Comments of

The National Association of Manufacturers

Submitted to the Senate Finance Committee

Infrastructure and Community Development Tax Reform Working Group

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I. Introduction

The National Association of Manufacturers (NAM) welcomes the opportunity to submit comments to the Senate Finance Committee Infrastructure and Community Development Tax Reform Working Group.

The NAM is the largest manufacturing association in the United States, representing manufacturers of all sizes in every industrial sector and in all 50 states. Manufacturing employs nearly 12 million men and women, contributes more than $1.8 trillion to the U.S. economy annually, has the largest economic impact of any major sector and accounts for three-quarters of private-sector research and development.

NAM members know firsthand that our current tax system is fundamentally flawed and discourages economic growth and U.S. competitiveness. As outlined in the NAM's A Growth Agenda: Four Goals for a Manufacturing Resurgence in America, a key objective for the association is to create a national tax climate that promotes manufacturing in America and enhances the global competitiveness of manufacturers in the United States. A pro-manufacturing tax policy must acknowledge that a high tax burden makes manufacturers in the United States less competitive.

To achieve these goals, we need a comprehensive tax reform plan that both reduces the corporate tax rate to 25 percent or lower and includes lower rates for the nearly two-thirds of manufacturers organized as flow-through entities. We also believe that comprehensive tax reform must include a shift from the current worldwide system of taxation to a modern and competitive international tax system, a permanent and strengthened research and experimentation (R&E) incentive and a strong capital cost-recovery system.

The NAM very much appreciates the current focus on improving our nation's tax system. Enactment of a pro-growth, pro-manufacturing tax reform plan will go a long way to strengthen our economy and ensure vibrant economic growth in the future. ***A Missed Opportunity: the Economic Cost of Delaying Pro-Business Tax Reform***, a study released by the NAM in January 2015, takes a close look at the economic impact of enacting a five-prong pro-business tax package similar to NAM's priorities and concludes that lack of action on pro-business tax reform is costing the U.S. economy in terms of slower growth in Gross Domestic Product (GDP), investment and employment. In contrast, the report finds that over a ten-year period, a pro-business tax plan would increase GDP over $12 trillion relative to CBO projections, increase investment by over $3.3 trillion and add over 6.5 million jobs to the U.S. economy.

The following comments reflect NAM Board-approved policy on tax reform and are based on the premise that any changes would be part of a comprehensive tax reform plan.[1]

II. Investment and Energy Security

Since manufacturing accounts for roughly one-third of the energy consumed in the United States, it is critically important that any tax reform plan allows our nation's energy producers to make the necessary investments to ensure our nation's energy security and avoids increasing the tax burden on this vitally important industry sector. Maintaining diverse, reliable and affordable energy sources is crucial to jobs, competitiveness and overall economic growth.

Finding and producing domestic oil and natural gas requires large and continuing capital investments. Drilling oil and gas wells involves a number of costs, including labor, repairs, fuel, chemicals, supplies and other expenses that have no salvage value. Under longstanding tax policy rules, energy companies can deduct these costs—known as intangible drilling costs (IDCs)—as ordinary and necessary business expenses, reducing the cost of exploring for and producing oil and gas.

For manufacturers and other energy consumers, the development of shale natural gas in the United States has been a "game-changer" in terms of reduced energy costs, increased access to secure energy supplies and availability of a low-cost raw material. The chemistry industry alone has generated billions of dollars of new investment thanks to this innovation. IDCs cover about 70 to 80 percent of the cost of a shale gas well.

Preserving U.S. energy companies' access to global natural resources is also critical to U.S. energy security. Unlike their competitors, U.S. energy companies with overseas exploration and production operations—so-called "dual-capacity" taxpayers—pay both U.S. and foreign taxes. Current tax rules for dual-capacity taxpayers—already stricter than rules for other taxpayers—reduce the potential of double taxation of income in the U.S. worldwide tax system and limit foreign tax credits to payments that are truly in the nature of income taxes. Existing rules specifically deny foreign tax credits for some payments, such as royalties paid to access a natural resource.

Unfortunately, some policymakers support provisions that will deny foreign tax credits even for income taxes paid by dual-capacity taxpayers. These proposals will unfairly and retroactively overturn well-established and longstanding rules, subjecting American energy companies to harmful double taxation on new and existing investments. These increased costs will make it even more difficult for U.S. energy companies to compete for and develop new properties outside the United States.

Additionally, percentage depletion, which is available only to smaller producers, allows taxpayers producing from mines, wells and other natural deposits to claim a deduction for a percentage of the gross income from these properties, recognizing the unique nature of these investments, which require significant financial commitments to long-term projects to deliver a competitive product at a low margin.

The percentage depletion provision also reflects the large risk inherent in these activities and the fact that the value of a mine or well declines as production progresses. Congress created percentage depletion because the otherwise available cost depletion rules resulted in a cost of

[1] See also NAM Comments on Camp Discussion Draft, August 2014

capital too high to permit producing from important mineral resources. It is important to note also that even with percentage depletion, the U.S. tax burden on mining and other resources operations puts them at a significant competitive disadvantage.

