the section 174 deduction would be repealed.

Discussion

The Coalition appreciates the objective contained in the Discussion Draft – to achieve a reduction in the corporate statutory rate – and the need to balance the rate reduction with offsetting reforms. Reducing the U.S. corporate tax rate from the highest in the world is a necessary reform to enhance the competitiveness of U.S. based businesses and to attract investment. In today's global economy with greater demand for investment in research activities, there is significant global competition for R&D jobs. Companies have an array of choices on where to locate such jobs and where to invest research dollars as many countries have highly educated and skilled workforces. It is clear that investments in research and innovation have positive spillover effects in the U.S. economy. Likewise, incentives to attract that investment enhance those spillover effects.

With increased global competition, it is vital to ensure that the U.S. is the best place for companies to do business and conduct research. There are many other countries that offer *both* lower corporate tax rates and more attractive R&D incentives[1]. For example, Australia provides a 40% tax credit for all eligible R&D expenditures and a corporate tax rate of 30%. If the U.S. is to retain and attract global R&D activities across all sectors of the economy, there is a growing need for the certainty provided by a tax code that is favorable to R&D investment. Retaining current year expensing and providing a permanent and strengthened R&D tax credit would enhance the attractiveness of the U.S. for investment and stimulate job creation to grow the economy and keep the U.S. competitive.

R&D Tax Credit

The R&D tax credit has a significant impact on private R&D spending and the creation of valuable research jobs. A recent study by the Center for American Progress concludes that, "the credit is effective in the sense that each dollar of foregone tax revenue causes businesses to invest at least an

[1] Deloitte, "Global Survey of R&D Tax Incentives," March 2013.

additional dollar in R&D.[2]" In addition, according to a study by Ernst & Young, "In total, the overall policy – the existing credit plus strengthening the alternative simplified credit – is estimated to increase annual private research spending by $15 billion in the short-term and $33 billion in the long-term."[3] Moreover, it is important to note that the R&D tax credit is largely a *jobs* credit—70 percent of credit dollars are used to pay the salaries of high skilled R&D workers in the U.S. The EY study also stated that, "the credit and its enhancement is estimated to increase research-related employment by 140,000 in the short term and 300,000 in the long-term."[4]

The U.S. must maintain a globally competitive tax system that supports high-skilled, high-paying jobs. The R&D tax credit, originally enacted in 1981, was designed to be an important incentive in spurring private sector investment in innovative research by companies of all sizes and in a variety of industries. The enactment of this incentive helped establish the U.S. as a world leader in cutting-edge research that created high-paying jobs here in the U.S. During the 1980s, the U.S. was the leader among OECD countries in providing the best R&D incentives for companies. However, in recent years, many other countries have instituted more generous and often permanent R&D incentives. For example, South Korea has a 40% tax credit for current year R&D spending that exceeds the 3-year average and Canada has a 15% tax credit for all eligible R&D spending. As a result, according to an OECD study, if the R&D credit was in effect, the U.S. would rank 22nd in research incentives among industrialized countries.[5]

Several OECD countries have enacted a variety of tax incentives to attract research activities, including tax credits that can be as high as 40% of research expenses, super deductions that can be as high as 200% of research expenses, as well as other incentives to encourage research spending. A National Science Board report concluded that the United States' lead in science and technology is "rapidly shrinking" as R&D jobs and overall R&D spending continue to increase faster outside the U.S. than here at home. The report shows that "between 1999 and 2009…the U.S. share of global research and development (R&D) dropped from 38 percent to 31 percent, whereas it grew from 24 percent to 35 percent in the Asia region during the same time.[6]"

Concerns with the Proposal

While the Discussion Draft would make the credit permanent, a long overdue necessity, and increases the ASC to 15%, the definition of qualified research would be unnecessarily restricted. In particular, the Coalition is concerned that the Discussion Draft would unfairly disqualify an entire industry from participating in the credit. Software development activities contribute billions of dollars to the U.S. economy and employ millions of highly skilled workers. Removing computer software completely

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[2]Center for American Progress, "The Corporate R&D Tax Credit and U.S. Innovation and Competitiveness," by Laura Tyson and Greg Linden, January 2012, p.2.
[3] Ernst & Young, "The R&D Credit: An effective policy for promoting research spending," September 2011, p. i.
[4] Ernst & Young, "The R&D Credit: An effective policy for promoting research spending," September 2011, p.11.
[5]OECD, "Science, Technology and Industry Scoreboard," December 2013, p. 107.
[6] National Science Foundation press release, "New Report Outlines Trends in U.S. Global Competitiveness in Science and Technology," January 17, 2011.

from credit eligibility implies that computer software is not innovative, not technological or that there is nothing new to discover. This could not be farther from the truth. Companies, universities and other organizations spend billions of dollars a year in research activities to develop new computer software and create new applications for existing software that is innovative. For example, the National Science Foundation funds numerous research projects related to software development, including in the area of cyber security, and has noted that "…scientific discovery and innovation are advancing along fundamentally new pathways opened by the development of increasingly sophisticated software. Software is also directly responsible for increased scientific productivity and significant enhancement of researchers' capabilities." [7]

Software development is a critical component of numerous products and services and is critical to just about every industry segment, including medical, manufacturing, automotive, aerospace and defense, telecommunications, and others. In particular, software is a key element in advanced manufacturing and the U.S. is a leader in software development. Denying the credit to computer software risks moving existing software development jobs outside the U.S. and would disadvantage new investment in the U.S. No other country specifically denies credit eligibility for all software costs. On the contrary, some countries single out software development and other highly innovative activities as a means to incentivize additional investment in these activities. In addition, removing software development from the activities eligible for the credit would invite significant future controversy as taxpayers would need to separately track and distinguish between the costs of software and everything else. As software is integral to a vast array of products and utilized in many research projects, the Discussion Draft would create new recordkeeping burdens and a new source of controversy between taxpayers and the Internal Revenue Service.

The Coalition recommends that research expenditures related to the use and development of computer software continue to be treated as qualified research expenditures eligible for the credit.

In addition, the Discussion Draft would disallow the credit for the cost of supplies used in the conduct of qualified research. Numerous industries that engage in research activities would by impacted by this narrowing of what qualifies under the credit, but most of the impact would unfairly and disproportionately hit manufacturers that conduct a significant amount of research in the U.S. Research activities require people, mainly highly skilled scientists, to conduct research, but also require testing equipment, raw materials, instruments and a variety of inputs necessary to carry out the process of experimentation. Since the original enactment of the credit, Congress has recognized that supplies can be an integral part of conducting scientific research and thus are treated as qualified research expenses. While it has been clear that supplies qualify for the credit, the lack of clear guidance on the issue has created uncertainty in complying with the credit. Recent guidance has helped to clarify the prior uncertainties regarding the treatment of supplies. Given this history, it is not appropriate to now eliminate completely the qualification of supplies as a means to simply reduce the cost of the credit. This is especially true in today's environment of ever increasing costs. U.S. companies must continually invest in process and product improvements to maintain competitiveness in the worldwide market, and eliminating supplies will create a significant disincentive for ongoing research.

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[7] National Science Foundation, Software Infrastructure for Sustained Innovation program.

The Coalition recommends that research expenditures related to supplies continue to be treated as qualified expenditures eligible for the credit.

The combination of these changes to the credit has the effect of reducing the value of the credit, nearly in half. Clearly, reducing the value of the credit will lessen the effectiveness of the credit as a means to incentivize additional research investment in the U.S. At a time when many countries provide enhanced tax incentives for R&D, despite the credit being proposed to be made permanent, these significant reductions in the value of the credit will make the U.S. a less attractive place for investment in R&D activities. The Coalition is willing to work with the Congress to provide improvements to the credit that both maintain its value as an investment incentive and provide for better administration and simplification of the credit.

Section 174 Deduction

In enacting section 174 "Congress was pursuing two related objectives . . . . One was to encourage firms to invest more in R&D than they otherwise would. The second objective was to eliminate or lessen the difficulties, delays, and uncertainties encountered by businesses seeking to write off their research expenditures . . . ."[8] Expensing R&D costs reflects the tax and accounting realities inherent in bringing a new product to market. With R&D, amounts are expended to create an asset with a future benefit. In most other instances this would result in the capitalization and recovery through amortization of such costs. The inherent issue with expenses incurred in research and development is whether an asset of any value is being (or will be) created. At the time the amounts are expended, such a determination is often impossible. Further, research and development costs usually are incurred with the goal of creating a new or improved product, service, process or technique, but more often than not, the efforts do not result in success. As such, U.S. GAAP does not require the capitalization and amortization of R&D costs.

