April 15, 2013

The Honorable Devin Nunes
Chair
International Tax Reform Working Group
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Earl Blumenauer
Vice Chair
International Tax Reform Working Group
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Congressmen Nunes and Blumenauer:

Thank you for the opportunity to provide our perspective on how the United States can promote domestic innovation and manufacturing through tax reform.

As some of the leading independent U.S.-based biotechnology companies that conduct significant research and development in the United States and manufacture and market our products both domestically and abroad, we have extensive experience in the impact that the corporate tax code can have on business decisions. In our view, a properly designed "innovation box" is a critical component of successful corporate tax reform that can help to unleash the power of U.S. innovation.

Reforming the U.S. Corporate Tax Code to Promote Innovation

Reform of the corporate tax code is necessary to stimulate the U.S. economy and make American companies more competitive in the global economy. Done right, corporate tax reform can promote job growth in key innovation sectors and reverse recent trends that have seen research and manufacturing jobs move oversees. However, simply "broadening the base and lowering the rate" is not enough to make the United States more globally competitive with tax policies and incentives for innovation found in other OECD nations. Likewise, pursuing anti-base erosion policies that disproportionately impact innovative American companies competing globally will make it easier for foreign interests to acquire them and make domestic job creation more challenging.

For the United States to lead the world in innovation, corporate tax reform must specifically provide incentives to spur domestic job growth in innovative and research-based industries and promote the global competitiveness of innovative American companies.

An important tax reform to spur domestic job creation and economic growth would be an appropriately designed innovation box. An innovation box regime would incentivize U.S. and foreign companies to locate their intellectual property (IP) and corresponding economic activities in the U.S. by reducing the corporate tax rate on income earned from qualifying IP to 10 percent. Variations of this concept have been adopted successfully in several countries, including the United Kingdom and Switzerland. This policy has the potential to be similarly successful in the U.S., but any innovation box regime would need to be carefully developed to ensure that it would deliver the intended results.

Keys to a Successful U.S. Innovation Box

To achieve the intended benefits, a U.S. innovation box should tax income from IP at a rate that is comparable to the rate imposed under similar regimes in other countries – no higher than 10 percent. IP that would be eligible for the innovation box should be defined to include any patent:

1. issued by the U.S. Patent and Trademark Office, or equivalent foreign governmental office, that is either owned or licensed by the taxpayer directly or by virtue of a license;
2. that covers any aspect of a product or process;
3. that substantially contributes to the value of a particular product or stream of income that would be included in the innovation box;
4. that is either (1) the result of substantial R&D performed in the United States; or (2) incorporated into products that are manufactured in the United States; and
5. that is either (1) commercialized on or after the date of enactment; or (2) transferred, on a tax-free basis during a transition period, by a controlled foreign corporation to its U.S. parent corporation, or from a foreign parent corporation (or affiliate) to its U.S. subsidiary.

The requirement that substantial research or manufacturing activities occur in the United States to qualify for the innovation box will drive job creation in critical innovative sectors. Directly incorporating domestic manufacturing into the innovation box could have a substantial impact on corporate sourcing decisions, locating and building facilities, job retraining, and other key economic drivers. Likewise, allowing U.S. companies to unwind existing arrangements without U.S. tax consequences will generate more tax revenue and level the playing field for the United States in research and manufacturing investment location decisions. Further, to incentivize inward foreign direct investment, IP that is owned by a foreign parent company (or affiliate) could be transferred to a U.S. affiliate at any time following enactment, making the United States an attractive destination for investment by foreign companies.

Unleashing the Power of U.S. Innovation

The U.S. economy and American workforce have a great deal at stake in the corporate tax reform debate. Stakeholders universally agree that the antiquated U.S. corporate tax system stifles growth and hinders domestic investment. Corporate tax reform could provide a significant boost for domestic job creation and innovative industries, and the economy as a whole. While broadening the base and lowering the rate is, on its face, a laudable reform goal, it is essential that reform not undermine the need to provide appropriate and globally competitive incentives for domestic innovation and manufacturing. In order to lead the world in scientific discovery and innovative industries, public policies that support those goals, such as a well-designed innovation box regime, must be part of a reformed corporate tax system.

Thank you for your consideration,

Alexion Pharmaceuticals
Allergan
Biogen Idec
Onyx Pharmaceuticals