The NAM also supports retaining the current tax treatment of master limited partnerships (MLPs) in a comprehensive tax reform plan. MLPs are the primary builders of midstream energy infrastructure in the United States and MLP assets include over 300,000 miles of pipelines linking energy producing regions and end use consumers and manufacturers.

III. Energy Efficiency and Renewable Energy Sources

As major consumers of energy in the United States, manufacturers are committed to reducing our energy intensity and producing more energy-efficient consumer products to help decrease our national overall demand for energy, lower costs and reduce greenhouse gas emissions. Manufacturers have made significant improvements in the efficiency of their own operations by using cost-effective distributed generation, combined heat and power technologies, waste heat recovery systems, water reuse and recycling, intelligent energy systems and advanced manufacturing technology. Similarly, manufacturers embrace every energy resource at our disposal and support the development of renewable energy sources like wind, solar and hydropower.

NAM members believe that a positive climate for capital investment and energy services investment for new and existing plants and equipment will help increase industrial energy efficiency and the development of renewable and alternative energy sources in the long run. To that end, the NAM supports the use of favorable capital cost-recovery tax policies, including first-year expensing for capital investment.

IV. Energy Tax Increases

In contrast to a tax system that encourages investment in new energy sources and energy efficiency, imposing discriminatory taxes on the energy sector will result in higher costs for all energy consumers in the United States. The increased cost for manufacturers will make it more expensive to produce in this country and make them less competitive in foreign markets, putting millions of current manufacturing jobs at risk and undermining one of the fundamental goals of tax reform – economic growth.

New energy taxes also will set back current efforts to achieve energy independence. As noted above, the United States has made great advances recently in developing new sources of domestic energy. Unfortunately, imposing targeted tax increases on energy companies will discourage oil and gas investments in the United States, working against the goal of enhancing America's energy security and boosting new, domestic investments in affordable energy sources.

The NAM remains adamantly opposed to targeted energy taxes, whether in the context of tax reform or as part of a separate effort. Manufacturers believe that tax and energy policy needs to focus on enhancing America's energy security by encouraging new investments in affordable sources of energy, not imposing new taxes on the energy industry.

V. Transportation Infrastructure

Manufacturers believe that increased funding for the nation's transportation infrastructure is a critical priority that will help keep manufacturing competitive and grow the nation's economy. In particular, it is critically important for Congress to work to return the federal Highway Trust Fund (HTF) to an improved condition of solvency and long-term sustainability.

In 2013, NAM conducted an in-depth assessment of our nation's infrastructure base. Catching Up concluded that capital spending on public infrastructure was in a decade of decline from 2003 to 2012. In total, the volume of public infrastructure investment was 10.5 percent lower in 2012 compared to 2003. Aging infrastructure, increased backlogs of deferred projects and declining local, state and federal resources dedicated to infrastructure all play a role in the erosion of the nation's infrastructure base. A resulting impact is the inability to gain ground on improving the nation's infrastructure base. Current approaches to funding, financing, building and maintaining infrastructure do not create the opportunity to catch up on a backlog of deferred projects that states and localities have been unable to complete.

Significant shifts in driving patterns and improved automobile fuel economy standards over the past decade have contributed to declining HTF revenues. These trends will continue and unfortunately the fuel tax has not kept pace with these changes. In addition, the cost of construction materials and services has increased over time due to inflation and other market conditions. The result has been diminished purchasing power for each construction dollar dedicated to federal transportation investments. Over 20 years have passed since Congress has increased the fuel tax, a basic user fee paid by those who drive on the nation's highways.

In spite of these significant challenges, the motor fuel tax for gas and diesel remains the foundation for all of our current and future highway and transit investments. While new models, strategies and financing options need to be more seriously evaluated by Congress, manufacturers believe the Highway Trust Fund continues to offer a reliable source of funding to states for roads, bridges and transit systems.

Investing in infrastructure and ensuring the long-term sustainability of the HTF move in tandem with economic growth and job creation. While the NAM supports adequate funding for the HTF, we also believe that it is important to keep our current tax system in place until policymakers agree on a final comprehensive reform plan. In particular, NAM members are advocates for moving to a territorial tax system, but are opposed to piece-meal changes to long-standing rules, like a stand-alone deemed repatriation provision currently under discussion, which would divert resources to unrelated initiatives and make comprehensive tax reform more difficult to achieve. Moreover, a stand-alone deemed repatriation provision would impose an additional cost burden on U.S companies at a time when they already face significant challenges in the global marketplace, including competing with companies that have much lower corporate tax rates. Changing rules retroactively injects more uncertainty into business planning, making U.S companies even less competitive and threatening economic growth and U.S. jobs.

VI. Conclusion

The NAM wants the United States to be the best place in the world to manufacture and attract foreign direct investment. Thus, manufacturers very much appreciate the efforts of Chairman Hatch, Ranking Member Wyden and the members of the Senate Finance Committee for their diligent work to reform the U.S. tax system. Manufacturers thank you for the opportunity to share our thoughts and concerns with you.

Manufacturers look forward to further discussing these issues with you and working with the Infrastructure and Community Development Tax Reform Working Group and the rest of the Committee to achieve a pro-growth, pro-competitiveness and pro-manufacturing tax system.