Concerns with the Proposal

Proposals to limit the ability of companies to deduct the costs of U.S. based research activities will act as a disincentive to research investment, particularly for small firms with limited cash flow, some of which may not benefit from the credit, and further risks the movement of these investments and jobs abroad. It is clear that R&D activities will likely continue; the question is where those R&D jobs will be located. It is unclear why the Discussion Draft would require companies to spread R&D costs over 5 years. This change has a tax cost of nearly $193 billion, a tax increase on research intensive companies, mostly manufacturers and other innovative companies, which is five times larger than the cost to make the R&D tax credit permanent. The Coalition believes that, given the inherent uncertainly around experimental research, these costs should be allowed to be written off quickly and will work with Congress to better align the incentive in the context of broader tax changes.

Given that the number of OECD countries offering some incentive for research has grown dramatically in recent years as countries attempt to become leaders in research, the U.S. tax system must evolve in order to provide globally competitive R&D incentives that can be counted on by businesses. As noted

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[8]Senate Budget Committee, *Tax Expenditures, Compendium of Background Material on Individual Provisions,* 2012, p. 90 (The Compendium).

above, many other countries offer *both* lower corporate tax rates and more attractive R&D incentives[9]. Accordingly, the U.S. should not engage in an "either/or" debate with respect to lower marginal rates and boosting U.S. job creation through R&D incentives when looking at options to reform the corporate tax code. To remain competitive in the global economy, the U.S. can and should provide an effective and permanent incentive for R&D even if the corporate tax rate is reduced.

In contrast to the incentives offered by a number of other countries, the temporary nature of the U.S. R&D tax credit makes it a less powerful incentive in terms of a company's R&D budget and decisions about where to locate new R&D activities. The certainty of a strengthened, permanent credit and the continued option to deduct research expenses quickly rather than amortize those costs over several years, is critical to maintaining U.S. leadership in advanced research and encouraging companies to continue to spend R&D funds here in the U.S.

Conclusion

R&D incentives, such as the tax credit and the expensing of research costs, are designed to ensure that companies from varied industries, including manufacturers and services businesses, conduct their research activities in the United States and create well-paying, highly skilled jobs. The original purpose of the tax credit still holds true today. It is vitally important that U.S. policy makers support proposals that enhance the attractiveness of the U.S. as a place to invest in research activities. A strengthened and permanent research and development tax credit that is seamlessly extended as soon as possible and the continued ability to quickly deduct research expenses are critical to competitiveness, innovation and U.S. jobs. In the global economy many companies have a choice as to where they are going to do their research—and with many other countries offering *both* lower corporate income tax rates and more robust R&D incentives, the U.S. tax system must provide globally competitive R&D incentives that can be counted on by businesses. Broad and sweeping changes to the tax credit that leave out innovative research activities and diminish the value of credit reduce its effectiveness. The R&D Credit Coalition looks forward to assisting Congress in gaining a more detailed understanding of the competitive pressures faced by companies as well as of the research and development tax credit and its impact on U.S. jobs. We also look forward to working together to advance legislation to extend, strengthen and make permanent the R&D tax credit.

Links to Studies:

Center for American Progress, "The Corporate R&D Tax Credit and U.S. Innovation and Competitiveness"
http://www.americanprogress.org/issues/2012/01/corporate_r_and_d.html

Ernst & Young, "The R&D Credit: An effective policy for promoting research spending"
http://www.investinamericasfuture.org/PDFs/EY_R&D_Credit_Report_2011_09_16.pdf

[9] Deloitte, "Global Survey of R&D Tax Incentives," March 2013.

Deloitte, "Global Survey of R&D Tax Incentives,"
http://www.investinamericasfuture.org/PDFs/Global%20RD%20Survey%20Final%20-%202011.pdf

National Science Foundation press release, "New Report Outlines Trends in U.S. Global Competitiveness in Science and Technology"
http://www.nsf.gov/nsb/news/news_summ.jsp?cntn_id=122859&org=NSB&from=news

OECD, Ministerial Report on the OECD Innovation Strategy, May 2010
http://www.oecd.org/dataoecd/51/28/45326349.pdf

OECD, "Science, Technology and Industry Scoreboard," October 2013
http://www.oecd.org/sti/scoreboard.htm

U.S. Department of the Treasury, "*Investing in U.S. Competitiveness: The benefits of Enhancing the Research and Experimentation (R&E) Tax Credit*"http://www.investinamericasfuture.org/PDFs/TreasuryRDReportMarch25.PDF

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RADIAN

STATEMENT FOR THE RECORD

OF

TERESA BRYCE BAZEMORE
PRESIDENT,
RADIAN GUARANTY INC.

FOR THE HEARING ON

"BENEFITS OF PERMANENT TAX POLICY FOR AMERICA'S JOB CREATORS"

BEFORE

THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS & MEANS

APRIL 8, 2014

1601 Market Street, Philadelphia, Pennsylvania 19103
800.523.1988 ▪ teresa.bryce@radian.biz

Thank you for the opportunity to submit this statement for the record. I am Teresa Bryce Bazemore, and I am submitting this testimony on behalf of Radian Guaranty Inc. ("Radian"), one of the nation's leading private mortgage insurers. For the past 50 years, private mortgage insurance ("MI") companies like Radian have helped over 25 million families achieve the American dream of homeownership.

Radian applauds the Committee for its leadership on tax reform and for convening this hearing to explore the issue of expired business tax provisions that were proposed for extension in Chairman Camp's tax reform discussion draft released on February 26, 2014.

Although outside the specified focus of the hearing, we wanted to take this opportunity to urge Congress to extend the deduction for MI premiums ("MI deduction"), which expired on December 31, 2013 and has important implications for individual taxpayers. As part of the Committee's consideration of expiring tax policies, the MI deduction should be made permanent, along the lines of the bipartisan S. 688 in the 113th Congress and H.R. 1018 and S. 3470 in the 112th Congress. This would be consistent with and advance the objectives of tax reform and break the constant cycle of expiration and extension. Until it is made permanent, the MI deduction should be extended seamlessly and expeditiously to provide taxpayers with certainty.

PRIVATE MI

For many families, the most common hurdle to homeownership is saving enough money for a down payment. The traditional 20 percent down payment is a hardship for many and an impossibility for others. Private MI enables borrowers with less than 20 percent down – typically first-time and low- and moderate-income borrowers – to achieve the dream of homeownership. For example, it could take over 15 years for the average firefighter or schoolteacher to save a typical 10 percent down payment (Center for Responsible Lending).

When a borrower places less than 20 percent down to purchase a home, the lender is required to obtain private MI in order for that loan to be eligible to be subsequently sold to Fannie Mae or Freddie Mac ("the GSEs"). Lenders are willing to make low down payment loans, and the GSEs are willing to purchase them, because in the event of a homeowner's default on the mortgage, the private MI company pays a claim to the owner of the loan an amount that is typically 25-35 percent of the value of the loan – meaning lenders and investors are at risk for only the remaining 68 percent of the loan amount. This practice of requiring private MI to insure roughly one third of the amount of the loan reflects the GSEs' prudent determination that this amount of coverage has historically been sufficient to cover costs associated with defaulted loans and any losses resulting from reselling the property for less than the outstanding mortgage loan balance.

Importantly, placing the MI company's private capital at risk in a "first loss" position after the borrower means that both the insurer and the borrower have a vested

interest in home loans that are affordable and sustainable not only at the time of purchase, but throughout the years of homeownership. Having their own capital at risk also means that mortgage insurers have clear incentives to work with lenders, investors, and community groups to help delinquent borrowers stay in their homes.

Over the past four years, private mortgage insurers have paid approximately $43 billion in claims to the GSEs that would have otherwise been paid by taxpayers. Moreover, private mortgage insurers are projected to pay approximately $55 billion in total to cover losses from this unprecedented housing downturn.

The private MI model has stood the test of time. Looking ahead, private mortgage insurers stand ready to play a critical role in the future of housing finance by continuing to safely and soundly enable first-time and lower income families to purchase homes.

THE MI DEDUCTION

The MI deduction was first enacted in 2006, on a broadly-supported and bipartisan basis. Under Section 163(h) of the Internal Revenue Code ("IRC"), premiums paid or accrued for qualified MI by a taxpayer in connection with acquisition indebtedness on a qualified residence of the taxpayer are treated as interest that is qualified residence interest and, therefore, deductible. The amount allowable as a deduction is phased out ratably.

Although the legislation first proposing the MI deduction would have made the provision permanent, the MI deduction was enacted on a temporary basis. Consequently, unlike the mortgage interest deduction, the MI deduction regularly expires and must be regularly extended. The provision was most recently extended as part of the American Taxpayer Relief Act of 2012 (Pub. L. No. 112-240) after it had lapsed for a year. The MI deduction expired on December 31, 2013.

