Comments of the Truck Renting and Leasing Association On Tax Reform Submitted to the Senate Finance Committee

I. Introduction

The Truck Renting and Leasing Association ("TRALA") is a voluntary, national not-for-profit organization founded in 1978 that serves as the unified voice for the entire leasing and rental truck industry. TRALA member companies engage primarily in commercial truck leasing and renting, vehicle financing, and consumer rentals. TRALA's mission is to foster a positive legislative and regulatory climate within which companies engaged in leasing and renting vehicles and trailers and related businesses can compete fairly in the North American marketplace.

The TRALA membership encompasses the full spectrum of the industry, including major national independent firms such as Ryder System, Penske Truck Leasing, U-Haul International, Budget and Enterprise Commercial Trucks, as well as small and medium-size businesses that generally participate as members of group systems: Idealease, Mack Leasing-Volvo Truck Leasing, NationaLease and PACCAR Leasing. In total, these more than 500 companies operate more than 4,000 commercial lease and rental locations and more than 18,000 consumer rental locations throughout the United States, Canada and Mexico. TRALA also has more than one hundred supplier member-companies that offer equipment, products, and services to TRALA company members.

TRALA member companies represent approximately one out of every five trucks Class 3-8 on the road in North America today. In addition, because of customer demand for the newest, cleanest, most technologically advanced trucks on the road, TRALA member companies purchase between 35-40% of all new Class 3-8 trucks in North America annually.

TRALA members are well aware that the current U.S. tax system is flawed and can often discourage economic growth and international competitiveness. That said, the truck renting and leasing industry provides a vital role in our nation's economy and any effort to rewrite the federal tax code should result in a balanced, fiscally responsible plan that takes into account the key elements that allow the transportation sector to thrive. TRALA wants to see a plan that allows not only the truck renting and leasing industry to prosper, but the overall U.S. economy grow and compete in a global marketplace.

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TRALA recognizes that part of the discussion now within Congress revolves around corporate rates being reduced, and while that is important to consider, one must also keep in mind the impact that eliminating existing tax provisions would have on the flow of goods in the U.S. Given the current state of the U.S. tax code, many companies, including TRALA members, depend on tax provisions that were designed to incentivize companies to invest in new equipment and grow their businesses and any changes to the tax code would alter TRALA members' entire business model.

The following comments by TRALA will focus on a handful of key tax policy items that, if altered, could dramatically impact the entire industry. While TRALA certainly understands the need to find consensus and that there will most certainly be trade-offs in any kind of congressional negotiations, the following tax provisions are critical to not only TRALA members, but all those companies and industries that are tangentially impacted by our industry as a whole such as manufacturers, auto and truck dealers, and the overall vehicle community.

II. Pass-Through Tax Entities

True tax reform must be comprehensive in nature and should not simply attempt to tackle traditional C-corporations that file their taxes as such. Nearly all TRALA members – both small and medium-sized businesses – are organized as pass-through entities and thus pay taxes at the individual rate. Any discussion about reforming the tax code must ensure that pass-through companies are not disadvantaged, as these companies play a critical role in the broader economy. For TRALA, the numbers are significant, but even looking beyond our association, for the entire U.S. workforce, pass-through tax entities now employ more than 50% of all private-sector employees.

For decades now, TRALA member companies have filed as S-corporations, partnerships, or limited liability companies in order to benefit from liability protection and a single level of federal taxation. In fact, the majority of all TRALA members are family-owned second or third generation businesses that have long filed taxes as pass-through entities.

If tax reform only addresses traditional C-corporation tax companies, this would negatively impact all of those paying at the highest rate already (the individual rate) in several years and put those companies at a competitive disadvantage, creating a situation where pass-through entities' investment and job creation would be severely impacted. The truck renting and leasing industry relies heavily on capital investment and for family-owned businesses, hiring and buying equipment comes often directly from the owner of the business who pays her/his taxes at the individual rate.

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It is important to also note that many family-owned businesses, such as a great number of TRALA members, pay at a higher rate currently (the top rate was set at 39.6% in 2013) than do traditional C-corporations because they file as individuals. S-corporations and other pass-through entities generally take greater risks with their assets and should not be rewarded for these risks by paying higher taxes than multi-national corporations. If all pass-through companies were forced to file as C-corporations (as some in Congress have suggested) then those family businesses would face double taxation – paying both at the corporate level and then at the individual level. If tax reform does not address pass-through entities and simply cuts rates for C-corporations, then there would be a distinct disadvantage to filing as a pass-through.

