

March 11, 2019

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220

The Honorable Larry Kudlow
Director, National Economic Council and Assistant to the President for Economic Policy
Room 235, Eisenhower Executive Office Building
Washington, D.C. 20502

Re: Proposed Treasury Regulations under Section 163(j) (Reg. REG-106089-18)

Dear Secretary Mnuchin and Director Kudlow:

We, the undersigned organizations, write to express our serious concern with Treasury's proposed rules under section 163(j) of the Internal Revenue Code. As currently drafted, these rules implement tax reform's new limits on the business interest deduction in a manner that would make it more difficult for manufacturers to purchase the equipment and machinery needed to fuel growth.

The *Tax Cuts and Jobs Act* generally limited business interest deductions to 30 percent of earnings before interest, tax, depreciation and amortization or EBITDA for tax years starting in 2018 through 2021. However, starting in 2022, the deduction is limited to earnings before interest and tax or EBIT. By excluding depreciation and amortization, the stricter EBIT standard would make it more expensive for capital intensive businesses to finance capital equipment purchases.

Congress clearly intended to provide an EBITDA base for the calculation of interest deductions through 2021. However, Treasury's proposed rule would effectively shift to an EBIT standard four years earlier, increasing the cost to invest in depreciable equipment in the United States. Accordingly, we urge you to modify Prop. Reg. sec. 1.163(j)-1(b)(1)(iii) to provide that the pre-2022 additions for depreciation and amortization include amounts that are capitalized to inventory under Section 263A and included in cost of goods sold.

Changing the proposed regulations would support U.S. manufacturing growth. In order to finance capital equipment purchases, many manufacturers borrow funds. By effectively adopting an EBIT standard for manufacturers years earlier than Congress intended, the proposed rule makes it more costly to finance the investments in equipment and machinery that are needed to create additional jobs in the industry. Moreover, the stricter limitation may discourage businesses from utilizing bonus depreciation – a key pro-growth provision in tax reform – which reduces the after-tax cost of capital equipment purchases.

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If implemented without modification, Treasury's rule would pose a serious threat to investment and job growth, and the resulting costs could slow the growth of our economy, which has been led by a thriving manufacturing sector. As Treasury works to finalize the rule, we respectfully request that it implement the rule in the manner intended by Congress. Doing so will help ensure that manufacturers can realize the full pro-growth potential of tax reform by investing in their businesses and creating jobs.

Sincerely,

AICC, The Independent Packaging Association
Alliance of Wyoming Manufacturers
American Apparel & Footwear Association
American Composites Manufacturers Association
American Foundry Society
American Petroleum Institute
Arizona Manufacturers Council
Asphalt Roofing Manufacturers Association
Associated Industries of Massachusetts (AIM)
Associated Industries of Missouri
Brick Industry Association
California Manufacturers & Technology Association
Colorado Chamber of Commerce
Colorado Mining Association
Concrete Reinforcing Steel Institute
Council of Industry of Southeastern New York
Edison Electric Institute
Fabricators & Manufacturers Association, International
Foundry Association of Michigan
Georgia Association of Manufacturers
Greater North Dakota Chamber
Household & Commercial Products Association
Illinois Coal Association
Illinois Manufacturers' Association
INDA, The Association of the Nonwoven Fabrics Industry
Indiana Coal Council
Industrial Fasteners Institute
Institute of Scrap Recycling Industries, Inc.
International Association of Plastics Distribution
International Sign Association
Iowa Association of Business and Industry
ISSA - The Worldwide Cleaning Industry Association
Kentucky Coal Association
Metal Powder Industries Federation
Metal Treating Institute
Metalcasters of Minnesota
Michigan Manufacturers Association
Mississippi Manufacturers Association
Missouri Association of Manufacturers

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National Association of Manufacturers
National Association of Trailer Manufacturers
National Lumber and Building Material Dealers Association
National Precast Concrete Association
National Stone, Sand & Gravel Association
National Tooling and Machining Association
National Waste & Recycling Association
National Wooden Pallet and Container Association
Nebraska Chamber of Commerce & Industry
Nevada Manufacturers Association
Next Generation Manufacturing
North American Association of Food Equipment Manufacturers (NAFEM)
North American Die Casting Association
Northeast Pennsylvania Manufacturers and Employers Association
Ohio Cast Metals Association
Ohio Coal Association
Oregon Business & Industry
Pennsylvania Foundry Association
Pennsylvania Manufacturers' Association
Plastics Industry Association
Plastics Pipe Institute
Plumbing Manufacturers International
PMMI, The Association for Packaging and Processing Technologies
Precision Machined Products Association
Precision Metalforming Association
Railway Tie Association
Resilient Floor Covering Institute
Rhode Island Manufacturers Association
Specialty Graphic Imaging Association
Tennessee Mining Association
Texas Association of Business
Texas Association of Manufacturers
Texas Cast Metals Association
The Hardwood Federation
The Ohio Manufacturers' Association
Valley Industrial Association
Vinyl Institute
Virginia Coal and Energy Alliance
Virginia Manufacturers Association
West Virginia Coal Association
Wisconsin Cast Metals Association
Wisconsin Manufacturers & Commerce
Wood Machinery Manufacturers of America
Wyoming Mining Association