Notably, Internal Revenue Service data shows that 4.5 million taxpayers benefited from the MI deduction in 2011, making it one of the most relied upon tax extenders. Moreover, the deduction is phased-out for those taxpayers with incomes above $110,000, ensuring that the benefit of the deduction accrues to those who need it the most. 67 percent of taxpayers claiming the deduction have incomes under $75,000.

NEED FOR PERMANENCE

Permanently extending the MI deduction is consistent with tax reform and advances the objectives of increasing harmonization of tax policy, reducing risks in the housing market, and increasing access to the housing market.

Harmonization. The MI deduction increases the fairness of the tax code by harmonizing the tax treatment of MI with that of mortgage interest (note that interest paid on a mortgage is deductible). MI premiums are the economic equivalent of mortgage interest. Paying MI premiums has a direct and quantifiable impact on interest expense.

Without the insurance purchased by those premiums, interest charges would be much higher as a result of the much higher credit risk. Consequently, the MI deduction effectively provides a degree of parity to those homeowners who must rely on MI by offsetting some of the costs with those homeowners that have the means to make a 20 percent down payment.

Decrease Risk. The MI deduction disincentivizes riskier "piggy-back" or second lien loans, where the borrower is given two mortgages to cover the acquisition of a house with an effectively zero-cash down payment or even a negative down payment. From a tax perspective, in the case of a piggy-back loan, the interest on both the first lien and the second lien is deductible.

An inherent danger of the piggy-back loan is the lack of accountability in the underwriting. When low down payment loans are made, MI companies separately assess the ability of the homeowner to repay the loan. MI companies are incentivized to ensure that homeowners can afford to maintain their mortgage payments and stay in their homes.

During the last housing crisis, not all lenders were similarly incentivized to ensure that homeowners could sustain their mortgages. These higher risk loans were often adversely selected for the piggy-back option because they could not meet prudent underwriting standards promulgated by MI. Many of these loans defaulted and left the GSEs with inadequate protection against losses.

The value of the second look by MI companies, combined with the fact that MI business interests align with sustainable homeownership, means that MI is a better option for the safety and soundness of the housing finance system. The MI deduction puts the tax treatment of MI premiums on par with the tax treatment of piggy-back or second lien loans, thus leveling the playing field and introducing independent verification of prudent underwriting standards for low down payment lending.

Increase Access. The MI deduction helps families of modest means offset the cost of monthly or annual MI premiums. Maintaining homeownership incentives for these borrowers is important to ensuring continued access to the housing market.

Moreover, it is important not to overlook the impact of the private MI deduction on the housing market, which is currently still undergoing a fragile recovery. With the grave state of the housing sector in recent years, extensions of the provision have ensured that there continue to be provisions aimed at stabilizing and strengthening the housing market in a responsible way. Maintaining incentives for this population of borrowers to access the housing market is crucial to reducing the nation's excess housing inventory and facilitating a full recovery of the housing market.

CONCLUSION

Our strong hope is that the MI deduction is made permanent as part of the Committee's process to review and make some expiring tax policies permanent; in the interim, the MI deduction should be extended as soon as possible.

Radian greatly appreciates the opportunity to submit this statement. We are pleased to serve as a resource to the Congress and the Committee on these and related matters. We look forward to our continued work together on these important issues.

REGENCY LIGHTING

April 9, 2014

Scott Anderson
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Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

Subject: RE: Section 179D Energy Efficient Commercial Buildings Deduction Should Be Included as Part of a Tax Extender Package

Dear House Ways and Means Committee,

We are writing to you today to urge the inclusion of Section 179D, Energy Efficient Commercial Buildings Deduction as part of a Tax Extender Package.

Our company, Regency Lighting, is a lighting distributor with 325 employees headquartered in Los Angeles, CA, with distribution centers located in California, Colorado, Georgia, Florida, New Jersey, Texas, and Washington. A major part of our business in the last 10 years, including the creation of new jobs in our company, has come from energy saving retrofits. There is no doubt that the Section 179D Energy Efficient Commercial Buildings Deduction has played a critical role in getting those projects approved.

As you know, 179D directly supports two national priorities: Job Creation and Energy Independence. 179D was introduced into the tax code with the Energy Policy Act of 2005. It was further extended in 2008, with current expiration set for January 1, 2014. Since the inception of 179D, it has assisted thousands of building owners in retaining jobs and increasing profitability; it has also increased job creation in the trades, where energy efficiency retrofits create large numbers of high paying jobs for a labor pool that was particularly impacted by the economic downturn. At the same time, 179D helps reduce our nation's dependence on foreign oil, thereby increasing America's energy security.

Jobs

Energy efficiency projects require enormous skilled and semi-skilled work forces. By cost-justifying projects, EPAct therefore plays a direct role in supporting a major source of employment in our state.

Lighting retrofits require lighting designers, laborers to remove and dispose existing fixtures, distribution centers to store the new lighting material, laborers to stage the new material near the job site and electricians to install the new fixtures.

HVAC retrofits require engineers for project system design, substantial U.S. manufacturing activity (most HVAC equipment is heavy and made in the U.S.), U.S. steel procurement and HVAC mechanics to install.

REGENCY LIGHTING

The building envelope involves a wide variety of manufactured and workshop materials including roofs, walls, windows, doors, foundations and insulation. In addition to the labor required to create these products, large numbers of roofers, carpenters, installers and laborers are needed to handle the material and incorporate it into a building.

In addition, reduced building expenses allow for the retention of jobs on the building owners' end.

Energy Security

Our nation's goal of becoming energy independent cannot be achieved through domestic oil and natural gas production alone. Energy Efficiency is an untapped natural resource. Commercial Buildings represent 20% of our nation's energy use. "Drilling" for building energy efficiency is the least costly natural resource we have. For building owners, the upfront cost of retrofitting is expensive, but with utility and government assistance working together with building owners, energy use reductions between 20% and 50% can be obtained.

Commercial building energy efficiency is a critical way by which utilities can meet newly established national guidelines for carbon emission reductions. By improving the cost benefit equation of an energy efficiency retrofit, Section 179D thereby plays an important role in helping utilities comply with national policy while simultaneously reducing the need for the construction of costly new power plants.

Looking Ahead

Today, taxpayers and industry understand how to prospectively use 179D to achieve the greatest possible energy reduction far better than they did eight years ago. This extension will empower our country to realize major energy efficiency gains and will not represent a material cost to Treasury. With the use of dynamic scoring the efficiency gains will increase taxable income over time for commercial building owners, and thereby reducing Treasury's losses from accelerating the depreciation.

Conclusion

Section 179D supports a key investment in the American economy: energy efficiency. Energy efficiency is a force-multiplying investment that saves energy, saves money, and sustains and creates American jobs. Comprehensive energy efficiency upgrades drastically improve the reliability and performance of the nation's building stock, while reducing demand on our energy supply. We strongly support its inclusion as the House Ways and Means Committee contemplates Tax Extenders.

Sincerely,

Scott Anderson
Owner/Vice President

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SOLID STATE CAPITAL SERVICES

April 8, 2014

House Ways and Means Committee
Linda Sánchez
17906 Crusader Ave. Suite 100
Cerritos, CA 90703

Dear House Ways and Means Committee and Representative Linda Sánchez,

I fully supply support the renewal of EPAct. Have completed over 1,000 studies but I do have my concerns.

Having been involved in EPAct since its inception I never saw anyone spend millions of dollars to retrofit a property just for the tax benefits. Never – not once! EPAct was a sweetener for a deal, an incentive to use LED lighting or install a more efficient HVAC system. EPAct was never the reason to do the retrofit, it did not create jobs or accelerate the renovation process.

EPAct's benefit was in helping pay for more efficient systems. EPAct covered the difference in cost between an LED vs. fluorescent lighting system or to help pay for an enhanced ductless HVAC system. EPAct made the country more energy efficient. No one ever did a retrofit simply because of EPAct. No one built a building because of EPAct. The benefit of EPAct was is allowed a property owner to afford greener more efficient system. For schools the ability of the EPAct tax benefits to be shared with the designer have saved schools hundreds of millions of dollars in operating costs due to the saving in energy of the more efficient system.

The original EPAct rules benefited those companies and property owners that went the extra mile to save energy and who support sustainability. Conservatives loved it because it reduced our dependence on oil imports, liberals love the green aspect. Both sides cheered the fact that by its design EPAct is cash flow positive tax for the U.S. Treasury. Yes – Under the original rules EPAct generated more tax revenues than is cost and I think that is an important part to keep.

So with renewal on the horizon many wanted to see EPAct turned in to a federal rebate program for retrofits; people who want to sell and trade the EPAct tax benefits (for a fee of course) wanted their changes; consultants who's only source of income were EPAct studies needed it back; all of them now come out cheering on renewal.

