Timothy W. Finchem
Commissioner

April 15, 2015

The Honorable John Thune
The Honorable Benjamin Cardin
Co-Chairs
Working Group on Business Income Tax
Senate Committee on Finance
Room 219 Dirksen Office Building
Washington, D.C. 20510

Dear Senators Thune and Cardin:

The PGA TOUR is pleased to submit this statement to the working group on Business Income Tax of the Senate Finance Committee and commends Chairman Hatch and Ranking Member Wyden for their continued efforts on behalf of tax reform.

The PGA TOUR is a unique organization that conducts and promotes a professional sport while generating tens of millions of dollars annually for charity. The PGA TOUR, since its creation, has been organized and operated as a business league exempt from income tax under Section 501(c)(6) of the Internal Revenue Code. The PGA TOUR's exempt purpose is to promote the common business interests of professional tournament golfers (its members) who are all independent contractors and not employees of the organization. The PGA TOUR has no teams, no owners, and no stockholders or investors who are motivated by bottom-line profits of the organization. While not required under its exempt purpose, the PGA TOUR has established a long-standing charitable tournament structure whereby the net proceeds from its tournaments are contributed to deserving charities in the local communities where the events are conducted.

The PGA TOUR's charitable tournament structure is unique in professional sports. Under that structure, the net proceeds from PGA TOUR tournaments are contributed back to the communities where the events are conducted to support local charities such as children's hospitals, education, youth initiatives and other community needs. Collectively, PGA TOUR tournaments benefit more than 3,000 charities and organizations throughout the country and literally hundreds of thousands of individuals each and every year. The PGA TOUR and its tournaments generated more than $140 million for charity in 2014 and have generated more than $2 billion cumulatively. No sporting organization and few other exempt organizations have generated this level of support for local charities and community organizations.

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In addition to the charitable funds generated, PGA TOUR golf tournaments have a substantial economic impact on each of the communities in which the events are conducted. A typical tournament will generate tens of millions of dollars of economic impact for a host community.

Despite its unparalleled success, the provisions of the Internal Revenue Code that have made the PGA TOUR charitable structure a success have come under attack by some on Capitol Hill. Last year, for example, in his comprehensive tax reform draft, former House Ways and Means Committee Chairman Dave Camp (R-Michigan) proposed the elimination altogether of the tax exemption for professional sports leagues as well as a drastic curtailing of other provisions that are essential to the ability of a tax-exempt organization such as the PGA TOUR and its tournaments to attract and maintain corporate support for its charitable fundraising activity. In addition, in the current Congress, the House Oversight and Government Reform Committee Chairman Jason Chaffetz (R-Utah) has proposed the elimination of the tax exemption for professional sports leagues.

For the reasons discussed below, the PGA TOUR respectfully requests the working group maintain these provisions in its tax reform recommendations.

1. Tax-Exempt Status

Congress originally created the Section 501(c)(6) exemption category in the Revenue Act of 1913 in order to help promote the well-being of persons with a common business interest. According to the legislative history of the Revenue Act of 1913, "these organizations are cooperative agencies of good citizenship in industry and commerce. In so far as [these] commercial organizations succeed in their purposes, they increase the incomes, not of themselves, but of the individuals in their communities, irrespective of membership in the organizations. The taxation of income of organizations wholly devoted to this public purpose would be a variety of double taxation, which elsewhere in H.R. 3321 is avoided." [1]

As a Section 501(c)(6) tax-exempt business league, the PGA TOUR promotes the common business interests of its members in a number of ways, including: (1) by providing a platform and structure to compete through the tournaments we develop, sanction, and operate; (2) by establishing a set of rules for professional play and maintaining an internal system of governance for its members, including rules of conduct pertaining to both behavior on and away from tournaments and a disciplinary system to help uphold the best traditions of the game of golf as a way of creating public respect and support for the game; (3) by promoting the game through various media vehicles as a way to build public awareness and support for golf and to enhance the general business opportunities and financial well-being of its members; (4) by elevating the profile of its members through a national public relations and advertising campaign that collectively promotes the PGA TOUR, its tournaments, and most importantly its members; (5) by

[1] Hearings on Tariff Schedules of the Revenue Act of 1913 Before the Subcomm. Of the Comm. On Finance, 63d Cong., 1st Sess. At 2001, 2003 (1913), cited in IRC 501(c)(6) Organizations – Technical Instruction Program for FY 2003.

significantly expanding playing opportunities and economic opportunities for all professional tournament golfers; and (6) by promoting the game not only in the United States but overseas as well, creating global business opportunities for our members and attracting international professional tournament golfers to compete and earn taxable income in the United States.

As a business league which represents its members' common business interests, the PGA TOUR creates more economic opportunities, better overall business conditions, and greater public awareness and support for the sport of golf, and for our members than our members could create acting in their individual capacities.

