The Tax Council

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July 5, 2006

The Honorable Dave Camp
Chairman, Subcommittee on Select Revenue Measures
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Mr. Chairman:

The Tax Council is grateful for the opportunity to submit a statement on the principles of international tax reform for the record of your hearing on the Impact of International Tax Reform on U.S. Competitiveness which was held on June 22, 2006.

The Tax Council is an association of senior tax advisers representing over one hundred of the largest employers in the United States. The Tax Council's members include senior tax officers of companies involved in manufacturing, mining, energy, transportation, consumer products and services, retailing, and financial services.

The Tax Council has adopted the enclosed principles on international tax reform and respectfully submits them to the Subcommittee. We urge that you consider these principles, as the subcommittee further examines the many complex and controversial aspects of international tax reform,

We would be pleased to respond to your questions or comments on these principles.

Sincerely,

Kenneth Petrini, Chairman
Tax Policy Committee

The Tax Council
Principles of International Tax Reform

- A well-reasoned, pro-growth international tax policy will allow U.S. companies to remain strong at home while competing for and winning business globally.

    - While there currently is no universal agreement on the "best" way to reform international tax rules, "reform" should enable U.S. companies to compete and thrive globally.

    - U.S. international tax rules should focus on enabling companies to invest capital based on market forces.

    - U.S. multinationals must be able to compete for business in worldwide markets, including the U.S. domestic market, without an additional U.S. tax burden resulting from our international tax rules.

- Tax policy must reflect the reality of doing business in the 21st century.

    - It is critical that U.S. tax policy reflect the way business currently is done and that it accommodate the business models that are often required in a global economy. While many U.S. companies have multinational operations, the markets are often local; therefore business has to be located in these markets to serve local customers and consumers.

    - International tax policy cannot be based on misplaced concerns of those who believe that investment by U.S. firms in foreign locations substitutes for investment in the United States. The decision is not to "invest here or there." In today's global economy, it is increasingly a question whether U.S. companies will invest in growing markets around the world or cede that investment to foreign competition. The question is not investment in U.S. or foreign markets but rather investment and growth by U.S. or foreign companies. The U.S. economic health is not improved by foreign investment in foreign markets.

- Active businesses investing scarce capital in market-driven investments represent the real business model under which business operates. Taxes are a cost of capital and a key element in determining the ultimate return. On a close project, the difference between 35 percent and a 20 percent corporate tax rate can make or break the economic viability of a project and impact the identity of which investor develops the opportunity—the U.S. company or the tax-advantaged foreign competitor.

- Low corporate income tax rates do make a difference in competitiveness, as reflected in the downward trend in corporate tax rates outside of the United States.

- Income should be taxed once and only once.

    - Double taxation destroys the opportunity to compete.

    - Governments acting rationally impose income taxes that effectively tax or subject to tax income earned in each jurisdiction once and only once.

    - The "arm's-length" principle and the robust development of appropriate transfer pricing rules in the U.S. and most of our developed trading partners provide the best tools to ensure that income is appropriately sourced to each jurisdiction and subjected to the tax rules of those jurisdictions.

- A reformed tax system should be broad based and apply consistently across industry lines, so that no industry or group of taxpayers is favored or discriminated against.

- In order for U.S. companies to grow and thrive in the global marketplace, if the U.S. is to move to a territorial tax system, such a system must not be a tax increase disguised as reform.

    - Misallocation of home country costs to foreign operations, excessive taxation of revenue from the deployment of intangibles in foreign markets, loss of cross crediting and the denial of deductions for certain costs impose a double tax on U.S. multinationals that distorts the economics of the market place.

    - Reasonable transition rules must be adopted to protect those who have generated deferred tax assets under the existing international system.

    - Other elements of broader tax reform and simplification must be analyzed and considered in the design of a territorial tax system, all for the purpose of fully realizing the practical advantages of territoriality as it functions in many of our trading partners.

- Active business income is active income, no matter how mobile.

    - All income from invested capital is, more or less, "mobile." The appropriate policy distinction is between active business income and passive income.

    - International tax rules should incorporate suitable and clear definitions of passive income that do not impinge on the active conduct of business activities. In addition, any new international tax rules should provide de minimis rules that reflect conditions in the market place allowing businesses to perform active economic and financial functions without the fear of an additional layer of tax.