HVAC companies complained that the targets were too hard to meet, one even went so far as to claim that they could NEVER meet the EPAct standards. I've also seen hundreds of HVAC systems qualify for the tax deductions, more often than not they got their deductions.

1961 McGaw Avenue, Irvine, CA 92614 (949)442-1601 – fax (949)442-1609

The problem was not with EPAct but with companies that cut corners in the design or instillation of an HVAC system.

I support EPAct renewal but with only minimal changes (Using a more current ASHRE standard and mirroring the new CA Title 24 standards), it should continue to be a stretch goal, benefiting those who go the extra mile to be energy efficient. I've seen EPAct's deductions used to pay for LED upgrades and more efficient HVAC systems. EPAct's purpose was and should be to get property owners to be more efficient in their energy use and not to subsidize a retrofit that were going to be done anyway. It should continue to be cash positive to the treasury and not a drain.

My prediction is that EPAct will be renewed and for one simple reason. Many of the larger construction firms involved in military base remodeling and other federal and state projects want those deductions and even took them into consideration when they bid these jobs. It is these players that have the clout and whose voices will be heard the loudest.

EPAct should be renewed with few changes and much as it is. EPAct deserves your support.

EPAct's purpose is to help move America forward towards energy independence.

Thank you for your consideration.

Don McDougall
General Manager
Solid State Capital Services.

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Statement for the Record

Of

The American Institute of Architects

For The Hearing On

"Benefits of Permanent Tax Policy for America's Job Creators"

Before

The U.S. House of Representatives
Committee on Ways & Means

April 8, 2014

1735 New York Avenue, NW, Washington, DC 20006-5292
202-626-7300 ▪ www.aia.org

The American Institute of Architects (AIA) commends the Committee for its leadership on tax reform and for convening a hearing to explore the issue of expired business tax provisions that were proposed for extension in Chairman Dave Camp's tax reform discussion draft released on February 26, 2014. We appreciate the Committee's commitment to providing our nation's businesses with the certainty of permanent tax policy that promotes economic and job growth.

In this regard, we urge Congress to consider Section 179D, the Energy Efficient Commercial Building Deduction ("Section 179D" or the "179D deduction"), which expired on December 31, 2013. Section 179D is an important tax policy for businesses that critically incentivizes energy efficiency. Our strong hope is that Section 179D is made permanent and possibly improved to further increase its impact.

The AIA & Architecture in Our Communities

The AIA has been the leading professional membership association for architects and allied partners since 1857, representing more than 81,000 architects and emerging professionals nationwide and around the world.

In 2011 alone, the 17,500 architecture firms owned by AIA members grossed billings of $26.0 billion, driving economic activity and job growth. Moreover, most architecture firms at which AIA members work are small businesses, with nearly 97 percent of firms having fewer than 50 employees.

Architecture is about more than just buildings. At a time when our nation faces great challenges that require innovative, forward-thinking solutions, architects are in the business of creative problem-solving. Architects work to advance our quality of life through their commitment to healthy, safe, resilient, and sustainable communities. From designing the next generation of energy-saving buildings to making our communities healthier and more vibrant, from helping neighborhoods rebuild after disasters to exporting American design know-how to the rest of the world, architects turn dreams and aspirations into reality.

Background on Section 179D, the Energy Efficient Commercial Building Deduction

By way of background, Section 179D of the Internal Revenue Code provides a deduction for certain energy efficient commercial building property expenditures. The maximum deduction is $1.80 per square foot. In the case that a building does not meet the 50 percent energy savings requirement, a partial deduction of $0.60 per square foot is allowed for each separate building system that comprises energy efficient property and that is certified as meeting required savings targets. To encourage the public sector to utilize these same energy efficient enhancements, the 179D deduction also provides a federal, state, or local government owner of a commercial building an election to allocate the tax deduction to the primary person responsible for designing the energy efficient enhancements installed in the building.

In the short-term, the 179D deduction enables building owners to offset the often costly expenses associated with energy efficiency enhancements. In the longer-term, building owners who take advantage of the179D deduction realize significantly lower energy costs, the benefits of leading edge design and construction that enhances the building's long-term market value, and the benefits of a cleaner environment.

In the case of a public entity, the allocation of the 179D deduction, in the short-term, results in savings by allowing the public entity to negotiate a better deal and, in the long-term, allows the public entity to realize ongoing energy savings. The average 179D project (typically $0.60/sq. ft. for lighting upgrades) saves a public entity an average of 20 percent on their energy expenses.

Making Section 179D Permanent

Section 179D has been an extremely effective tool in increasing the energy efficiency of buildings. Section 179D has leveraged billions of dollars in private capital, resulting in the energy efficient construction and renovation of thousands of buildings, while creating and preserving hundreds of thousands of jobs. It is one of the best examples of the tremendous impact tax incentives can have on financing energy efficient property.

Section 179D's success demonstrates the strong need to retain an energy efficiency provision in the tax code. We also strongly urge Congress to make permanent and enhance the Section 179D deduction by: (1) ensuring the ability of pass-through entities to capture the full value of an allocated deduction in the case of a public owner of a building; (2) allowing non-profit owners of buildings, similar to public owners of buildings, to allocate the deduction; and (3) increasing the value of the deduction. These improvements would further increase the impact of Section 179D.

AIA has been working on this issue with other design and construction, real estate, and energy efficiency industry stakeholders. In this regard, please find attached a recent joint stakeholder letter in support of Section 179D extension and reform.

Conclusion

AIA appreciates the opportunity to submit this statement for the record. We request that Section 179D be made permanent and possibly enhanced as part of the Committee's process to review and make some expiring tax policies permanent. AIA and its members are ready to serve as a resource to Congress and the Committee on these and other issues.

Appendix

Coalition to Extend and Improve the
179D Tax Deduction for Energy Efficient Buildings

April 1, 2014

The Honorable Ron Wyden
Chairman
Committee on Finance
U.S. Senate
Washington, DC 20510

The Honorable Orrin Hatch
Ranking Member
Committee on Finance
U.S. Senate
Washington, D.C.

Dear Chairman Wyden and Ranking Member Hatch:

We write to urge extension of the Section 179D tax deduction for energy efficient commercial and multifamily buildings – with refinements included in S. 2189 (introduced today) to better enable the deduction's use for "retrofits" of existing buildings. Section 179D expired on December 31, 2013.

Our organizations and companies represent a broad spectrum of the U.S. economy. They include real estate, manufacturing, architecture, contracting, building services, financing, labor, education, environmental and energy efficiency advocates. We represent many small businesses that drive and sustain American job growth.

Section 179D provides a tax deduction to help offset some of the high costs of energy efficient components and systems for commercial and larger multifamily buildings. The 179D deduction has leveraged billions of dollars in private capital, resulted in the energy-efficient construction of thousands of buildings, and created and preserved hundreds of thousands of jobs. It has lowered demands on the power grid, moved our country closer to energy independence, and reduced carbon emissions.

To date, section 179D has primarily been used to encourage energy efficient new construction. The deduction has also been used successfully in the context of public buildings. However, since 179D's initial enactment in 2005, the intent has also been to encourage private sector and non-profit owners to retrofit existing buildings. In this regard, 179D can be improved. Considering that most of the buildings that exist in the U.S. today will still be standing for decades to come, 179D should be strengthened to encourage retrofits and thereby maximize the incentive's potential as an engine for sound tax, jobs, energy and environmental policy. Title I of the "Energy Efficiency Tax Incentives Act" (S. 2189) – introduced today by Senators Cardin, Feinstein, and Schatz – preserves the deduction's application for new construction and public buildings, while also meaningfully incentivizes private sector and non-profit retrofits. The commercial buildings provisions in S. 2189 have been carefully analyzed and thoroughly vetted by myriad stakeholders, and should be incorporated into any tax extenders package. Title I of S. 2189 further provides a sound policy bridge to comprehensive tax reform efforts.

We strongly urge you to extend section 179D, with improvements to enable retrofit projects as offered by Title I of S. 2189. Thank you.