III. Like Kind Exchanges

Section 1031 of the tax code deals with like-kind-exchange (LKE) rules that allow taxpayers to replace personal property or real estate with like property while deferring the gain. The reason that LKEs have been allowed to exist in the past was that essentially, the taxpayer has simply replaced one property with another, making the potential tax gain unnecessary. Under the LKE rules the taxpayer is not taking a profit from the original sale but instead investing it back into the other property. For the trucking industry, this means selling one piece of equipment and buying another piece of equipment, thus leaving the company in the same situation, except now the existing piece of equipment is brand new.

TRALA opposes repeal or any changes to LKE rules that apply to personal property. Within the trucking industry, the LKE rules promote capital investment, create jobs, and allow the newest vehicles to be placed into service. Just to remind Congress, having a new truck or trailer on the road represents, generally speaking, the safest vehicle possible. Advancements in technology allow for vehicles to continually make safety improvements, as well as environmental progress through greenhouse gas emission reductions and TRALA believes that it is in the public's best interest not to curb any tax provisions that promote purchasing new vehicles.

Repealing the LKE rules would result in a loss of jobs for manufacturers that produce trucks, trailers, and other equipment as TRALA members would no longer be able to replace their equipment without negative tax implications. TRALA believes that if LKEs were eliminated, purchase orders for new equipment would slow dramatically. In addition, a repeal of LKE rules would likely impact TRALA's finance lessor companies that support the sales and leasing transactions with TRALA renting and leasing company members.

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Lastly, TRALA members' customers will also face the prospect of renting or leasing older vehicles and equipment or face an ever-increasing cost to rent or lease new trucks due to the negative tax consequence of not having the ability to take advantage of the LKE rules.

TRALA is well aware that the LKE rules have been distorted or misunderstood for some time on Capitol Hill. There have been a handful of incidents that received tremendous negative publicity where individuals "gamed the system" by using LKEs to purchase third or fourth luxury homes. Some in Congress believe that LKEs are used only for the "rich" for real estate transactions, but in fact the majority of LKEs are used by small businesses to update their inventory, machinery, equipment or offices in order to better compete and grow. TRALA believes strongly that Congress should not limit those tax expenditures or provisions in the code that promote growth and – in the case of the truck renting and leasing industry – safety.

IV. Accelerated Depreciation

The Modified Accelerated Cost Recovery system (MACRS), or better known simply as accelerated depreciation, in effect today reduces the after-tax cost of investment and promotes economic growth by stimulating investment, which has a ripple effect throughout the U.S. economy. The current system is part of the Internal Revenue Code and it attempts to match productive file to asset type. MACRS rules recognize that the high productivity of a piece of equipment occurs often in the early years of that asset's ownership, with the higher costs of operating that equipment in the latter years.

For example, if you have thousands of vehicles and difference pieces of equipment in your trucking company's inventory, the MACRS model allows you to simplify your internal accounting system by slotting each asset into a specific category, each with defined depreciation time limits. You can then assign and identify each asset within a specific category and plan for its depreciation over a specific timetable – whether it's a 4-year, 5-year or 6-year cycle – depending on the specific asset. This allows TRALA members to have a more predictable method of dealing with their assets over time. Before MACRS took effect in 1986, companies often had to try and predict what kind of write-offs would occur, often with unreliable results. This kind of certainty is very valuable to TRALA members.

Accelerated depreciation allows for a company to depreciate a greater value upfront and eliminating this ability would be a disincentive to purchase vehicles, trailers and equipment. As is the case with LKEs, accelerated depreciation is a key component and incentive for companies to purchase a brand new piece of equipment rather than holding on to an older one. This in turn benefits truck manufacturers and their employees, TRALA member companies and their employees, finance lessors, and ultimately the customers that wish to rent and lease the newest vehicles available. Eliminating accelerated depreciation would negatively impact the entire chain of companies involved from producing to utilizing vehicles on a daily basis.

V. Debt and Equity

The deduction of interest paid or accrued by most types of businesses has been part of the Internal Revenue Code since its inception and should continue to be so regardless of any kind of tax reform proposal Congress considers. Interest is simply a necessary expense and part of doing business. For the truck leasing and renting industry, interest deductibility is critical in determining whether a company decides to rent, lease or purchase a truck.

Leasing in particular allows companies to save their capital and invest in workers, equipment, or expansion with a minimum in transaction costs. The truck leasing community depends on the responsible use of debt financing and any alterations (or worse, the elimination) of interest deductibility, would be harmful to the entire trucking industry and its affiliated work with manufacturers, suppliers and their employees.