Another unique feature of the PGA TOUR is the status of its players as independent contractors and not employees of the business league (PGA TOUR) or any team. As members of the PGA TOUR the players participate in decisions regarding the policies and principles that guide professional tournament golf and its relationship to society at large. These fundamental policies and principles guide the PGA TOUR's charitable tournament structure, including the practice where PGA TOUR tournaments give back to the communities where events are played, and a structure whereby professional tournament golf is managed and operated on behalf of professional tournament golfers and charity, rather than for the benefit of owners or promoters.

As independent contractors, our players may not participate in qualified retirement arrangements, and as a result, the PGA TOUR has designed a unique non-qualified players' retirement system for them which has been reviewed and approved by the IRS. Congress enacted statutory certainty for these plans in 1987 and in 2004 when Congress modified the rules relating to non-qualified plans to target them more directly to employees, an exception was adopted to allow the plans to continue. These plans provide the only retirement savings arrangements for many of our players and are an extremely important element of PGA TOUR membership. Should the Committee reform the rules that relate to non-qualified retirement arrangements we would urge you to allow these plans to continue.

While charitable giving is not a requirement of qualifying under Section 501(c)(6), the PGA TOUR has devoted its energies to raising charitable funds, and as noted above, has developed a charitable tournament structure that has generated more than $2 billion cumulatively for charity. The repeal of the PGA TOUR's tax exempt status would have a chilling effect on the PGA TOUR's ability to continue to raise substantial sums for charity as we would need to modify our structure to offset the impact of the loss of our tax-exempt status. The result would be a dramatic decrease in the effectiveness of one of the most successful private sector led charitable fundraising operations in history with at best a very minimal increase in federal tax revenues.

By virtue of being tax-exempt the PGA TOUR has been able to develop one of the most successful charitable fundraising operations in the United States, and by far, the most extensive charitable fundraising system of any sporting organization in history. Tax reform, especially in an atmosphere of reduced government budgets, should protect the

laws that have made this possible rather than limit the ability of the PGA TOUR to generate billions of dollars for charity.

2. Corporate Sponsorship

Corporate financial sponsorship is essential to the success of the PGA TOUR's charitable tournament system and under current law, the solicitation and receipt of qualified corporate sponsorship payments does not cause a tax-exempt organization to be liable for the unrelated business income tax with respect to those payments. For these purposes, a qualified sponsorship payment is one made by a business sponsor with respect to which the business receives no substantial return benefit other than the use or acknowledgement of the name or logo (or product lines) of the business in connection with the tax-exempt organization's activities. For these purposes the terms use or acknowledgement may not include advertising of the sponsoring businesses products.

Although the current law represents a carefully negotiated balance of interests between the tax-exempt community and Congressional tax writers, the Camp tax reform draft would drastically reduce the available tax incentives to attract charitable corporate support. Under the Camp formulation, if the use or acknowledgement refers in any way to the sponsor's product lines the sponsorship payment would be treated as taxable income from the sale of advertising, and if a tax-exempt organization receives more than $25,000 in qualified sponsorship payments for one event, any use or acknowledgment of a sponsor's name or logo may only appear with, and in substantially the same manner, as the names of a significant portion of the other donors to the event. The Camp draft would also treat any sale or licensing by a tax-exempt organization of its name or logo as a per se unrelated business subject to the unrelated business income tax.

The support of corporate sponsors is central to the ability of tax-exempt organizations to raise funds needed to fulfill their missions and the use or acknowledgment of the corporate sponsor is an important incentive to attract such support. Corporate sponsorship is fundamental to the PGA TOUR's highly successful charitable tournament system, and to the charitable fundraising activities of many other tax-exempt organizations.

We urge the working group to retain the current rules that relate to corporate sponsorship and licensing revenue; they represent a careful compromise that has worked well to attract support to worthy charitable projects that might otherwise go unfunded.

3. Charitable Sporting Events

Another provision that has contributed to the PGA TOUR's ability to generate substantial amounts for charity and generate a substantial economic impact in the communities where tournaments are conducted is Section 274(l). Section 274(l), as enacted in the Tax Reform Act of 1986, sets aside limitations that would otherwise apply to the deductibility of tickets and hospitality costs relating to business entertainment at charitable sporting events defined as events which are: (1) organized for the primary purpose of benefitting organizations exempt under Section 501(c)(3); (2) all of the net proceeds of which are contributed to such organizations; and (3) which use volunteers for substantially all of the work

performed in carrying out these events. Section 274(l) helps to attract support for the charitable events and is fundamental to the PGA TOUR's and its tournaments' ability to raise funds for charity at the rate that they have been able to achieve. We urge the working group to retain the current rules under Section 274(l) that are applicable to charitable sporting events.

We understand that one the key reasons for tax reform is the realization among lawmakers, tax professionals, and academics that our tax system is in many respects broken and out of touch with global developments putting American business at a competitive disadvantage.

The provisions that have made it possible for the PGA TOUR to establish and grow the most successful charitable fundraising structures in sport are an exception; these provisions have worked well both for our members and for communities across the United States, and we urge you to include and even to strengthen provisions such as these in tax reform that encourage and facilitate private sector support for charity.

Sincerely,

Tim Finchem