Cc: The Honorable Benjamin Cardin
The Honorable Dianne Feinstein
The Honorable Brian Schatz
Members of the Finance Committee of the U.S. Senate

Coalition to Extend and Improve the
179D Tax Deduction for Energy Efficient Buildings

SUPPORTING ORGANIZATIONS

ABM Industries
Acuity Brands
Advanced Energy Economy
Air Barrier Association of America
Air Conditioning Contractors of America
Air-Conditioning, Heating, and Refrigeration Institute
Alliance for Industrial Efficiency
Alliance to Save Energy
Ameresco
American Council for an Energy-Efficient Economy
American Gaming Association
American Gas Association
American Institute of Architects
American Public Gas Association
American Resort Development Association
American Society of Interior Designers
Appraisal Institute
ASHRAE
Big Ass Fans
Building Owners and Managers Association (BOMA) International
CCIM Institute
Council of North American Insulation Manufacturers
Eaton
Energy Future Coalition
Energy Tax Savers, Inc.
Environmental Defense Fund
Independent Electrical Contractors
Ingersoll Rand
Insulation Contractors Association of America
Institute for Market Transformation
Institute of Real Estate Management
International Council of Shopping Centers
International Union of Painters and Allied Trades
Johnson Controls, Inc.
Legrand
Mechanical Contractors Association of America (MCAA)
Metrus Energy, Inc.
NAIOP, the Commercial Real Estate Development Association
National Apartment Association
National Association of Electrical Distributors
National Association of College and University Business Officers
National Association of Home Builders
National Association of Real Estate Investment Trusts
National Association of REALTORS®
National Electrical Contractors Association
National Electrical Manufacturers Association (NEMA)
National Leased Housing Association (NLHA)
National Multifamily Housing Council

Coalition to Extend and Improve the
179D Tax Deduction for Energy Efficient Buildings

Natural Resources Defense Council
National Roofing Contractors Association
Osram Sylvania
Owens Corning
Plumbing-Heating-Cooling Contractors—National Association
Polyisocyanurate Insulation Manufacturers Association
Real Estate Board of New York
Sheet Metal and Air Conditioning Contractors' National Association
Sheet Metal Workers' International Association, a division of S.M.A.R.T.
(International Association of Sheet Metal, Air, Rail & Transportation Workers)
Society of Industrial and Office REALTORS®
TerraLUX
The Real Estate Roundtable
U.S. Green Building Council
Window & Door Manufacturers Association

Will Forrestal
The Apple Gold Group
164 Wind Chime Ct.
Raleigh, NC 27615
(919) 256-4308
WForrestal@applegoldgroup.com

Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

Subject: RE: Section 179D Energy Efficient Commercial Buildings Deduction Should Be Included as Part of a Tax Extender Package

Dear House Ways and Means Committee,

We are writing to you today to urge the inclusion of Section 179D, Energy Efficient Commercial Buildings Deduction as part of a Tax Extender Package.

Our Company, The Apple Gold Group based out of Raleigh, NC and doing business in North Carolina, South Carolina, Oklahoma, Arkansas, Kentucky, Indiana and Georgia, utilized this legislation in 2013 to financially justify performing lighting upgrades in our Applebee's restaurants. This year we would like to perform additional upgrades which would benefit manufacturing and jobs in our economy. Having EPAct 179D available in 2014 will help provide justification for pursuing additional projects.

As you know, 179D directly supports two national priorities: Job Creation and Energy Independence. 179D was introduced into the tax code with the Energy Policy Act of 2005. It was further extended in 2008, with current expiration set for January 1, 2014. Since the inception of 179D, it has assisted thousands of building owners in retaining jobs and increasing profitability; it has also increased job creation in the trades, where energy efficiency retrofits create large numbers of high paying jobs for a labor pool that was particularly impacted by the economic downturn. At the same time, 179D helps reduce our nation's dependence on foreign oil, thereby increasing America's energy security.

Jobs

Energy efficiency projects require enormous skilled and semi-skilled work forces. By cost-justifying projects, EPAct therefore plays a direct role in supporting a major source of employment in our state.

Lighting retrofits require lighting designers, laborers to remove and dispose existing fixtures, distribution centers to store the new lighting material, laborers to stage the new material near the job site and electricians to install the new fixtures.

HVAC retrofits require engineers for project system design, substantial U.S. manufacturing activity (most HVAC equipment is heavy and made in the U.S.), U.S. steel procurement and HVAC mechanics to install.

The building envelope involves a wide variety of manufactured and workshop materials including roofs, walls, windows, doors, foundations and insulation. In addition to the labor required to create these products, large numbers of roofers, carpenters, installers and laborers are needed to handle the material and incorporate it into a building.

In addition, reduced building expenses allow for the retention of jobs on the building owners' end.

Energy Security

Our nation's goal of becoming energy independent cannot be achieved through domestic oil and natural gas production alone. Energy Efficiency is an untapped natural resource. Commercial Buildings represent 20% of our nation's energy use. "Drilling" for building energy efficiency is the least costly natural resource we have. For building owners, the upfront cost of retrofitting is expensive, but with utility and government assistance working together with building owners, energy use reductions between 20% and 50% can be obtained.

Commercial building energy efficiency is a critical way by which utilities can meet newly established national guidelines for carbon emission reductions. By improving the cost benefit equation of an energy efficiency retrofit, Section 179D thereby plays an important role in helping utilities comply with national policy while simultaneously reducing the need for the construction of costly new power plants.

Looking Ahead

Today, taxpayers and industry understand how to prospectively use 179D to achieve the greatest possible energy reduction far better than they did eight years ago. This extension will empower our country to realize major energy efficiency gains and will not represent a material cost to Treasury. With the use of dynamic scoring the efficiency gains will increase taxable income over time for commercial building owners, and thereby reducing Treasury's losses from accelerating the depreciation.

Conclusion

Section 179D supports a key investment in the American economy: energy efficiency. Energy efficiency is a force-multiplying investment that saves energy, saves money, and sustains and

creates American jobs. Comprehensive energy efficiency upgrades drastically improve the reliability and performance of the nation's building stock, while reducing demand on our energy supply. We strongly support its inclusion as the House Ways and Means Committee contemplates Tax Extenders.

Sincerely,

Will Forrestal

Will Forrestal
Senior Director of Facilities
The Apple Gold Group
Raleigh, NC

Statement of Colleen M. Kelley

National President

National Treasury Employees Union

On

"Extension of Employer Provided Mass Transit Benefit"

Submitted to

House Committee on Ways and Means

April 8, 2014

1750 H Street, N.W. • Washington, D.C. 20006 • (202) 572-5500

Chairman Camp, Ranking Member Levin, and distinguished members of the committee, on behalf of the National Treasury Employees Union (NTEU), I would like to thank you for allowing me to submit comments on expiring tax provisions, and in particular, the importance of extending the employer provided mass transit benefit.

As you may know, because Congress did not act to maintain parity between the transit and parking benefits by the end of 2013, the transit portion of the commuter benefit dropped to $130/month on January 1.

In the meantime, the monthly limit for the parking portion of the commuter benefit was increased from $245 per month to $250 per month due to an automatic cost of living increase, further exacerbating the disparity between the transit and parking benefits.

NTEU believes it is critical that Congress quickly act to reinstate parity between the transit and parking portions of the commuter benefit and make it permanent. Many working people that use public transportation to get to and from work, rely on the transit benefit which has provided much needed relief in their commuting costs. Many of these workers are struggling in the current economic climate, and a reduction in these benefits is imposing a severe financial burden on them.

Reinstating the monthly transit subsidy to a level equal to the parking benefit also encourages greater transit ridership, which helps lessen congestion on roadways, reduces pollution and conserves energy.

In addition to providing economic relief to workers and positively impacting the environment, extending the mass transit benefit also provides tax relief for the employers that offer the benefit. Because the mass transit is a pre-tax benefit, employers do not have to pay payroll taxes on it, providing savings which can be reinvested in the company. It is estimated that in 2010, employers saved over $300 million by offering this critical benefit to their employees.

We were disappointed that the tax reform discussion draft released by Chairman Camp earlier this year would freeze the parking and transit benefit amounts at their current levels, and would prevent future adjustments for inflation. Simply codifying the current disparity between the transit and parking benefits in the tax code is just bad policy. Furthermore, it certainly makes no sense for the government to provide workers using environmentally helpful mass transit a lesser benefit than those driving and parking personal vehicles.

Mr. Chairman and distinguished members of the committee, NTEU asks that as you consider a tax extenders package, you include an extension of the mass transit benefit that will restore parity with the parking portion of the commuter benefit, allow working families to save money on their daily commute, reduce traffic congestion, and improve air quality.

We would note that just last week the Senate Finance Committee approved legislation, the "Expiring Provision Improvement Reform and Efficiency (EXPIRE) Act," that would extend a number of tax provisions that have expired or will expire at the end of this year, including a

provision that would reinstate parity between the transit and parking portions of the commuter benefit through the end of 2015 and make it retroactive back to January 1, 2014.

We urge the committee to include a similar provision in any "extender package" approved by the committee as well as ask your support for stand-alone legislation pending in the House, H.R. 3739 introduced by Rep. Edwards which would permanently establish parity between the parking and mass transit portions of the transportation fringe benefit.

NTEU appreciates the opportunity to provide comments on the importance of extending the mass transit benefit, and stands ready to do all it can to ensure this critical benefit for workers and employers is extended in the near future.

