



COMMITTEE ON TAXATION

January 13, 2008

The Honorable Eric Solomon
Assistant Secretary for Tax Policy
U.S. Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Mr. Solomon:

We are writing on behalf of the Committee on Taxation ("COT") of Financial Executives International ("FEI") to encourage the inclusion of important tax relief for businesses in any economic stimulus legislation package. COT commends the efforts of the Congress, the Administration, and the Federal Reserve to date and strongly supports further action to increase access to capital, increase liquidity, and promote job growth during this time of economic uncertainty.

FEI is a professional association representing the interests of more than 15,000 chief financial officers, treasurers, controllers, tax directors, and other senior financial executives from over 8,000 major companies throughout the United States and Canada. FEI represents both the providers and users of financial information. The FEI Tax Committee formulates tax policy for FEI in line with the views of the membership. This letter represents the views of the Committee on Taxation.

Set forth below are several proposals that we believe should be adopted to stimulate the economy:

- *Extend bonus depreciation and increase Section 179 expensing provisions.* The 50-percent bonus depreciation provision expired at the end of 2008. This provision should be extended retroactively to January 1, 2009, and the Section 179 deduction for qualifying equipment should be increased. This would promote immediate investment in equipment during the current economic downturn and stretch scarce capital by lowering the cost of undertaking investments.
- *Temporarily allow taxpayers to receive a refund of AMT prepayments in lieu of bonus depreciation.* By allowing the accelerated use of alternative minimum tax credits and research credits in lieu of bonus depreciation, the Housing and Economic Recovery Act of 2008 provided a temporary incentive for companies without taxable income to invest in new equipment. For AMT credits, the relief should be extended and enhanced by eliminating or increasing the cap on the amount of credits that may be refunded. AMT credits represent future tax liability that a business has already paid. Allowing taxpayers to benefit now, rather than later, from these prepayments would increase the liquidity of businesses with current

losses and provide them an immediate source of funds for capital investments that they would otherwise be unable to make.

- *Temporarily extend the carry back period for net operating losses to five years and waive the 90 percent limitation for AMT.* The primary channel by which business tax cuts can stimulate a weak economy is by creating liquidity and incentives for new investments to be made quickly. Businesses with current losses may carry back losses for 2 years. However, if losses exceed profits in these years they must carry the losses forward to offset future income. Extending the carry back period to five years will enhance liquidity of businesses with current losses, while helping to insulate against future losses. This provides companies with more capital to make investments that will help move the economy forward.
- *Extend the general business credit (“GBC”) carryback period from one year to five years and allow carrybacks and carryforwards to offset 100% of a taxpayer’s regular tax and AMT.* The GBC was established by Congress to encourage important social or economic objectives. The GBC is subject to several limitations, including the Alternative Minimum Tax, which limits the incentive effect of the GBC. Businesses with current credits may carry back credits for 1 year. If the credits can not be utilized in this year they must be carried forward to offset future tax. Extending the carry back period to five years and allowing the use of the credits to offset the AMT will enhance liquidity of businesses with current credits.
- *Temporary change in the treatment of capital losses.* Restrictions on capital losses should be eased, for instance, by allowing corporate taxpayers’ capital losses to offset ordinary income. This would boost liquidity in difficult economic times, when companies see significant increases in losses of all types. Since the corporate tax rate on capital gains is the same as on ordinary income, the policy rationale for limiting the use of corporations’ capital losses is not present.
- *Multi-year extension of a strengthened Research and Development (R&D) tax credit.* The R&D credit spurs innovation and economic growth and creates high-wage American jobs. A multi-year extension of the credit, and an increase in the Alternative Simplified Credit rate to 20%, would enhance its incentive value because companies could factor the credit into their multi-year project planning.
- *Repeal the 3% withholding requirement for government payments.* This withholding requirement was passed in Section 511 of the “Tax Increase Prevention and Reconciliation Act of 2005” (P.L. 109-222) and becomes effective in 2011. It was passed without any deliberation or committee hearings and has a very broad impact. The withholding requirement will be very difficult and expensive to implement (The Department of Defense (DOD) estimated cost to implement the law for DOD alone at \$17 billion, not counting the cost to contractors that would be passed through as part of overhead) and that effort to develop and maintain internal tracking systems is not an efficient use of resources in these times of economic uncertainty. The withholding will also drain cash (liquidity) from businesses, especially companies that are in a loss position and unable to credit the withholding against estimated tax payments.
- *Allow foreign subsidiaries of U.S. companies to lend or otherwise send money to the U.S. without adverse tax implications.* FEI commends the Treasury Department and the IRS for Notice 2008-91 (corrected on October 16, 2008) which provides temporary and limited relief on the tax treatment of loans from foreign subsidiaries. Extending this relief will increase liquidity of US corporations to be used for investment. Specifically, we recommend that

Congress extend the term that loans from foreign subsidiaries can be outstanding to a two-year period without any further restrictions.

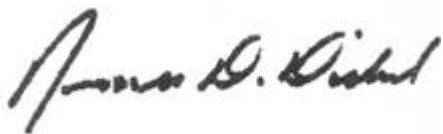
Furthermore, COT recommends that Congress consider other alternatives that permit US companies to gain access to their overseas liquidity on a longer term basis so as to further investment in the U.S.

- *Temporary relief from pension funding requirements.* The recent economic turmoil and market downturn has placed extraordinary strains on defined benefit plans. FEI commends Congress for passing H.R. 7327, the Worker, Retiree, and Employer Recovery Act of 2008, which contains important pension funding relief. However, further action is required, including changes that would allow plans to fully smooth recent asset losses over a widened market corridor and allow broader flexibility in the election of funding methods.
- *Expand tax credits for new hires or reversing layoffs.* A tax credit for companies that make new hires or reverse layoffs promotes job creation and speeds the return to work of unemployed workers.

Although we do not believe a major overhaul of the U.S. corporate income tax structure is appropriate in the context of the economic stimulus legislation, many have noted that the U.S. corporate income tax rate is higher than the rates in all other OECD countries (save Japan, which is considering rate reductions this year). The high U.S. tax rate creates a long-term competitive disadvantage for US-based businesses. Once the stimulus legislation is enacted, we encourage the U.S. Government to lower rates and restore the U.S. corporate tax system to a position that does not disadvantage US-based businesses in the global economy.

FEI would welcome any opportunity to discuss these proposals or to provide additional information. FEI staff and business leaders from FEI's member companies are available to speak on any of these issues. If you or your staff should have any questions feel free to contact Matt Miller, Director, Tax and Economic Policy at 202-626-7804 or mmiller@financialexecutives.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron D. Dickel". The signature is written in a cursive, flowing style.

Ron Dickel
Chairman
FEI Committee on Taxation

cc: The Honorable Tim Geithner