Some Members of Congress and others in the Obama Administration have stated that there are examples of abuse or poor decision-making stemming from certain companies' desire to utilize interest deductibility and that there is some feeling that treating debt and equity more similarly could lead to less risky behavior, especially in times of economic downturn. However, those concerns do not relate to the truck renting and leasing industry. Even during the severe recession of 2008-2009, TRALA members were able to manage their finances responsibly and the fact that TRALA members were able to utilize debt financing actually helped thousands of TRALA members' customers stay afloat as they turned to renting and leasing, given the uncertain economic landscape.

TRALA members purchase thousands of vehicles annually and doing so on equity alone is not a realistic option and in fact would force many smaller companies out of business. Debt is contractual and is a required cost of doing business paid at such intervals and terms set by creditors. Returns of and on equity are discretionary and are paid solely out of profits at intervals set by the company, not by stockholders. Altering or eliminating interest deductibility would raise the cost of doing business for all TRALA members and that would simply mean that there would be a reduction in the demand for rented or leased trucks and for those that chose that route, the rates would need to be increase exponentially. This would do nothing but slow economic growth and hurt job creation and most importantly to TRALA, create a disadvantage for leasing and renting vs. purchasing, giving the general public fewer options on how to operate their businesses.

VI. Alternative Fuel Tax Credits

As advancements in drilling technology and the discovery of the abundance of natural gas in the U.S. have become realized, there is an opportunity to finally shift a large portion of our country's petroleum usage from importing foreign oil to utilizing domestically-sourced natural gas and other alternative fuels in the transportation sector.

TRALA believes that the money spent to purchase oil overseas – upwards of $300 billion annually – would be better served here in the U.S. which would in turn both help with domestic employment in the broad energy and transportation industries as well as to make our country less dependent on the Middle East for our energy needs. There is also a cost savings long-term when comparing the price of natural gas vs. diesel that can help TRALA member customers.

The problem with natural gas currently is in the short-term – namely that the transportation sector requires building a national fueling infrastructure to support its usage, essentially starting from scratch, which is incredibly costly. It requires enormous capital and companies that invest in this new technology and energy must believe that the demand for the new fuel will continue to grow and expand in order to make such a financial commitment. New alternative-fueled trucks are also significantly more expensive than their diesel-powered counterparts.

Tax policy can have an enormous impact on the efforts to expand alternative fuels in the U.S. When Congress provides tax incentives, it helps to accelerate the investments in natural gas vehicles and increases the demand for such vehicles. This will encourage more businesses to develop the infrastructure necessary to provide alternative fuels to the trucking industry.

For all these reasons, TRALA supports alternative fuel tax credits that encourage both the building of infrastructure as well as the purchase of the vehicles run on these fuels. TRALA supports the expired Energy Policy Act of 2005 that provided for an income tax credit for the purchase of a new natural gas vehicle of 50 percent of the incremental cost of the vehicle plus an additional 30 percent if the vehicle met certain tighter emission standards. TRALA also supports the extension of the incentive that provides a 50-cent per gallon equivalent of natural gas for another five years (instead of having it extended annually which gives less certainty) and the extension of the credit of 30 percent (up to $30,000) for the installation of alternative fuel infrastructure. Finally, TRALA wishes to support the formal comments made by the Natural Gas Vehicles for America (NGVAmerica) organization on alternative fuel issues which the committee will receive this week as they represent the most comprehensive in nature for the entire trucking industry.

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VII. Conclusion

TRALA wishes to thank the Senate Finance Committee for giving it the opportunity to weigh in on a few of the critical tax issues facing the truck renting and leasing industry. TRALA appreciates that it has been afforded this chance to illustrate the reasons why some tax provisions are necessary to the entire truck renting and leasing industry and why comprehensive tax reform should be just that – comprehensive in nature and not relegated to simply traditional C-corporations.

The truck renting and leasing industry plays a vital role in the U.S. economy, from purchasing a significant portion of all heavy-duty trucks on the road, to supporting manufacturers, finance lessor companies, and the customers that utilize leased and rented trucks every day. The tax code certainly could use reform but the two questions that any change in the code should always elicit are: (1) at what cost and (2) will this bring about economic growth? Change for the sake of change is not a sound policy in TRALA's opinion and so we look forward to working with Congress in the months ahead to achieve a pro-growth tax system that promotes getting the newest, cleanest, and most technologically advanced vehicles onto our nation's highways.

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