TruePartners CONSULTING® Intelligent Tax Advice

April 9, 2014

VIA E-MAIL

House Committee on Ways & Means
1102 Longworth House Office Building
Washington D.C. 20515

RE: **Inclusion of § 179D as Part of Tax Extenders Package**

Dear House Ways & Means Committee,

We are writing to you today to urge you to include the extension of Section 179D, Energy Efficient Commercial Buildings Deduction, as part of a Tax Extenders Package.

True Partners Consulting LLC is a nationally-recognized tax and business advisory firm dedicated to assisting clients by delivering the highest quality service in all areas of tax and unclaimed property. We support companies nationwide to understand and meet all essential Federal tax obligations while assisting them in moving forward—beyond compliance to effective strategic positioning. We have found Section 179D to be a valuable tool for companies who want to become more energy efficient.

As you know, Section 179D directly supports two national priorities: Job Creation and Energy Independence. Section 179D was introduced into the tax code in 2005. It was further extended in 2008, and it expired on January 1, 2014. Since its inception, Section 179D has assisted thousands of building owners (including owners of government buildings) to retain jobs and increase profitability; it has also increased job creation in the trades, where energy efficiency retrofits create large numbers of high paying jobs for a labor pool that was particularly impacted by the economic downturn. At the same time, Section 179D has helped reduce our nation's dependence on foreign oil, thereby increasing America's energy security.

Jobs

Energy efficiency projects require enormous skilled and semi-skilled work forces. By cost-justifying projects, Section 179D plays a direct role in supporting a major source of employment. For example, lighting retrofits require lighting designers and laborers to remove and dispose existing fixtures, distribution centers to store the new lighting material, laborers to stage the new material near the job site, and electricians to install the new fixtures. HVAC retrofits require engineers for project system design, substantial U.S. manufacturing activity (most HVAC equipment is heavy and made in the U.S.), U.S. steel procurement, and HVAC mechanics to install the equipment. Moreover, the building envelope involves a wide variety of manufactured and workshop materials including roofs, walls, windows, doors, foundations and insulation, as well as the labor required to create and install these products and incorporate them into a building. Finally, reduced building expenses allow building owners to retain more jobs.

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Boston • Chicago • Dallas • Denver • London • Los Angeles • Melville • New York • San Jose • Tampa

Energy Security
Our nation's goal of becoming energy independent cannot be achieved through domestic oil and natural gas production alone. Energy efficiency is a largely untapped natural resource. Commercial buildings represent 20% of our nation's energy use. "Drilling" for building energy efficiency is the least costly natural resource we have. For building owners, the upfront cost of retrofitting is expensive, but with utility and government assistance working together with building owners, energy use reductions between 20% and 50% can be obtained.

Commercial building energy efficiency is a critical way for utilities to reduce carbon emissions. By improving the cost benefit equation of an energy efficiency retrofit, Section 179D plays an important role in helping utilities comply with national policy while simultaneously reducing the need for costly new power plants.

Looking Ahead
Today, taxpayers and industry understand how to use Section 179D prospectively to achieve the greatest possible energy reduction far better than they did eight years ago. Extending this provision will empower our country to realize major energy efficiency gains and without creating a material cost to Treasury. Efficiency gains will increase taxable income over time for commercial building owners, thereby reducing Treasury's losses from accelerating the depreciation.

Conclusion
Section 179D supports a key investment in the American economy: energy efficiency. Energy efficiency is a force-multiplying investment that saves energy, saves money, and sustains and creates American jobs. Comprehensive energy efficiency upgrades drastically improve the reliability and performance of the nation's building stock, while reducing demand on energy supply. We strongly support its inclusion as the House Ways & Means Committee contemplates tax extenders.

Sincerely,

TRUE PARTNERS CONSULTING LLC

For further information contact:
Robert M. Gordon
Managing Director
robert.gordon@tpctax.com
312-235-3321

STATEMENT FOR THE RECORD

OF

JOANNA S. MONROE
VICE PRESIDENT, DEPUTY GENERAL COUNSEL
AND CHIEF COMPLIANCE OFFICER
TRUEBLUE, INC.

FOR THE HEARING ON

"THE BENEFITS OF PERMANENT TAX POLICY FOR AMERICA'S JOB CREATORS"

BEFORE

THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS

APRIL 8, 2014

1015 A Street, Tacoma, WA 98402
253.383.9101 ▪ jmonroe@trueblueinc.com

On behalf of TrueBlue, Inc. ("TrueBlue"), thank you for the opportunity to submit this statement for the record. We applaud the Committee for its leadership and review of tax extenders in the context of tax reform. In particular, we applaud the Committee for its commitment to providing stability and certainty to American businesses through permanent tax policy that promotes economic growth.

Although the focus of the Committee's hearing was limited to those business tax extenders that were made permanent or extended by Chairman Camp's tax reform discussion draft, we wanted to raise another important tax policy: the Work Opportunity Tax Credit ("WOTC"). WOTC is an important business-related tax provision that has the added benefit of supporting individuals who would otherwise have difficulty entering the workforce and contributing to our nation's economic growth.

Unfortunately, WOTC expired on December 31, 2013, along with a number of other meritorious tax policies. At a time of intransigent unemployment, particularly among WOTC's target groups, its lapse is a significant setback for job creation. Congress should make permanent this important policy and, in the interim, extend it quickly, seamlessly, and retroactively.

WORK OPPORTUNITY TAX CREDIT

WOTC is a tax credit provided to employers who hire individuals from several targeted groups who face significant barriers to employment. Examples of WOTC-targeted employee groups include veterans who either are food stamp recipients or are unemployed and suffering a service-connected disability, former felons, disconnected youth, and members of families receiving benefits under the Temporary Assistance for Needy Families Program ("TANF").

WOTC and its predecessors, the Targeted Jobs Tax Credit ("TJTC") and the Welfare to Work ("WTW") Tax Credit, have existed since 1977, except for a brief lapse in the 1990s. Since WOTC was established in 1996, it has been temporarily extended nearly a dozen times. WOTC was most recently extended through 2013 as part of the American Taxpayer Relief Act of 2012.

WOTC is a selective hiring tax incentive to encourage employers to hire members of certain groups. WOTC focuses on workers perceived to have relatively low skill levels, making them less attractive to employers. These groups suffer from higher unemployment and lower wages. Stated differently, WOTC lessens the impact of the productivity gap between the target group members and other workers, encouraging employers to take a chance and hire workers they may otherwise not.

Once in the workforce, workers in the target group gain experience and on-the-job training, allowing them to subsequently "climb the ladder" to higher-skilled and higher-paying jobs. Through WOTC, ***more long-term welfare recipients – the most difficult cases – are being employed in the private sector and 7 out of 10 welfare recipients are using WOTC to find private sector jobs***, according to a 2011 study by Peter Cappelli of the Wharton Business School at the University of Pennsylvania.

Moreover, WOTC works. In 2011 alone, more that 1.1 million workers found jobs through WOTC. Further, this important tax policy enables these workers to move into self-sufficiency as they earn a steady income and become contributing taxpayers. The Cappelli study found that individuals hired under WOTC go on to become productive employees who are no longer dependent on public assistance. In fact, in a follow up study published in 2013, Cappelli found that ***for a onetime investment of $1,560, WOTC saves the government $17,722 for each year the individual remains employed***. The 2011 Cappelli study also found that WOTC is one of the most successful and cost effective federal employment programs. This finding was echoed in a study by the New York State Department of Labor that found people hired through WOTC stay in the workforce and off of public assistance.

As noted previously, WOTC and its predecessors have existed since 1977, making the provisions part of the fabric of the tax code for over three decades. WOTC was not designed to be a temporary provision, either as a stimulus provision or a provision requiring sunset review. Instead, WOTC was designed to be a permanent policy, though it was enacted as a temporary provision due to budget constraints.

The ongoing extensions of WOTC reflect that the tax policy effectively and efficiently addresses an important policy need. Consistent with the Committee's commitment to providing businesses with policy stability through the tax code, Congress should make WOTC permanent.

TRUEBLUE & TEMPORARY EMPLOYMENT

As a leading supplier of temporary work, TrueBlue provides employment opportunities and a bridge to permanent jobs for many who otherwise face barriers to entering the workforce. Annually, approximately 40,000 applicants are eligible and approximately 8,000 are ultimately approved for WOTC.

In 2013, TrueBlue connected approximately 350,000 people to work, paying nearly $915 million in wages and serving nearly 130,000 businesses in the service, retail, wholesale, manufacturing, transportation, and construction industries. TrueBlue also employs 3,200 regular headquarter and branch staff, who are more akin to traditional employees and work on a more long-term, regular, and predictable basis. TrueBlue provides temporary blue-collar and skilled workers through five lines of business: Labor Ready; Spartan Staffing; CLP Resources; Plane Techs; and Centerline. The TrueBlue family of companies is committed to providing individuals with opportunities for growth and customers with the help they need to succeed in today's competitive environment.

