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Comprehensive Tax Reform

Background

Congress has spent the last several years debating the need for a comprehensive rewrite of both corporate and individual income tax laws. The growing concern of the rising federal deficit and the belief the code is unfair and uncompetitive are driving the debate to remake the laws to encourage economic growth, properly allocate capital, and create international competitiveness.

Both the House Ways and Means Committee and the Senate Finance Committee have held hearings addressing many aspects of tax reform and the Chairmen of both Committees have released drafts, which enshrine their approaches to comprehensive tax reform. Earlier this year, House Ways and Means Chairman, Dave Camp released a comprehensive tax reform draft that made drastic changes in both the personal and business sides of the tax code. For the equipment leasing and finance industry, the biggest change was a slowing down of the depreciation schedules, repealing MACRS depreciation, and moving to ADS depreciation. Senate Finance Committee Chairman Baucus, prior to leaving the Senate and becoming the U.S. Ambassador to China, released an extensive draft, which addressed cost recovery. For our industry, the Baucus draft's biggest change was a move towards a depreciation regime that pooled assets rather than depreciating assets individually. In addition, President Obama's Department of the Treasury released "The President's Framework For Business Tax Reform" in 2012. It should be noted that, while none of the bills discussed above are expected to become law during this Congress, they will serve as part of the foundation for future efforts.

ELFA's Board of Directors passed a Policy Statement on Tax Reform at their October 2012 meeting. The statement calls on tax reform proposals to promote economic growth, competition, fairness and predictability. It also promotes specific values of the equipment leasing and finance industry such as: maintaining cost recovery and interest deductions; treating owner-lessors and owner-operators in a tax neutral manner; provide level playing fields for lessors and other financial providers; maintain the tax-exempt treatment of state and local government obligations; and promote a competitive international tax system.

Proposed changes that will reduce the corporate tax rate and broaden the base by reducing or eliminating tax incentives can have a major impact on leasing and financing transactions. As Congress further explores tax reform through additional drafts, hearings, and studies, it is important that the industry be part of the debate and discussion.

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Key Points

- Within the context of tax reform, the cost of capital must be a key consideration for policymakers as capital formation incentives are critical to job creation and the growth and viability of the economy.

- Businesses choose to lease or finance equipment for a variety of reasons ranging from cash flow management to avoiding equipment obsolescence. The business model should drive the decision whether to lease, finance, or outright purchase, not the tax code.

- Any changes to reduce or eliminate interest deductions for tax purposes will directly increase the cost of capital and harm economic growth, and accordingly, should be opposed

- “Net” interest expense, whether from interest on a loan or from rental payments in a lease, should be treated the same under any tax reform proposals.

- Tax reform proposals should keep a business that purchases equipment and then leases it on the same footing as an owner who personally operates that same item of plant or equipment.

- The tax code should continue to provide appropriate incentives for investments that will create economic growth and jobs.

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ELFA Policy Statement on Comprehensive Tax Reform

The Equipment Leasing and Finance Association (ELFA) supports a tax code that promotes economic growth, competition, fairness, and predictability. In October 2012, in order to inform the ongoing tax reform discussion in the U.S. Congress, the ELFA Board approved the following set of principles for comprehensive tax reform that ELFA will use to evaluate tax reform proposals.

Treat Owner-Lessors and Owner-Operators in a Tax Neutral Manner

- ELFA supports tax reform proposals that place owner-lessors on the same footing with an owner who is operating the same item of plant or equipment.

Maintain Cost Recovery and Interest Deductions

- It is a long-standing principle in the U.S. tax code that income is taxed, and that business income is broadly defined as revenues less expenses. Accordingly, ELFA supports tax reform proposals that:
  - Maintain the ability of businesses to deduct business interest associated with the financing of equipment.
  - Preserve the ability of businesses to count leasing expenses against revenue when they are calculating their income subject to tax.
  - Retain the ability of businesses to depreciate capital assets over time according to well-reasoned depreciation schedules.
  - Continue provisions in the IRC that promote capital formation, such as 100% expensing and maintaining section 179 expensing levels.

Provide a Level Playing Field for Lessors and Other Finance Providers

- ELFA supports tax reform proposals relating to the deductibility of net interest that place lessors on the same footing with lenders financing the same item of plant or equipment.

Maintain Tax-exempt Treatment of State and Local Government Obligations

- ELFA supports tax reform proposals that maintain the tax-exempt status of state and local government lease purchase or installment sale contracts, which are a cost-efficient means for state and local governments to acquire capital equipment and projects.

Promote a More Competitive International Tax System

- ELFA supports tax reform that moves our nation's corporate tax structure toward a territorial system. ELFA also supports tax reform that maintains the Active Financing Exemption to Subpart F.