Temporary employment plays a critical role in the economy by providing employment flexibility for workers and businesses. Temporary staffing firms employ more than 13 million people annually, offering millions of people the opportunity to work, particularly as the economy continues its fragile recovery.

Temporary employment is an important tool in mitigating unemployment, while offering a significant opportunity to find permanent employment. Temporary employment also provides people with on-the-job training, allowing them to learn new skills and expand their knowledge base, which can later be transferred to other employers and strengthened.

At the same time, temporary employment provides businesses with the opportunity to support or supplement their workforce in various work situations, such as employee absences, skill shortages, seasonal workloads, and special assignments or projects. Moreover, in the current economy, temporary employment is leading the jobs recovery by allowing employers to gauge business and economic conditions before committing to permanent hires.

If someone works for TrueBlue, that person is an employee of the company rather than an independent contractor. Employee status integrates workers into the U.S. economy, ensuring that they are eligible to work in the U.S., that all workers' compensation, unemployment, and income taxes – as well as any court-ordered garnishments – are withheld and collected, and that W-2s report income accurately.

CONCLUSION

Allowing WOTC to expire at a time of persistently high unemployment is a significant setback for job creation. As a result, Congress should make WOTC permanent, since it has proven to be an effecitve incentive for businesses to provide jobs for workers who might otherwise fall through the cracks. Doing so would further provide taxpayers with predictability and certainty in the tax code while also promoting employment and economic growth. In the interim, WOTC should be extended expeditiously so the success of this cost-effective program is not interrupted.

TrueBlue greatly appreciates the opportunity to submit this statement. We are pleased to serve as a resource to the Congress and the Committee on these and related matters. We look forward to our continued work together on these important issues.

COUNCIL *on* FOUNDATIONS

Testimony of

Vikki Spruill

President and CEO of the Council on Foundations

United States House of Representatives
Committee on Ways and Means

Hearing on

The Benefits of Permanent Tax Policy for America's Job Creators

April 8, 2014

Mr. Chairman and Ranking Member Levin, thank you for the opportunity to present testimony on the "Benefits of Permanent Tax Policy for America's Job Creators". I am Vikki Spruill, the President and Chief Executive Officer of the Council of Foundations. With over 1,500 grantmaking foundations and corporations as members, the Council on Foundations ("Council") serves the philanthropic field as its voice nationally by promoting policies that enable the philanthropic sector to work most effectively. Though our membership invests billions of dollars each year, its real value comes from its commitment and ability to advance the communities, causes, and programs that make our country thrive. As is the case for other job creators, philanthropy benefits from permanent and sound tax policy.

I commend the Committee for holding this hearing on the important topic of the "Benefits of Permanent Tax Policy for America's Job Creators". Foundations play a critical role in strengthening our country's economy and in providing the context for continued growth. Foundations themselves employ many people. Importantly, they also provide resources and capital for innovations and services that communities need to thrive.

A 2012 Johns Hopkins University study determined that nonprofits account for 10.1% of private sector employment.[1] The contribution of foundations to that total is particularly significant. A 2012 study by the University of Idaho, "Economic Impacts of 2010 Foundation Grantmaking on the U.S. Economy" quantified that impact in detail:

> We find the immediate short-term results of U.S. foundation grantmaking, including multiplier effects, to be 973,112 jobs and $63.58 billion in GDP.
>
> To get these figures, we start with U.S. foundations giving of approximately $37.85 billion to U.S. domestic nonprofits in 2010. These grants directly created 491,551 jobs and contributed $23.83 billion to the GDP. Factoring in the multiplier effects created from the backward linkages in the economy, the short-term impacts increase to a total of 973,112 jobs and $63.58 billion in GDP….

[1] Lester M. Salamon, S. Wojciech Sokolowski, and Stephanie L. Geller, "Holding the Fort: Nonprofit Employment During a Decade of Turmoil", *The Johns Hopkins Nonprofit Economic Data Project* (January 2012) at 2.

> We found that in the long-term U.S. foundations create 8,888,624 jobs and contribute $570.56 billion to the GDP. They also contribute $117.96 billion in total federal, state, and local taxes.
>
> In all, the total long-term economic impacts represent between 5.1 percent to 7.0 percent of U.S. employment (depending on the measure) and approximately 3.9 percent of GDP. [2]

As detailed below, since 2007, foundations have given over a quarter of a *trillion* dollars to support worthy philanthropic initiatives in every part of the U.S. Those funds have created countless jobs, both among the direct recipients of the support, and in every community in which those recipients—and their families, coworkers, friends, and neighbors—live and work. Moreover, the jobs the philanthropic sector has created jobs for those who have faced the greatest impediments to entering the workforce, either due to inadequate skills, severe disabilities, endemic poverty, family obligations, or the simple fact that they reside in areas where jobs are scarce. Strategic investments from philanthropy have provided a great many Americans with the tools and hope they need to achieve the American dream through employment, education, and opportunity.

We are proud of what our members and others in philanthropy have achieved in job creation, and we urge this Committee to be mindful of our role as job creators as you craft solutions to the economic challenges our nation faces.

On behalf of the Council, I affirm the continued commitment of the philanthropic community to help address the needs of some of our most vulnerable communities and neighbors. The Council and its members are committed to meet that challenge. In 2012, the last year for which complete data is available, foundations channeled $45.74 billion to support critical initiatives in the communities they serve, and our members very much hope to increase that sum substantially over the coming years.

---

[2] Steven Peterson and Benjamin Fujii, "Economic Impacts of 2010 Foundation Grantmaking on the U.S. Economy" (November 2012) at 6.

Indeed, foundations have a proven record of increased giving—over the 20 years from 1992-2012, the amount invested in communities annually by foundations *more than quintupled,* despite a significant decline in individual donations between 2007 and 2012. Foundations in particular stepped up in recent years, a time of severe economic stress, to provide critical resources when other sources of funding became less available. In addition to providing essential funding, the philanthropic sector also has a proven record of applying resources in highly innovative ways to achieve solutions to intractable problems on a large scale.

From 2007 through 2012, the country's recession and subsequent period of high unemployment led to significant declines in individual charitable donations. Yet, over that same period, giving from foundations increased 14.4 percent. In fact, foundation giving during that period totaled $*253.82 billion*, a commitment that made a positive difference in virtually every community in our nation. Because of the increased giving from foundations, total charitable giving over that period, which included a devastating recession, increased. If foundations had not increased giving substantially, total charitable giving would have declined at a time when those resources were most needed. I believe that the tremendous role played by foundations and individual donors over the last few years demonstrates the importance of maintaining our country's culture of giving.

The Council commends this Committee for its efforts to reform the tax code and for its interest in assessing how those reforms may affect the charitable sector. Towards that end, the Council encourages the Committee to consider changes to the tax code that would help, rather than hinder, the philanthropic sector's ability to fulfill its mission. In particular, I would like to highlight an area in which thoughtful Congressional action may significantly enhance the philanthropic sector's capacity to serve—permanent

extension and expansion of the IRA charitable rollover in Internal Revenue Code Section 408(d)(8). Representative Schock has been a key leader on the IRA charitable rollover issue, and I urge the Committee to make permanent the rollover.

Until its expiration at the end of last year, Internal Revenue Code Section 408(d)(8) provided donors the opportunity to make tax-free distributions from their IRAs for charitable purposes. Prior to 2006, taxpayers wishing to transfer IRA assets to charity first had to recognize the amount as income, make a transfer, and then claim a charitable contribution deduction for the amount gifted. This often resulted in tax liability, even though the donor ultimately transferred the entire IRA distribution to charity. The Pension Protection Act of 2006 partially solved this problem by allowing individuals to transfer amounts from their IRA accounts directly to charity without first having to recognize the distribution as income.

This stability is particularly helpful for donors in the middle income levels, who have disproportionately used the IRA charitable rollover. The Council also supports making the IRA charitable rollover more effective by eliminating the current $100,000 cap, allowing donors to make rollovers beginning at age 59 ½, and permitting rollovers to supporting organizations, private foundations, and donor-advised funds. These changes would help cultivate new sources of support for philanthropy and enhance the sector's ability to serve the country.

Since its initial enactment, the IRA charitable rollover has expired several times, only to be temporarily extended in each instance on a retroactive basis. Most recently, Section 408(d)(8) expired at the end of 2013, and Congress is again considering a further extension. On April 3rd, the Senate Finance

Committee approved the "Expiring Provisions Improvement Reform and Efficiency (EXPIRE) Act", which would extend the IRA charitable rollover for two years, effective retroactively to the beginning of 2014. The Council strongly supports that provision of the EXPIRE Act and a two-year extension of this important provision.

However, as the title of this hearing acknowledges, a temporary extension is less effective than a permanent provision, and would not address needed reforms. For the IRA charitable rollover to achieve the strongest effect, it should be enacted on a permanent basis to permit job creators—including, in the philanthropic context, donors, public charities, private foundations, donor-advised funds, supporting organizations, and the recipients of support from our sector—to engage in the long term planning required to design effective programs and allocate resources efficiently.

Without a permanent extension, neither donors nor philanthropies nor those who receive support from the philanthropic sector can plan for the long term. In the business sector, the inability to plan for the long term is a huge impediment to effective management and imperils an organization's ability to achieve critical goals. That is also true in the philanthropic sector—arguably, even more so. The problems we take on—poverty, joblessness, education reform, disease eradication, and countless others—require long-term commitments if they are to be addressed effectively. In turn, sound long term planning requires informed projections for the amounts and sources of funding, and it demands a clear understanding of the legal framework for charitable giving. Repeated temporary extensions of the IRA charitable rollover impede prudent planning. As the title of this hearing acknowledges, permanent tax policy benefits job creators, and the philanthropic sector is among the largest and most consistent American job creators, particularly in recent years.

Thank you again for this opportunity to present testimony. Also, thank you for your leadership in reforming our broken tax code, and for your insistence that sound tax policy is possible only if it is permanent tax policy. The Council on Foundations stands ready to work with you on the crucial task of fixing our tax code.

Supplemental Sheet

Hearing on

The Benefits of Permanent Tax Policy
for America's Job Creators

United States House of Representatives
Committee on Ways and Means

April 8, 2014

Testimony of

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Statement to the House Committee on Ways & Means of WageWorks
April 8, 2014

The following statement is being submitted by WageWorks, the nation's largest provider of commuter benefits services to employers. WageWorks strongly supports the continuation of the employer provided mass transit benefit and, in particular, supports H.R. 2288, introduced by Rep. Michael Grimm (R-NY) and co-sponsored by Rep. Peter King (R-NY) and 66 other Members of the House. The bill titled, The Commuter Parity Act of 2013, would achieve permanent parity between the tax treatment provided for parking and commuter benefits and would do so on a revenue neutral basis.

WageWorks applauds the efforts of the Members of the House Ways & Means Committee and its Chairman, Dave Camp, to achieve a simpler, fairer and more focused tax code. This goal is both laudable and achievable. Federal tax and transportation policy has long recognized the unique role of the Federal government in encouraging commerce and the transport of Americans by car or mass transit to their place of employment. This policy is reflected in our support for the development of the surface transportation infrastructure; mass transit and in the favorable tax treatment for both mass transit and parking.

Prior to the early 1980s free or reduced parking was considered a non-taxable fringe benefit generally provided by employers for their convenience and in their interest in accommodating their employees. In the early 80s Congress began to define fringe benefits and to place limits on the amount of benefit that could be provided through non-taxable fringe benefits. The original limits on the amount of tax-free parking benefits that could be provided have their origin in this effort. Congress clearly recognized that not all individuals commute to work by car, and thus park at $220 per month, and that federal policy should be neutral between commuting via mass transit or automobile. In 1986, Congress enacted the first commuter tax benefit for mass transit at $15 per month and has sought over the years to try and equalize the treatment between the different modes of transportation. In 1992, parking (which was unlimited under the tax code) was initially capped at $155 per month.

These commuting benefits are consistent with tax reform principles. They do not add any complexity to the code since they are exclusions from income and are easily accounted for in the payroll system of employers. Many companies turn to firms such as WageWorks to administer these programs at low cost to the employer. These programs are broad based, middle class benefits that are directly tied to the facilitation of employment. They pose no substantial drain on the Treasury and the mass transit benefit is likely a net saver to the government as it reduces the need for costly expansion of roads. By encouraging use of mass transit, commuter benefits also reduce the need for government to provide direct financial support to public transit operators.

The Ways & Means Committee discussion draft would make unwise changes in the mass transit benefit, ending parity between the parking benefit and the excludable mass transit amount. Individuals may debate the relative merits of one form of transportation over another but it is clear that, at a minimum, mass transit provides a clear benefit to employers and to the community as a whole especially in congested urban areas. Both public policy and the tax code should not penalize commuters for use of public transit versus driving (and thus parking) to commute to work.

The tax reform proposal would also no longer adjust such amounts for inflation effectively reducing these benefits on an annual basis. In an era of continued wage stagnation and increased urbanization, both parity and inflation adjustments remain sound policy and should not just be continued, but made permanent. For the millions of working Americans who continue to rely on mass transit, Congress' failure to extend these important tax policies constitutes an increase in taxes.

In addition, the tax reform proposal denies the current employer deduction for pre-tax commuter benefits. This contradicts the basic principle of ordinary and necessary business expenses which are generally held to be deductible by the employer. These are not meant to be in lieu of compensation nor are they viewed as a form of compensation by the employee but rather a recognition of the value to the employer of facilitating access to the place of employment.

We believe that the components of the commuting benefit should continue at parity and that provisions are made to assure that their value remains constant over time.

H.R. 2288 would achieve permanent parity between the tax treatment provided for parking and mass transit on a revenue neutral basis. We hope the House Ways & Means Committee will consider this in its deliberations.

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Title of Hearing: Tax Reform Hearing on the Benefits of Permanent Tax Policy for America's Job Creators

Subject: RE: Section 179D Energy Efficient Commercial Buildings Deduction Should Be Included as Part of a Tax Extender Package

Dear House Ways and Means Committee,

I am writing to you today to urge the inclusion of Section 179D, Energy Efficient Commercial Buildings Deduction as part of a Tax Extender Package.

Our Company, Walker Parking Consultants, is a small engineering/architectural firm specializing in the design and restoration of parking structures throughout the United States making them as energy efficient as possible and 179D has been pivotal in many of our recent projects.

As you know, 179D directly supports two national priorities: Job Creation and Energy Independence. 179D was introduced into the tax code with the Energy Policy Act of 2005. It was further extended in 2008, with current expiration set for January 1, 2014. Since the inception of 179D, it has assisted thousands of building owners in retaining jobs and increasing profitability; it has also increased job creation in the trades, where energy efficiency retrofits create large numbers of high paying jobs for a labor pool that was particularly impacted by the economic downturn. At the same time, 179D helps reduce our nation's dependence on foreign oil, thereby increasing America's energy security.

Jobs

Energy efficiency projects require enormous skilled and semi-skilled work forces. By cost-justifying projects, EPAct therefore plays a direct role in supporting a major source of employment in our state.

Lighting retrofits require lighting designers, laborers to remove and dispose existing fixtures, distribution centers to store the new lighting material, laborers to stage the new material near the job site and electricians to install the new fixtures.

HVAC retrofits require engineers for project system design, substantial U.S. manufacturing activity (most HVAC equipment is heavy and made in the U.S.), U.S. steel procurement and HVAC mechanics to install.

The building envelope involves a wide variety of manufactured and workshop materials including roofs, walls, windows, doors, foundations and insulation. In addition to the labor required to create these products, large numbers of roofers, carpenters, installers and laborers are needed to handle the material and incorporate it into a building.

In addition, reduced building expenses allow for the retention of jobs on the building owners' end.

Energy Security

Our nation's goal of becoming energy independent cannot be achieved through domestic oil and natural gas production alone. Energy Efficiency is an untapped natural resource. Commercial Buildings represent 20% of our nation's energy use. "Drilling" for building energy efficiency is the least costly natural resource we have. For building owners, the upfront cost of retrofitting is expensive, but with utility and government assistance working together with building owners, energy use reductions between 20% and 50% can be obtained.

Commercial building energy efficiency is a critical way by which utilities can meet newly established national guidelines for carbon emission reductions. By improving the cost benefit equation of an energy efficiency retrofit, Section 179D thereby plays an important role in helping utilities comply with national policy while simultaneously reducing the need for the construction of costly new power plants.

Looking Ahead

Today, taxpayers and industry understand how to prospectively use 179D to achieve the greatest possible energy reduction far better than they did eight years ago. This extension will empower our country to realize major energy efficiency gains and will not represent a material cost to Treasury. With the use of dynamic scoring the efficiency gains will increase taxable income over time for commercial building owners, and thereby reducing Treasury's losses from accelerating the depreciation.

Conclusion

Section 179D supports a key investment in the American economy: energy efficiency. Energy efficiency is a force-multiplying investment that saves energy, saves money, and sustains and creates American jobs. Comprehensive energy efficiency upgrades drastically improve the reliability and performance of the nation's building stock, while reducing demand on our energy supply. We strongly support its inclusion as the House Ways and Means Committee contemplates Tax Extenders.

Sincerely,

Gary A. Glines AIA, LEED AP